

Town of Delhi
Delaware County, New York

ZONING ORDINANCE

Adopted: August 13, 1990
Amended: April 2002

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ZONING ORDINANCE

Town of Delhi, New York

ARTICLE I. PROVISIONS

Section 101 Title

This document shall be known and may be cited as the "Town of Delhi, New York, Zoning Ordinance" and shall include this text, Schedule I, the Zoning Map, and the Development Limitations Overlay Maps.

Section 102 Enacting Clause

Pursuant to the authority conferred by Article 16, Section 261 of the Town Law of the State of New York, the Town Board of the Town of Delhi hereby adopts and enacts as follows.

Section 103 Purpose of Zoning Ordinance

The purpose of this Zoning Ordinance, its regulations and its zoning districts as outlined on the zoning map is to:

- A) protect and promote the public health, safety, and general welfare of the town consistent with the objectives of Town Law 263,
- B) guide the future growth and development in accordance with a comprehensive plan,
- C) protect the character and the social and economic stability of all parts of the town, and to encourage the orderly and beneficial development of all parts of the town,
- D) protect and conserve the economic and aesthetic value of land and buildings appropriate to the various districts established by this ordinance,
- E) minimize conflicts among the uses of land and buildings,
- F) provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings,
- G) prevent the pollution of air, streams and ponds to assure the adequacy of drainage facilities; to safeguard the water table and to encourage the wise use and sound management of the town's natural resources in order to preserve the integrity, stability and beauty of the community and the value of the land,

- H) preserve the natural beauty of the topography of the town and to insure appropriate development with regard to these natural features,
- I) encourage and make suitable provisions for the accommodation of solar energy systems and equipment and access to sunlight necessary therefore.

Section 104 Conflict With Other Laws

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

Section 105 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare.

Section 106 Validity and Separability

Should any clause, sentence, subdivision, paragraph, section, or part of this Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the clause, sentence, subdivision, paragraph, section or part so decided to be unconstitutional or invalid.

Section 107 Effective Date

This Ordinance shall take effect ten days after publication in a newspaper having general circulation in the town, but said Ordinance shall take effect from the date of its service against a person served personally with a copy thereof, certified by the Town Clerk under the corporate seal of the Town; and showing the date of its passage and entry.

Town Clerk, Town of Delhi

effective date

ARTICLE II. DEFINITIONS

Section 201 General

For the purpose of this Ordinance, the following terms and words shall be interpreted as follows:

- 1) The word "person" includes a firm, association, organization, partnership, trust, company, agency, society or corporation as well as an individual.
- 2) Words used in the present tense include the future tense.
- 3) The singular includes the plural and the plural includes the singular.
- 4) The words "shall" and "must" are mandatory.
- 5) The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied.
- 6) The word "lot" includes the words plot or parcel.

Section 202 Definition of Key Terms

Accessory Building - Any building which is subordinate to and which use is incidental to the use of the principal building located on the same lot.

Accessory Structure - Any structure which is subordinate to and which use is incidental to the use of the principal structure located on the same lot.

Accessory Use - A use subordinate to the main use of a building.

Acre - For the purpose of calculating lot area under this Ordinance, an acre shall be considered to consist of 43,560 contiguous square feet.

Agriculture - The use of a parcel of land for agricultural purposes, including tilling of the soil, dairying, pasture, apricots, arboretums, horticulture, floristry, aquatic farming, harvesting of trees and tree products, and animal husbandry. It includes the necessary accessory uses and structures for packing, treating, and storing of products, produce and equipment.

Alteration - A change or rearrangement in the structural parts of a building or an enlargement, whether by extending to a side or by increasing the height or the moving from one location to another.

Alternative Energy System - Structures, equipment, devices, or construction techniques used for the production of heat, light, cooling, electricity, or other forms of energy from solar, wind and water.

Animal Hospital - A business that treats animals and regularly houses them on the premises overnight and for extended periods for treatment.

Animal Husbandry - The care and breeding of domestic animals, including, but not limited to, cattle, hogs, horses, poultry and sheep.

Apartment - *See Dwelling, Multiple-Family*

Bed and Breakfast - An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee. Meals may or may not be provided. Tourist homes, boarding houses, and inns are included here; however, rest homes or homes for the aged are not.

Buildable Site - A site able to support a habitable structure with adequate operation of a well and septic system without adversely affecting the neighboring sites' proposed or existing water supply.

Building - A structure wholly or partially enclosed with exterior walls and a roof, affording shelter to persons, animals or property.

Bulk Storage - The storage of chemicals, petroleum products and other materials in above-ground containers for subsequent resale to distributors or retail dealers or outlets.

Business and Professional Offices - A building used primarily for offices conducting the affairs of a business, profession, service, industry or government, or like activity.

Campground - A parcel of land used or intended to be used to provide two or more sites for the parking of travel trailers, placement of tents, or other temporary or movable sleeping accommodations.

Certificate of Occupancy - A form of protection afforded the owner or occupant of a structure by serving as proof of compliance with the regulations in effect at the time of construction or alteration.

Club - Any organization catering exclusively 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. Clubs shall include lodges, fraternal organizations, social and service organizations; gun, hunt and fish clubs, mutual benefit societies, and other like organizations.

Cluster Development - A form of development for single-family residential subdivisions that permits a reduction in lot area and bulk requirements, provided there is no increase in the

number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

Code Enforcement Officer (CEO) - An individual appointed by the Town Board and given responsibility as set forth in this Ordinance.

Commercial Recreation - A parcel of land which may include facilities for recreation purposes, utilized by the public for a fee. Activities include, but are not limited to, bowling alleys, ski slopes, tennis courts, golf courses, swimming pools, movie houses, drive-in theaters, health clubs, reducing salons, tanning parlors, and cooperative hunting preserves where a fee to hunt is required.

Commercial Storage - A structure or set of structures containing separate storage spaces of varying sizes leased or rented on an individual basis.

Condominium - A building or group of buildings, in which units are owned individually; and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Cultural Recreation - Indoor and outdoor establishments promoting social and intellectual advancement such as libraries, museums, art galleries, concert halls and theaters, but excluding movie houses and drive-ins.

Cul-de-sac - A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Development Limitations - An assessment of existing natural and man made elements relating to and, water, air, plant, animal, people, and community character in Delhi and an indication of the suitability of particular areas for development.

Dish Antenna - Any concave, circular or dish-shaped device designed for receiving communication or television signals from space, but does not include conventional television, radio and amateur radio antennas.

Drive-In Use - An establishment, which by design, physical facilities, service, or by packaging procedure, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Dump - Any place used for the disposal and leaving of paper, garbage, rubbish, trash, toxic chemicals and substances and any other waste material of any nature by the public or by any persons.

Dwelling - A building designed or used as the living quarters for one or more families. The term dwelling shall include seasonal homes, modular homes, and mobile homes, provided that they meet all of the requirements of this Ordinance, the New York State Uniform

Building Construction and Fire Prevention Code, and all other regulations or ordinances applicable to dwellings.

Dwelling, Farm Labor - A building containing only one dwelling unit and occupied by one family, member(s) of which are employed on a farm, as hereinafter defined.

Dwellings, One-Family - A building containing only one dwelling unit and occupied by one family.

Dwelling, Multiple-Family - A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Townhouse - A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside; no unit is located over another unit; and each unit is separated from any other unit by one or more common fire resistant walls.

Dwelling, Two-Family - A building designed for and occupied exclusively as a home or residence for not more than two families.

Dwelling Unit - A building or entirely self-contained portion thereof containing housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrances or other hallways or porches) and no cooling or sanitary facilities in common with any other "Dwelling Unit". A boarding house, dormitory, hotel, inn, nursing home or similar structure shall not be deemed to constitute a dwelling unit.

Eating and/or Drinking Establishment - A building, structure or parcel of land which includes facilities primarily used for the sale of prepared food or beverages for public consumption.

Educational Institution - An institution, either public or private, providing full-time day instruction and a course of study which meets the requirements of the New York State Education Law or a nursery, day care or kindergarten which meets all pertinent requirements set by the New York State Education Law and/or the New York State Health Code.

Family - One or more individuals occupying a dwelling unit and living as a single household unit.

Farm - An agricultural operation as defined by the New York State Department of Agriculture and Markets.

Farm, Hobby - An agricultural operation where the keeping of animals is primarily for the enjoyment and/or consumption of the household.

Flea Market - An occasional or periodic market, held no more than three consecutive days in an open area or structure, where individuals or groups of individual sellers offer goods for sale to the public.

Flood Plain - Any land area susceptible to being inundated by water from any source.

Floor Area - The total number of square feet of floor space within a building, which is enclosed and usable for human occupancy and/or the conduct of business. Unheated basements and attached garages are excluded.

Forest Management - Management of natural vegetation for timber harvesting, firewood, wildlife habitat improvement, and water quality.

Garage, Private - An accessory building or part of a principal building used for the storage of one or more motor vehicles; a car-port or similarly covered area for the storage or housing of one or more automobiles, with or without walls, but not fully enclosed.

Garage, Public - Any garage, other than a private garage, operated for gain and available on a rental basis for the storage of motor vehicles.

Garage Sale - The sale of used personal and/or household items by an individual or family from their home, porch, lawn or garage.

Health Care Facility - A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, and home health care agency.

Height of Structure - The vertical distance measured from the average elevation of the finished grade to the high point of a structure.

Home Occupation - An occupation or other subordinate use of a non-residential nature which is conducted within a dwelling unit, or building accessory thereto, which is clearly incidental and accessory or secondary to the use of the property for residential purposes (See Section 528).

Hotel - A facility offering transient lodging accommodations to the general public and providing additional service such as restaurants, meeting rooms, and recreation facilities.

Junk - Includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood or lumber.

Junkyard - A place of open storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held for any purpose; junkyard shall include any place of storage or deposit for any purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles. Junkyard shall also mean any place of storage or deposit, whether in connection with another business or not, where scrap metal, rubber, rags, papers, lumber, glass or other building materials are held for the purpose of resale or for the purpose of reclaiming for use some or all of such materials.

Antique cars (25 years and older) shall not be considered to be within the scope of this definition.

Kennel - See *Small Animal Boarding Facility*

Lot - A parcel of land, with or without structures, occupied or used by one principal building or use with its accessory buildings and required open space and yards.

Lot Area - The total horizontal area included within lot lines and shall be determined by the most recent official records or recordings on the Delhi Tax Maps or by survey calculation. Land within road right-of-way shall not be used to comply with the minimum lot area requirements.

Lot, Corner - A lot or parcel of land abutting upon two or more roads at their intersection, or upon two parts of the same road forming an interior angle of less than 135 Degrees.

Lot Coverage - The percentage of the lot area that is covered by the buildings or paved areas on the lot.

Lot Depth - The minimum distance from the road right-of-way line of a lot to the rear lot line of such lot.

Lot Line - Any boundary of a lot. Any lot line not a rear line nor a front line shall be deemed a side line.

Lot Line, Front - The front of a lot shall be construed to be the portion adjacent to or nearest the road. On corner lots and through lots, all sides adjacent to roads shall be considered front yards.

Lot Line, Rear - The lot line generally opposite the front lot line.

Lot, Through - A lot which fronts upon two parallel roads, or which fronts upon two roads which do not intersect at the boundaries of the lot.

Lot Width - The distance between side lot lines at the front building line as prescribed by the front setback regulations.

Mineral Extraction - Operations extracting gravel, rock, mineral stone, sand, fill, topsoil or minerals from the surface or below the ground for sale as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building.

Mixed Use Building - A building or structure with two or more different uses, such as, but not limited to, residential, office, manufacturing, retail, public or entertainment.

Mobile Home - A factory-built, one-family dwelling construction on a chassis to facilitate its transportation to the site. A mobile home shall not be construed to be a travel trailer or recreational vehicle.

Mobile Home Park - A parcel of land under single ownership which has been specifically planned and improved for the long-term placement (over 30 days) of two or more mobile homes for nonresident use.

Model Home - A dwelling unit, used initially for display purposes, which typifies the units that will be constructed in the subdivision.

Motel - A building or group of buildings providing individual sleeping accommodations complete with bathrooms for travelers. Each lodging unit has direct access to the outside and a parking spot. Swimming pools, restaurants and meeting rooms may exist as part of the complex.

Motor Vehicle Repair Shop - A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles and operated for gain.

Net Developable Acreage - The total acreage of the parcel of land excluding the areas which are within Development Limitations as outlined in Section 408.

Nursery or Greenhouse - Land or greenhouses used to raise flowers, shrubs, trees, and plants for commercial, wholesale or retail sales.

Open Space - An area between buildings, or between a building and a boundary line of the parcel, that is situated for recreation, gardening, or other outdoor activities conducive to the principal lot use and size. Such space must be free of undue hazards as well as being readily accessible to all those by whom it shall be used.

Outdoor Recreation - Any commercial or group-organized use, particularly oriented to and utilizing the outdoor character of a parcel, including, but not limited to: snowmobile, trail

bike, jeep and all-terrain vehicle trails; bicycle trail, horse trail, playground, picnic area or similar use in which no physical alteration to the land occurs.

Parking Space - An off-street, paved or unsurpassed space which is accessible and available for the parking of one motor vehicle.

Performance Bond - A guarantee through a bond which has been approved by the Town Board, after review by the Planning Board, that certain developments will be instituted in the future by a developer.

Performance Standards - Criteria established to control nuisances, including, but not limited to: noise, odor, smoke, toxic or hazardous matter, vibration, fire and explosive hazards, and glare or heat generated by, or inherent to, uses of land or buildings.

Permitted Principal Use - For the purpose of this Ordinance, any use which is allowed by right in a zoned district without review by the Planning Board.

Planned Unit Development - A tract of land upon which residential, commercial, or industrial buildings, or a mixture thereof are designed, maintained, or operated as a unit in single ownership or control by an individual, partnership, corporation, or cooperative group. Such developments may have certain facilities in common, such as yards and open spaces, recreation, garages and parking areas, and are based upon a plan having flexibility of design, allowing for the modification of normal zoning district requirements.

Planning Board - The Town of Delhi Planning Board.

Public Facilities and Utilities - All village, town, city, county, State and Federal government owned buildings and land, including, but not limited to, town halls and highway department garages. In addition are telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or a public utility. This definition does not include telecommunications towers.

Public Highway - Those roads and highways which are maintained by the State, County or Town on or before the effective date of this Ordinance. Roads which become publicly maintained after adoption of this Ordinance will not be considered public highways for the purpose of reducing lot dimension requirements under Section 406 G).

Public Parks and Recreational Facilities - Land in public ownership set aside for public use which may or may not have developed recreational facilities, such as playgrounds, tennis courts, baseball fields, picnic areas, swimming pool, lavatories, bike and horse trails.

Recreational Vehicles and Equipment - Includes boats and boat trailers, pick-up campers or coaches (designed to be mounted on automotive or truck vehicles), motorized dwellings,

travel trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Religious Institution - Church, temple, parish home, convent, seminary, and retreat house.

Retail Trade - An enclosed store engaged in selling goods or merchandise to the general public, for personal or household consumption, and rendering services incidental to the sale of such goods.

Resort - A facility for transient guests where the primary attraction is generally recreational facilities or activities.

Road - A public or private way which affords the principal means of access to abutting properties.

Road Right-of-Way - The right-of-way line of a road as indicated by usage, dedication, or by deed of record.

Roadside Stand - A permanent or temporary structure used for the display, support, and protection of products made or produced by the owners of the parcel with the intent to sell to buyers.

Sanitary Landfill - *See Dump*

Service Establishment - Establishments providing services or entertainment, as opposed to products, to the general public, including personal, business, repair, educational, and other personal convenience services, such as coin-operated laundry, cleaning and garment services, photographic studios, beauty shops, barber shops, shoe repair, funeral services, and clothing rental.

Service Station - An establishment available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting, fueling, or equipping of automobiles or other motor vehicles.

Setback, Front - The required open spaced extending across the entire width of the lot between the road right-of-way line and the front of the main building.

Setback, Rear - The required open spaced extending across the entire width of the lot between the rear lot line and the back of the main building.

Setback, Side - The required open space extending from the rear setback line and the front setback line between the side lot line and the side of the main building.

Shopping Center - A group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery separated from customer access.

Sign - Any material, object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, announcement, direction, advertisement or any other similar message either free standing or printed on a building or structure.

Sign Area - The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure, unless the support is used to form an integral background for the display. Both faces of a double-faced sign shall be included as surface area of a sign.

Sign Face - The area or display surface used for the message.

Site Plan - A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

Site Plan Review - A review and approval process, conducted by the Planning Board, whereby site plans are reviewed utilizing criteria stated in this Ordinance and as authorized by Town Law.

Small Animal Boarding Facility - An establishment operated for gain in which more than four dogs or other household pets that are more than one year old are housed, groomed, bred, boarded, trained, sold, or raised. A kennel shall be considered a small animal boarding facility

Special Permit Use - A use which, because of its unique characteristics, requires individual consideration through a review procedure established by the Planning Board, and may require certain conditions and safeguards before being permitted.

Stable, Private - *See Farm, Hobby*

Structure - Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

Subdivision - The division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or divisions of land for any purpose.

Substantial Improvement- Any extension, repair, reconstruction, or other improvement of a structure, the cost of which equals or exceeds 50 per cent of the fair market value of the structure, either before the improvement is started or, if the property has been damaged and is being restored, before the damage occurred. The term does not include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Swimming Pool - A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials and provided with a recirculating and / or controlled water supply.

Telecommunications Facility - A site development including a structure on which antennas or other telecommunications devices are located for cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services and all related structures and improvements necessary for the operation of such facility.

Telecommunications Tower - A structure designed to support antennas in connection with cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services. It includes freestanding towers, guyed towers, monopoles and similar structures that may employ camouflage technology.

Town House - *See Dwelling, Town House*

Use - The specific purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

Variance - Permission to depart from the literal requirements of this Ordinance.

Variance, Area or Bulk - A departure from the area setback, frontage, coverage, size or other requirements of the applicable zoning district, or a departure from any provision of this Ordinance except use.

Variance, Use - A variance granted for a use or structure that is not permitted in the zoning district.

Watershed Area - That area in which all of the surface runoff is concentrated into a particular stream.

Warehousing - Storage facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

Wholesaling - Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to

other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wildlife Management - Management of natural wildlife and associated habitats with the intent of enhancing such.

Yard - An open space that lies between the principal or accessory building or buildings and the nearest lot line.

Yard, Front - An open, unoccupied space on the same lot with a building, between the front setback line and the front lot line, and extending the full width of the lot.

Yard, Rear - An open space, unoccupied, except for accessory buildings, on the same lot with a building, between the rear setback line and the rear lot line and extending the full width of the lot.

Yard, Side - An open space, unoccupied, except for accessory buildings, on the same lot with a building, situated between the building and the side lot line and extending from the front yard to the rear yard.

Zero Lot Line - The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

Zoning Board of Appeals - The Town of Delhi Zoning Board of Appeals.

Zoning District - An area within the town of Delhi for which the regulations and requirements governing land use and structures upon it are uniform.

ARTICLE III. DISTRICTS AND DISTRICT MAPS

Section 301 Establishment of Districts

For the purpose of promoting public health, safety, morals, and general welfare of the Town of Delhi, the town is hereby divided into the following districts:

- A) Residential (R)
- B) Rural I (R-1)
- C) Rural III-V (R-3/5)
- D) Development Limitations Overlay (DL)

Section 302 District Map

The boundaries of each of the districts listed in Section 301 are hereby established as shown on the duly adopted Zoning Map which accompanies this Ordinance and which, with all explanatory matter thereon and amendments thereto, is hereby declared a part of this Ordinance. The development limitation overlays are also declared to be a part of this Ordinance.

A copy of the district map and overlays, including the latest amendments thereto, shall be kept up to date and filed in the Town Clerk's Office for the use and benefit of the public.

Section 303 Designation of District Boundaries

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

- A) Where district boundaries are indicated as approximately following the center lines of streets, highways, streams or railroads, such center lines shall be construed to be such boundaries.
- B) Where district boundary lines are indicated as following or approximately following plotted lot lines or other property lines as shown on the Town of Delhi Tax Map, such lot lines shall be construed to be such boundaries.
- C) Where district boundary lines are shown separated from and parallel to such features and at such distance there from as shown on the map. If not distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.
- D) Where district boundary line divides a lot of record at the effective date of this Ordinance or any subsequent amendments thereto, the regulations for the less restricted part shall extend not more than 50 feet into the more restricted part, provided the lot has frontage on a road in the less restricted district.

Section 304 Determination of District Boundaries

In case of uncertainty as to the true location of a zoning district boundary line in a particular instance, the Code Enforcement Officer shall request the Zoning Board of Appeals to render a determination.

Section 305 Determination of Development - Limitation Overlay Boundaries

Where uncertainty exists with respect to the boundaries of the Development Limitation Overlay Districts, the Delhi Town Planning Board shall determine the extent of the development limitation in question. Such determinations shall be appealable to the Zoning Board of Appeals.

The Planning Board may consider detailed slope, elevation and watershed boundary information as submitted by a professional surveyor in making this determination. Any applicant aggrieved by a decision of the Planning Board under this Section shall appeal to the Zoning Board of Appeals pursuant to Section 905 B)1).

- 2) Parking*
- 3) Home Occupation, home professional office*
- 4) Private swimming pool*
- 5) Garden house, tool shed, storage shed
- 6) Nursery/greenhouse, noncommercial
- 7) Roadside stand*
- 8) Storage or recreational vehicles and equipment*
- 9) Signs*
- 10) Dish antennas*
- 11) Alternative energy systems, private
- 12) Exterior spot lighting*
- 13) Other customary accessory uses and buildings, provided such uses are clearly incidental to the principal use and does not include any activity commonly conducted as a business. Any question of whether a use is considered a permitted accessory use will be directed to the Zoning Board of Appeals for an interpretation.

E) Special Permit Uses - See Schedule I.

Special Permit Uses require an application for approval to the Delhi Town Planning Board. All Special Permit Uses shall require site plan review.

F) Density, Height, Area, and Yard Requirements

- 1) Minimum lot size: 30,000 square feet; larger lot size may be required - See Section 407 H) 1)
- 2) Minimum frontage: 80'
- 3) Maximum height of structure: 35'
- 4) Front setback: 15' from boundary of any road or right-of-way which is 50' or greater in width, or 40' from centerline of any road or right-of-way which is less than 50' in width.
- 5) Side and rear setback: 10'
- 6) Maximum coverage: 25%
- 7) Maximum lot depth to width ratio: 3:1

Section 405 Rural I District (R-1)

- A) Description - This district includes all lands located within 500 feet of the selected public highways shown on the district map and with direct frontage and direct access to the public road.
- B) Purpose - The purpose of this corridor district is to allow for a variety of mixed uses that, when developed, would be appropriate for the existing traffic type and volume and quality of road surface.

C) Permitted Principal Uses

- 1) One one-family, or one two-family dwelling per lot
- 2) One mobile home per lot
- 3) Agriculture
- 4) Forest management practices
- 5) Wildlife management practices

D) Permitted Accessory Uses - Located on the same lot with the permitted principal use. Some accessory uses (*) are subject to additional conditions as set forth in Article V, Supplementary Regulations.

- 1) All those listed in Residential District
- 2) Farm labor dwelling
- 3) Private Stable, Hobby Farm Noncommercial Agriculture(*)

E) Special Permit Uses - See Schedule I.

Special permit uses require an application for approval to the Delhi Town Planning Board. All special permit uses shall require site plan review.

F) Density, Height, Area and Yard Requirements

- 1) Minimum lot size: 1 acre; larger lot size may be required: See Section 407 H) 1)
- 2) Minimum frontage: 200' continuous road frontage
- 3) Maximum height of structure: 35'
- 4) Front setback: 15' from boundary of any road or right-of-way which is 50' or greater in width, or 40' from center line of any road or right-of-way, or 40' from center line of any road or right-of-way which is less than 50' in width
- 5) Side and rear setback: 10'
- 6) Maximum lot coverage: 25%
- 7) Maximum lot depth to width ratio: 3:1

Section 406 Rural III-V (R-3/5)

A) Description - This district includes all lands not described as part of any other district. In general, this district includes most of the undeveloped land in the town of Delhi.

B) Purpose - The purpose of this district is to permit only low density, residential development and limited commercial development.

C) Permitted Principal Uses - Same as Rural I.

D) Permitted Accessory Uses - Same as Rural I.

E) Special Permit Uses See Schedule I.

Special permit uses require an application for approval to the Delhi Town Planning Board.
All special permit uses shall require site plan review.

F) Density, Height, Area and Yard Requirement

The following requirements shall apply to lots , except as provided in G) below:

- 1) Minimum lot size: 5 acres; larger lot size may be required: - See Section 407 H) 1)
- 2) Minimum frontage: 300 continuous road frontage
- 3) Maximum height of structure: 35'
- 4) Front setback: 15' from boundary of any road or right-of-way which is 50' or greater in width, or 40' from center line of any road or right-of-way which is less than 50' in width
- 5) Side and rear setback: 10'
- 6) Maximum lot coverage: 15%
- 7) Maximum lot depth to width ratio: 4:1

G) Reduced Dimensional Requirements

The following requirements shall apply to any existing lot or lot subdivided hereafter that has direct access and frontage to a public highway in the R-3/5 District:

- 1) Minimum lot size: 3 acres; larger lot size may be required: - See 407 H) 1)
- 2) Minimum frontage: 250' continuous road frontage
- 3) Maximum height of structure: 35'
- 4) Front setback: 15' from boundary of any road or right-of-way which is 50' or greater in width, or 40' from center line of any road or right-of-way which is less than 50' in width
- 5) Side and rear setback: 10'
- 6) Maximum lot coverage: 20%
- 7) Maximum lot depth to width ratio: 4:1

Section 407 Development Limitations - Overlay (DL)

A) Description - This is an overlay and includes all lands shown on the Development Limitations Overlay Map(s) on file in the Town Clerk's Office and are hereby declared to be part of this Ordinance. The development limitations shown on the map(s) include:

- 1) Flood hazard areas, including, but not limited to, those areas identified by the Federal Emergency Management Agency on its Flood Insurance Rate Map No 360193, dated July 18, 1985.
- 2) Freshwater wetlands as defined and protected by the New York State Freshwater Wetlands Act.
- 3) Steep slope areas of 15 per cent or more
- 4) High elevation areas of 2000' or greater

B) Purpose - The purpose of this overlay zone is to protect the town from overdevelopment in and around natural areas and manmade areas important to the people of the town of Delhi.

C) Determination of Applicability

1) Zoning Permits

The Code Enforcement Officer shall review all zoning permit applications to determine if construction is proposed in the Flood Hazard Area or within one-hundred feet (100') of a New York State freshwater wetland. No zoning permit for any construction in the Flood Hazards Area shall be issued until the Planning Board has issued a Special Use Permit for such construction. No zoning permit shall be issued for any construction within one-hundred feet (100') of New York State wetland until the applicant has obtained all applicable approvals from the New York State Department of Environmental Conservation.

2) Special Use Permits and Site Plans

The Planning Board shall require that plans comply with the New York State Wetlands Act, the Federal Flood Insurance Regulation guidelines and Local Law No. 1 of 1987, Flood Damage Prevention, prior to the issuance of Special Use Permits or approval of Site Plans.

3) Subdivisions

As part of the subdivision review process, the Planning Board shall determine the applicability of the development limitations requirements. Such decisions shall be appealable to the Zoning Board of Appeals in accord with Section 805 B) 1). The Planning Board may accept detailed information on slope, elevation, or watershed areas certified and submitted by a licensed surveyor in determining the extent of the Development Limitations Overlay District.

D) Permitted Principal Uses - Same as underlying district.

E) Permitted Accessory Uses - Same as underlying district. Located on the same lot with the Permitted Principal Use. Some accessory uses (*) are subject to additional conditions as set forth in Article 500, Supplementary Regulations.

F) Special Permit Uses - All special permit uses shall require site plan review. Special permit uses require an application for approval to the Delhi Town Planning Board. Site plan review may also be required depending upon the nature and complexity of the proposed use.

G) Other Provisions and Requirements

1) No further building construction for any purpose shall be permitted within the area designated as a Flood Hazard Area. Parking, open space and other uses not posing any obstructions to water flow shall be permitted.

- 2) Activities proposed within a designated wetland or within 100' of the wetland shall be subject to the guidelines and regulations of the New York State Freshwater Wetlands Act which, together with subsequent amendments, are hereby adopted.

H) Density, Height, Area, and Yard Requirements

- 1) Lot size shall be calculated by whichever of the following two methods produces the greater number of subdivision lots. All calculations shall be supplied by a licensed surveyor.
 - a) The number of subdivision lots permitted shall be calculated by dividing the net developable acreage by the minimum district lot size. Net developable acreage shall be calculated by subtracting the total acreage within the Development Limitations Overlay District(s) from the total parcel acreage. Minimum lot size shall be the same as the underlying district.
 - b) When an entire parcel lies within a Development Limitations Overlay District, the minimum lot size shall be two times (2x) the underlying district.
- 2) All parcels must meet New York State, New York City and any Town regulations currently established or in the future amended pertaining to on-site sewage disposal.
- 3) Minimum frontage: 50' more than underlying district.
- 4) Maximum height of structure: 35'.
- 5) Front setback: Same as underlying district.
- 6) Side and rear setback: Same as underlying district.
- 7) Maximum lot coverage: Same as underlying district.
- 8) Maximum lot depth to width ratio: Same as underlying district.

Section 408 Equivalent Uses

When a proposed land use activity is not specifically listed in Schedule I for a particular district but the proposed land use activity is similar in nature to a use already listed as permitted, the following procedure shall apply:

- A) The Code Enforcement Officer shall deny the permit application.
- B) The applicant shall appeal the Code Enforcement Officer's decision to the Zoning Board of Appeals for an interpretation of the laws.

- C) The Zoning Board of Appeals shall report its findings to the Planning Board. The Planning Board will make recommendations to the Town Board for amendments;

-OR-

- D) The applicant may approach the Town Board for request for an amendment, where upon the Town Board may refer the request to the Planning Board for recommendation.
- E) In no case shall a building permit be issued for an equivalent use until the Ordinance hasa been amended to permit such equivalent use in the appropriate zoning districts, with or without conditions.

Section 409 Other Regulations and Exceptions

Additional regulations and appropriate exceptions to the regulations of this Ordinance are set forth in Article V, Supplemental Regulations; Article VI, Special Permits and Site Plan Review; and Article VIII, Non-Conforming Uses.

ARTICLE V. SUPPLEMENTARY REGULATIONS

GENERAL

Section 501 Applicability

Land uses and activities in the Town of Delhi which are regulated by this Ordinance shall be subject to additional requirements and to limitations and exceptions as set forth in this Article V.

LOT CHARACTER

Section 502 Calculation of Lot Coverage

In determining percentage of building coverage of a lot or size of yard, all principal buildings, roofed porches, garages, carports, other accessory buildings and paved parking and driveway areas shall be included.

Section 503 Corner and Through Lots

Front yard setbacks and minimum road frontages are required on both road fronts. The two remaining yards shall be designated by the applicant as to which will be the rear yard and which will be the side yard.

Section 504 Cul-de-Sacs

Frontage requirements for lots on cul-de-sacs in the R-1 or R-5 Districts shall be one-half the standard required frontage provided average lot width equals the standard required frontage distance and lot depth-to-width ratio are met based on average width.

Section 505 Existing Lots

Notwithstanding the limitations imposed by any other provisions of this Ordinance, the Code Enforcement Officer shall issue a building permit for the construction of a permitted principal building or structure on a lot, which does not meet the minimum lot size and minimum frontage requirements of the Ordinance, provided such substandard lot was on record in the office of the County Clerk prior to the enactment of this Ordinance.

Section 506 Landscaping Requirements

- A) Where any permitted nonresidential land use, multiple-family development or mobile home park abuts an existing residential parcel or a vacant parcel where residential development could occur, a strip of land at least 20 feet wide shall be maintained as a landscaped area in

front, side and/or rear yard which adjoin these uses. The 20'-wide strip shall begin at least 5' from any adjoining property line.

- B) Required landscaping shall be installed and maintained in a healthy growing condition and shall take the form of any or all of the following: shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover.

Section 507 Required Open Space or Yard

- A) No area necessary under this Ordinance to satisfy area yard, or other open space requirements in relation to any lot, building, or use shall be counted as part of required open space in relation to any other lot, building or use.
- B) Every part of a required open space or yard shall be open and unobstructed, except for ordinary building projections of sills, chimneys, eaves, and unroofed steps, provided that no such projections extend more than three feet into the required yard. Fences, stonewalls, trees, and shrubbery may also be located in the required open space.

Section 508 Vision Clearance at Intersections

No obstructions to vision, such as shrubbery, brush, trees, earth, or structure, shall be permitted at road intersections within the triangle formed by the intersections of road center lines and a line drawn between points along such lines 30 feet distant from their point of intersection.

Section 509 Zero Lot Line

When construction takes the form of townhouse units, where each unit has one or both side walls in common with an adjacent unit, the side yard requirements shall double and shall apply only to the end unit in the row.

USES GENERAL

Section 510 Abandonment of Construction and Excavation

- A) Within three months following a construction project or the demolition or abandonment of a building or structure, all construction materials shall be removed from the site and excavation filled to normal grade by owner.
- B) Unfenced excavation shall not be permitted for a period in excess of sixty days.
- C) If the owner fails to cover over or fill such excavation after 30 days notice by the Building Inspector, the Town Board may order said excavation to be covered or filled and shall charge the owner of said property any costs connected therewith.

Section 511 Height Exceptions

Private home antennas, spires, belfries, cupolas, watertanks, ventilators, chimneys, solar equipment, barns, silos, windmills, transmission towers, flag poles, skylights or other appurtenances, usually required to be placed above the roof level and not intended for human occupancy, shall not be subject to height requirements as established under this Ordinance.

Section 512 Minimum Habitable Space

- A) Site-built and modular dwellings shall have a minimum habitable floor area of at least 800 square feet per dwelling unit.
- B) Mobile homes shall have a minimum habitable floor area of 800 square feet.

Section 513 Off-Street Parking Requirements

For every building hereafter erected, altered or changed in use, there shall be provided off-street parking spaces as set forth in the following.

<u>USE</u>	<u>REQUIRED PARKING SPACES</u>
Dwelling Unit (Single Family)	Two parking spaces per dwelling unit on the same lot with the main building.
Dwelling Unit (Multi-Family)	Two Parking spaces per dwelling unit in the building(s).
Business and Professional Home Office and Home Occupation	Two parking spaces, plus one space for every 200 square feet of office area.
Retail and Service Establishment	One parking space for every ninety square feet of floor area devoted to sales plus one space for each two employees.
Eating and Drinking Establishment	One parking space for every three seats plus one space for each two employees.
Industrial, Wholesale, Warehouse Storage, Freight and Trucking Uses	One parking space for every motor vehicle used directly in the business, plus additional parking as required by the Planning Board.
House of Worship, and other places of public assembly	One parking space for every three seats, or one space per 100 square feet of floor area, whichever is greater.
Hotels / Motels	One parking space per room, plus one space for every two employees.
Unspecified Uses	As required by the Planning Board based on use intensity, turnover, customers, employees and vehicles used.

Except for dwellings, all off-street parking spaces are to be arranged so that backing movements take place entirely within the parking area.

A) Dimensional Requirements

Each parking space shall have a minimum width of nine feet and a minimum length of twenty feet and shall be served by suitable aisles to permit access and automobile maneuverability into all parking spaces. Total parking area must provide a minimum of 270 square feet per parking space, including access, egress and circulation.

B) Location of Facility

All off-street parking facilities required under this Ordinance shall be constructed on or adjacent to the site of main use or on a lot adjoining the main use or directly across the road. Location of parking shall be indicated on the sketch plan during building permit application submittal.

C) Off-Street Loading Requirements

All commercial and industrial structures, erected after the adoption of this Ordinance, shall provide adequate off-street loading facilities. Such facilities shall be sufficient in size to eliminate the projection of vehicles into a street right-of-way.

Section 514 Performance Standards

In all districts uses are not permitted which exceed the following standards measured at the property line. The Planning Board, under its powers of site plan review and approval, shall decide whether uses meet the standards. Uses shall meet State air and water pollution standards and shall not:

- A) Emit noxious gases which endanger health, comfort, safety, or welfare of any person, or have a tendency to cause injury or damage to property, business, or vegetation.
- B) Create vibration detectable to normal senses on adjoining properties.
- C) Create glare by lighting or signs which could impair a driver's vision
- D) Cause harmful or toxic waste to be discharged into sewer, streams, or bodies of water, or to be stored on said property.

Any farm or farming operation located on land that would be eligible for an agricultural tax exemption pursuant to New York State Agriculture and Markets Law shall be exempt from these Performance Standards.

Section 515 Permit For Temporary Uses and Structures

The Planning Board may authorize by resolution the issuance of a temporary permit by the Code Enforcement Officer for incidental and non-conforming uses as follows:

- A) Temporary uses incidental to a construction project. Such uses and structures may include the storage of building material and equipment.
- B) Temporary real estate sales office for the sale of property on the premises.
- C) Other Similar Temporary Incidental Uses

Permit shall be conditioned upon agreement by owner to remove use on expiration of permit. Such permit shall be authorized for a period of one year and may be extended for two similar periods when the Code Enforcement Officer finds such work has been diligently pursued.

Section 516 Sewage Disposal and Water Supply

Unless connection to a municipal waste treatment system or public water supply is available, all individual, on-site sewage disposal and water supply systems installed as part of any construction project or individual dwelling shall conform to the requirements of the New York State Department of Health publication "Waste Treatment Handbook, Individual Systems", and as may be amended. This requirement must be met independently of the minimum lot size allowed in any district and may require an increase in lot size for conformance.

Section 517 Structures To Have Access

Every building hereafter erected or moved shall be on a lot adjacent to a public road, or with access to an approved private road, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

Section 518 State Environmental Quality Review

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, and as may be amended from time to time, are hereby adopted by reference.

Section 519 Uses Not Permitted

Any use not specifically permitted as a principal, accessory or special permit use shall be deemed to be prohibited.

Section 520 Yard Maintenance

No large appliances (washing machines, stoves, refrigerators, etc.) shall be stored in front or side yards for more than 30 days.

USES, SPECIFIC

Section 521 Accessory Buildings

A permitted accessory building or structure, except for farm purposes, may be located in any required side or rear yard, provided:

- A) Such building shall not exceed 20 feet in height.
- B) Such building shall meet the front setbacks provided for each district.
- C) No building permit is required for any accessory use less than 144 square feet.
- D) Where a subordinate building is attached to the main building in a substantial manner, as by a wall or roof, such building shall be considered part of the main building and not an accessory building.
- E) The accessory use shall not dominate in area extent or purpose the principal lawful use.

Section 522 Campgrounds

The following additional standards must be provided for in the site plan before a special permit for a campground can be issued:

- A) Evidence that all State Health Department regulations of campgrounds will be met.
- B) A 25-foot planted or natural landscaped border will be provided for on all perimeters of the campground property.
- C) A minimum of ten acres of land will be used for the campground.

Section 523 Dish Antennae

- A) All dish antennae shall be located in either the side or rear yards, unless the owner can prove his/her only "window of reception" is in the front yard. In the event that no "window of reception" is available on the ground, such antenna may be placed on the roof of the dwelling structure. In the event construction will occur on the roof, the applicant shall submit construction drawings to the Building Inspector before installation.

- B) The location and design of the dish antenna shall minimize the visual impact on adjacent property.
- C) A Building Permit for a dish antenna will be required when mounting on the roof of a dwelling.

Section 524 Dumps

- A) The operation or maintenance of a dump in the town of Delhi is regulated by Local Law 2 of 1988.
- B) No materials, garbage, rubbish, or structures related to dumps, as permitted by Local Law No. 2 of 1988, shall be closer than 50 feet to any lot line.

Section 525 Exterior Spotlighting

In no case shall any exterior spotlighting be directed toward the highway so as to interfere with the vision or attract the attention of the driver of a motor vehicle, nor shall the light be directed toward any other lot as may cause excessive illumination which would interfere with the normal use of such adjacent property.

Section 526 Garage Sales

Garage sales shall be limited to 15 days per calendar year. Any garage sale operating for more than 15 days per calendar year shall be classified as a retail business and subject to the requirements of such.

Section 527 Gasoline Filling Station

No fuel pump shall be located closer than 50 feet to any side or rear lot line, nor closer than 20 feet to any front lot line. All repair work shall be performed and all equipment supplied and waste stored within a structure or enclosed structure so as not to be visible from side and rear lot lines.

Section 528 Home Occupations

Must meet the following conditions:

- A) The occupation or activity shall be carried on wholly within the principal building or within a building or other structure accessory thereto. An area equivalent to no more than 50 per cent of the floor area of the dwelling shall be used for the occupation. Such area shall be within the dwelling or another structure accessory thereto. No outdoor storage is permitted.
- B) The occupation shall be carried on by the occupant of the dwelling, and not more than two persons outside the resident household shall be employed in the occupation or as assistants.

- C) There shall be no exterior display or sign except as permitted under this Ordinance, no other exterior indication of the home occupation or variation from the residential character of the lot or of the surrounding neighborhood.
- D) The occupation shall not produce any offensive odor, noise, vibration, smoke, dust, heat, electrical interference or glare detectable to normal sensory perception outside the structure.
- E) Any need for parking generated by the occupation shall be met off the street and in accordance with the regulations of this Ordinance.
- F) No more than one home occupation shall be permitted in association with a dwelling.

Section 529 Junk and Junkyards

The operation of a new junkyard or the continued operation of an existing junkyard, as defined in this Ordinance, shall be conditional upon the granting of an annual operating license from the Town Board in accordance with Section 136 of the General Municipal Law and this Section.

Inoperable agricultural equipment or machinery stored on an operating farm for future restoration or for use as a source of parts for other equipment in use on the farm shall not be subject to the provisions of this Section.

In addition to the requirement of General Municipal Law 136, all junk, as defined by this Ordinance, shall not be allowed to accumulate unless the junk is stored in an enclosed building or is completely screened from nearby public roads and other private property.

Section 530 Kennels (Small Animal Boarding Facilities)

- A) Shelters and runs shall not be closer than fifty feet (50') to any side or rear lot line. Shelters and runs shall not exceed the established setback limitations of the district.
- B) All buildings and structures housing animals shall be soundproofed.
- C) No animals shall be boarded overnight outdoors.

Section 531 Mineral Extraction

In any district, mineral extraction, except when incidental to, or connected with, construction of a building on the same premises, shall be permitted only after issuance of a special permit. In instances where Department of Environmental Conservation (DEC) permits are required, this regulation shall not apply when said DEC permit is issued.

Before approval of any new, or extension to, any mineral extraction operation, a performance bond shall be secured from the owner sufficient to insure upon completion of extraction

operations the abandoned site will be left in a safe, attractive, and useful condition in the interest of public safety and general welfare. The bond shall be sufficient to cover cost of redevelopment of the site as a park, recreation area, or other usable open space. The above mentioned bond shall not be required by this Section if such bond is required and supplied to DEC to accomplish the stated purposes.

Owners of land with existing quarries, mines, or gravel banks, that have been abandoned for more than 90 days, shall be required to fence the site and begin restoring the area to a safe, attractive, or useful condition within six months of the effective date of this Ordinance.

Section 532 Mobile Homes

Individual mobile homes shall be subject to all regulations pertaining to detached, one-family dwellings, and, in addition, shall comply with all the requirements provided for in the Town of Delhi Mobile Home and Mobile Home Park Local Law, adopted May 10, 1983, as amended. Structure shall be self contained single unit (excluding modular homes) and shall meet the Mobile Homes Construction and Safety Standards of the U.S. Department of Housing and Urban Development and the applicable code of the New York State Uniform Fire and Building Code.

Section 533 Mobile Home Parks

In addition to the minimum requirements, landscaping requirements, sign regulations and other miscellaneous supplementary regulations that may apply from this Ordinance, the requirements of the Town of Delhi Mobile Home and Mobile Home Park Local Law, adopted May 10, 1983, and as may be amended from time to time, shall apply.

Section 534 Model Homes

The Planning Board may authorize, by resolution, the Code Enforcement Officer to issue permits for model homes, either in the singular on a parcel of land later to be offered for sale or with other model homes for the public to visit and inspect.

Model homes on display and not intended to be sold as is and where located shall be required to meet all setback and parking requirements and shall provide for adequate off-street parking spaces as prescribed in this Ordinance. Model homes intended for display and sale shall be built in accordance with the New York State Fire and Building Code and in receipt of a local building permit.

Section 535 Planned Unit Development (PUD) Districts

A) Purpose

A Planned Unit development shall be considered where the proposed development indicates a mixture of residential, commercial, and/or industrial uses, maintained or operated as a unit through single ownership or an organized corporation. the proposal shall include common

facilities, such as yards, open spaces, recreation and parking areas, which allow for the modification of normal zoning district requirements, and seek the following objectives.

- 1) Creation of a more desirable community environment than would be possible through strict application of zoning regulations found elsewhere in this Ordinance.
- 2) Preservation and enhancement of community natural resources such as water bodies, wetlands, forests, significant topographic and geologic features, and other area of scenic and ecological value.
- 3) Efficient use of a site to facilitate adequate and economical construction and maintenance of streets and drainage facilities, and water supply and sewage systems.
- 4) Innovation and variety in the type and design of residential development, providing a wide choice of living environment, occupancy tenure, and housing cost.
- 5) Open space allocation and maintenance by private initiative as an integral part of residential development.

B) Site Area and Location

- 1) The minimum site area for a planned development shall be 30 contiguous acres.
- 2) Not less than 35 percent of the gross area of a PUD shall be devoted to common open space. Such land is to be owned or controlled jointly by all residential property owners within the PUD District and is to be used for recreational purposes or preserved in its natural state. The common open space shall include lands having a significant ecological, aesthetic, and recreational characteristics, with topography, shape, dimension location, access, and improvements suitable for its intended purpose.

C) Permitted Uses

- 1) Residential: may be any type, including cluster subdivision, condominium, townhouse dwellings and related accessory uses as provided elsewhere in this Ordinance.
- 2) Non-residential: may be permitted, or required, where such uses are designed to serve primarily the residents of the PUD District.

D) Intensity of Use

- 1) The maximum number of dwelling units that may be approved in a PUD shall be computed by dividing the total gross acreage of the site by the appropriate number of dwelling units per acre for the district in which such site is located as provided in Article IV. Dwelling unit calculations shall be made in accordance with section 408 H 1 for land located in the development Overlay District. The maximum number of dwelling units

shall not be approved if, in the judgement of the Planning Board, the site plan does not indicate adequate design and management of open space areas according to the following criteria:

- a) provision of recreational facilities
- b) protection or enhancement of wildlife habitats
- c) protection of surface water quality
- d) protection or enhancement of scenic quality

E) Other Zoning Regulations

With the exception of minimum lot areas, building heights, lot and yard requirements, the PUD shall comply with all other provisions of this Ordinance.

F) Utilities

All uses situated in a PUD shall be served by central water and sewer systems. All water, sewer, and gas lines, and all other lines providing power and communication service, shall be installed underground in the manner prescribed by the state and local agencies having jurisdiction.

G) Ownership

- 1) The land proposed for a PUD may be owned, leased or controlled either by an individual, corporation, or by a group of individuals or corporations. The applications shall be filed by the owner, or jointly by all owners of the property included in the application. In the case of multiple ownership the approved plan shall be binding on all owners.
- 2) Restrictions and Covenants shall be established and filed of record prior to conveyance of any lots. No buildings or structures may be erected on such common lands except as shown on the approved site plan.

H) Approval of Planned Unit Development

A Planned Unit Development may be approved only by resolution adopted by the Town Board, following a public hearing, and upon recommendation of the Planning Board.

I) Site Plan Approval

- 1) Prior to issuance of a building permit for a Planned Unit Development, a site plan shall be submitted to and approved by the Planning Board in accordance with Section 602 of this Ordinance.
- 2) Prior to Site Plan Approval, the developer shall file with the Planning Board a performance bond to insure the proper installation of all park and recreation improvements shown on the Site Plan, and a maintenance bond to insure proper maintenance of all common lands until

the Homeowners' Association is established. The amount and period of said bonds shall be determined by the Planning Board; and the form, sufficiency, manner of execution, and surety shall be approved by the Town Attorney and the Planning Board.

Section 536 Cluster Development

A) In the event a proposal is a form of development for single family residential subdivisions showing reduction in lot size and resultant area devoted to open space, the proposal shall be considered as a Cluster Development and organized as one of the following:

- 1) A Homeowners' Association approved by the Federal Housing Administration for mortgage insurance as a Planned Unit Development, and the Town Board.
- 2) A Homeowners' Association approved by the Town Board upon recommendation of the Town Attorney. Whenever a Homeowners' Association is proposed, the Town Board shall retain the right to review and approve the articles of incorporation and charter of said Homeowners' Association, and to insure that the intent and purpose of this Section are carried out.
- 3) Any other arrangement approved by the Town Board, upon recommendation of the Town Attorney, as satisfying the intent of this section, including condominiums and special districts.

B) Homeowners' Association

When considering the application, the Planning Board shall on part, require the cluster development to meet the following conditions:

- 1) The Homeowner's Association shall be organized under the laws of New York State and filed as required with the New York State Attorney General's Office
- 2) Be established as an incorporated non-profit organization operating under recorded land agreements through which each lot owner and any succeeding owner is automatically subject to a charge as provided in the charter of the Homeowner's Association.
- 3) Title to all common property, exclusive of land set aside for public schools, shall be placed in the Homeowners' Association, or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time to be determined by the Planning Board.
- 4) Each lot owner shall have equal voting rights in the Association and shall have the right to the use and enjoyment of the common property.
- 5) Once established, all responsibility for operation and maintenance of the common land and facilities shall lie with the Homeowners' Association.

- 6) Dedication of all common land areas shall be recorded directly in the Subdivision Plat, or shall be referenced on the Plat to a dedication in a separately recorded document. Resubdivision of such areas is prohibited. The dedication shall:
 - a) save the Title to the common property to the Homeowners' Association free of any cloud of implied public dedication,
 - b) commit the developer to convey the areas to the Homeowners' Association at the approved time to be determined by the Planning Board,
 - c) grant easements of enjoyment over the area to the lot owners,
 - d) give the Homeowners' Association the right to borrow for improvements upon security of the common areas,
 - e) give it the right to suspend membership rights for non- payment of assessment or infraction of published rules.
- 7) The Homeowners' Association life shall be perpetual, and it may purchase insurances, is authorized to pay taxes, shall specify in its charter and by-laws an annual homeowner's fee and provision for assessments, and shall establish that all such charges become a lien on each property in favor of said Association. The association shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it also shall have the right to commence action against any member for the collection of any unpaid assessments in any court of competent jurisdiction.
- 8) The developer shall assume all responsibilities as previously outlined for the Homeowners' Association until a majority of the dwelling sites are sold, at which time the Homeowners' Association shall be established automatically.

C) Deeds

Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, dedications, and other restrictions (including assessments and the provisions for liens for non payment of such).

Section 537 Public Utility and Facilities

Public utility substations and similar structures, shall comply with the following:

- A) Facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.

- B) Landscaped area at least fifteen feet (15') wide shall be maintained in front, side and rear yards and in areas designated by the Planning Board in site plan review.
- C) There shall be no equipment visible from surrounding property.
- D) Utility poles and attendant lines are allowed in all districts.

Section 538 Parking, Storage or Use of Recreational Equipment

- A) Recreational vehicles or other equipment may be parked or stored on any parcel of land provided it complies with the front, side and rear setback requirements and further that it not be parked closer to the front lot line than the principal building.
- B) No recreational vehicle shall be parked or stored on a parcel of land for more than 30 days at a time unless the vehicle displays a current New York State Registration or has received a special permit allowing longer parking or storage. Parcels of land with a primary residence or seasonal residence are exempt from this requirement.
- C) All landowners shall comply with this Section within six months of the effective date of this ordinance.

Section 539 Commercial and Industrial Locational Limitations

All new commercial and and industrial uses (as classified in Schedule I) in the R-1 and R-3/5 districts shall meet the following locational limitations:

- A) A minimum of 250 feet of continuous road frontage for the lot on which the use is located; and
- B) A minimum of 50 feet for the side and rear setbacks.

Section 540 Signs

Signs shall be permitted as an accessory use only according to the standards and conditions listed below.

A) General Provisions

- 1) Signs must be visually appealing, constructed of durable material, maintained in good condition, and must not be allowed to become dilapidated, faded, peeled, blistered.
- 2) Every sign shall be designed and located in such a manner as to: not impair public safety; not restrict motor vehicle clear vision; not be confused with any traffic sign or signal; and not prevent free access to any door, window or fire escape.

- 3) Signs may be illuminated by a steady light provided the lighting does not directly illuminate nor cause excessive glare upon adjacent properties and public highways.
- 4) Flashing or oscillating lights or signs that move or appear to move are not permitted unless necessary for public safety and welfare.
- 5) No sign shall consist of ribbons, streamers, spinners or similar moving, fluttering or revolving devices.
- 6) No freestanding sign shall exceed 25 feet in height above grade level, nor shall any sign be located on the roof of any building or structure.
- 7) No sign shall be erected within a public right-of-way. No sign shall overhang across property lines or above public rights-of-way.
- 8) No sign shall be erected on a public utility pole or traffic control structure.
- 9) None of the standards in this Section shall apply to road name and traffic control signs erected by the New York State Department of Transportation, Delaware County Highway Department, or the local Town of Delhi Highway Department. Other signs necessary for public safety and welfare shall also be exempt.
- 10) All existing signs, at the time of enactment of this regulation, shall be allowed to remain as long as they are properly maintained and their use remains current.

B) Specific Signs

The following signs are permitted in any district:

- 1) Professional residence-office and home occupation signs not exceeding eight square feet per face.
- 2) Directional signs shall be permitted in all districts and shall be no larger than 6 square feet per face.
- 3) Trespass or Posted Signs

Trespassing or posted signs shall be allowed in all districts when such signs comply with existing laws and regulations for posting property. Sign spacing of trespass and posted signs shall not be less than 75 feet.

- 4) Temporary Signs

Temporary signs, including, but not limited to, directional signs for meetings, conventions and other assemblies, signs advertising the sale or rental of land or buildings,

signs listing the architect, engineer, or contractor and/or owner on premises where construction, renovation or repair is in progress, political posters, not-for-profit promotional signs, private sales or similar signs are permitted subject to the following requirements.

- a) Signs advertising the sale or lease of property shall not exceed six square feet in area. No more than one "for sale" or "for rent" sign is allowed per property.
 - b) Other temporary signs shall not exceed 32 square feet in area.
 - c) All temporary signs shall be removed within 14 days of the event advertised thereon or of the completion of the construction, renovation, or repair.
- 5) Window signs and wall signs shall not exceed 50 per cent of the total display window area or total aggregate wall area.
 - 6) Residential or farm identification name plates not exceeding one per property and four square feet in area.
 - 7) One sign per entrance identifying a residential development and shall not exceed 8 square feet.
 - 8) School, church, or other institutional identification signs shall not exceed one per public road frontage and 12 square feet in area.
 - 9) Business, retail, service and industrial identification signs shall be limited to one on-premise sign per public road frontage, not exceeding 32 square feet per face and four off-premise signs not exceeding 32 square feet per face.
 - 10) One non-flashing, illuminated mobile home park sign, containing an area of not more than 32 square feet and not more than 10 feet above ground level at its highest point, may be displayed. Such sign shall be set back at least 20 feet from any public road and at least 50 feet from any side and rear property line.

C) Permit Required

A sign permit is required for the erection or alteration of all signs within the town of Delhi except for residential and farm identification nameplates, temporary signs, trespass and posted signs, and window signs. permits shall be acquired from the Code Enforcement Officer.

Section 541 Swimming Pools

A) Accessory to Single-Family Dwellings

Swimming pools, whether permanent or portable, having a depth of at least two feet, shall be located no closer than 50 feet to a front lot line.

B) Accessory to Residential Developments

Swimming pools accessory to residential developments, whether clustered single-family dwellings, seasonal dwellings, bungalow colonies, camps or multi-family dwellings, shall be of permanent construction and shall be located not closer than 100 feet from any lot line.

C) Non-Residential

Swimming pools that are part of non-residential uses, whether commercial or noncommercial, such as hotels, motels, clubs, campgrounds, day-use recreational facilities or institutions, shall be of permanent construction and shall be located no closer than 100 feet from any lot line.

D) Fencing

All outdoor swimming pools, having a depth of two feet or more shall be completely with fencing in accordance with the New York State Building Code, Section 720.1 or as amended.

Section 542 Clearcutting

Clearcutting of more than five acres within any one-year period on any parcel of land shall require a special Permit. Clearcutting that is required for the building of a new road for an approved subdivision shall not require a Special Permit.

Section 543 Parking and Storage of Certain Vehicles

In the R-3/5 District, the parking or storage, on any parcel, of four or more automotive vehicles or trailers of any kind or type, without current license plates, other than in completely enclosed buildings or so they are visually screened from the road and adjacent properties, is prohibited. In the R and R-1 Districts, the parking or storage on any lot of two or more vehicles, unless so enclosed or screened, is prohibited. Farm vehicles shall be exempt from the requirements of this Section.

Section 544 Telecommunications Towers

A) Telecommunications towers shall require the following permits and / or approvals:

Telecommunications towers may be permitted in the R-1 and R-3/5 districts by an approval of a Special Use Permit and Site Plan Review by the Town Planning Board as described in Schedule I of this Ordinance.

B) Whenever possible, new telecommunications facilities shall be sited on existing telecommunications towers in order to preserve the aesthetic and scenic value of the Town.

Applicants for telecommunications towers shall locate, erect and site towers in accordance with the following priorities with (1) being the highest priority and (5) being the lowest priority. If the site selected is not the highest priority, an explanation must be submitted as to why sites of a higher priority were not selected.

- 1) on existing towers or structures
 - 2) co-location on a site with existing towers or structures
 - 3) on municipal properties
 - 4) in agricultural areas
 - 5) in residential areas
- C) If co-location is not possible, the applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities.
- D) The minimum setback for each telecommunications tower from any property line shall be the height of the tower to be erected plus an additional fifty percent (50%) of such height.
- E) No telecommunications tower shall be erected within a federal or state designated freshwater wetland or within any protected buffer area thereto, within a federal designated area of special flood hazard, on a slope greater than fifteen percent (15%).
- F) All telecommunications towers and accessory structures shall be enclosed by a fence not less than eight (8) feet in height above ground level. The fence shall contain adequate security measures along the top of the fence to deter site vandalism.
- G) No telecommunications tower shall contain any signage except that identifying a health, safety or general welfare message, including but not limited to the owner of the tower, an emergency telephone number and tower site identification (i.e., tower number) and address.
- H) No telecommunications tower or accessory structure shall be illuminated unless required by the Federal Aviation Administration (FAA).
- I) The telecommunications tower, all attachments, antennas and accessory equipment and structures shall either be a galvanized finish or painted gray above the surrounding tree line and designed to blend into the natural surroundings below the surrounding tree line unless otherwise mandated by the FAA for the tower.
- J) Each telecommunications tower and accessory structures shall be adequately screened from any adjacent public right-of-way. To accomplish this screening, at least one row of native evergreen shrubs or other screening acceptable to the Planning Board which is capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be required and maintained. The minimum screening requirement may be waived if the Planning Board determines that some other suitable screening already exists.

- K) All utility connections, electric and land based telephone and / or microwave utilities extended to serve telecommunications sites, shall be underground wherever possible. This requirement may be waived, in whole or in part, by the Planning Board, if, in its opinion, such underground facilities would be impractical.
- L) Unless preempted by federal or state law, all telecommunications towers and accessory structures shall be inspected annually, by a licensed professional engineer, at the applicants expense, for structural integrity. A copy of the inspection report shall be filed with the town within thirty (30) days of inspection.
- M) The applicant shall submit to the Planning Board a letter of intent committing the telecommunications tower owner, and his/her successors in interest, to notify the building inspector within thirty (30) days of the discontinuance of use of the telecommunications tower and accessory structures. This letter shall be filed with the building inspector prior to the issuance of a building permit. The owner shall remove the obsolete or unused telecommunications tower and accessory structures from any site and restore the site to pre-construction conditions within one hundred twenty (120) days of such notification. Failure to notify and/or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this local law and the cost of removing the telecommunications tower and accessory structures shall be placed as a lien on the property owners tax bill.

ARTICLE VI. SPECIAL PERMITS

Section 601 Purpose

It is the intent of this Section to use Special Permits to control the impacts of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location.

Section 602 Administration

The Town Planning Board will administer the review and granting of Special Permits. Any addition or alteration to uses and buildings authorized by Special Permit requires approval of the Planning Board.

Section 603 Procedure

- A) The applicant shall submit a completed application to the Planning Board a minimum of 14 days prior to the regular monthly meeting. A completed Environmental Assessment Form shall be submitted at this time in accordance with the State Environmental Quality Review Act.
- B) The application for a Special Permit may be made by the owner of the property or other person with written approval of the owner. Such application shall include a site plan in accordance with Article VII, Site Plan Review.
- C) At the regular or special meeting when the completed application is reviewed, the Planning Board shall determine whether a public hearing is necessary. If a public hearing is held, it must be within 45 days after the completed application is submitted to the Planning Board with ten (10) days public notice in the official newspaper. In addition, the applicant shall give notice in writing by Certified Mail to all property owners of the land immediately adjacent to, extending five-hundred (500) feet therefrom, and directly opposite thereto, extending five-hundred (500) feet from the street frontage of the land in said application. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.
- D) The Planning Board shall render a decision, at a regular or special meeting, either approving, approving with conditions or denying a Special Permit application within 45 days of the public hearing or, if no hearing is held, within 45 days of receipt of the completed application.
- E) A Special Permit shall be construed be authorization for only one particular special use and shall expire if the special use ceases for more than six (6) months for any reason. Special uses inherently of a seasonal nature, including, but not limited to, nature centers, campgrounds,

recreation areas, and roadside stands, shall have a period extended to 12 months prior to expiration of special permits.

Section 604 Standards Applicable to All Special Permit Uses

Before granting a Special Permit, the Planning Board shall be satisfied that all of the following conditions have been met. The Planning Board is authorized to condition Special Permits to ensure compliance with these conditions (See Section 605, Conditions).

- A) The proposed development is compatible with nearby properties and will not discourage the appropriate development and use of adjacent properties or impair their value.
- B) Traffic generated by the proposed development can be adequately and safely served by the existing and proposed roads.
- C) The proposed development will not adversely affect community appearance.
- D) The proposed development can be served by necessary community facilities and will not overtax such community facilities. This includes providing adequate access for emergency vehicles as required by Town Law, Section 280-A.
- E) Operation of any special use shall not be more objectionable to nearby properties by reason of dust, odor, noise, fumes, vibration, excessive lighting, or water pollution than would the operation of any permitted use.
- F) Special uses shall not conflict with the Comprehensive Plan.
- G) Solar access of adjacent properties is not obstructed by said use.
- H) All State Environmental Quality Review requirements have been met.
- I) No Special Permit shall be issued for an existing use on a property where there is an existing violation of this Ordinance or other town law or regulation.

Section 605 Conditions

The Planning Board, in granting Special Permits, may impose such conditions, safeguards and restriction upon the proposed development as may be deemed necessary in the public interest to secure compliance with the provisions of this Ordinance.

Conditions may include, but are not limited to, the following:

- A) The hours of operation;
- B) Access to the subject property;

- C) Protection of surface and groundwater;
- D) Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent or nearby property owners;
- E) Adequate sewer and water supplies;
- F) Sound limitations as needed to ensure peaceful enjoyment of neighbors;
- G) The location, size, height, design of building, walls, fences, landscaping and buffer yard;
- H) Covenants and/or homeowners' association for maintenance of applicable restrictions;
- I) Timing or phasing of development;
- J) Utilities underground
- K) Control of smoke, dust, and odor;
- L) Bonding as required to ensure standards are met and plans are implemented.

No Special Permit shall be issued for a use on a property where there is an existing violation of this Ordinance or other town law or regulation.

ARTICLE VII. SITE PLAN REVIEW

Section 701 Purpose

This Article of the Delhi Town Zoning Ordinance is enacted under the authority of Section 274-a of the Town Law of the State of New York to protect the health, safety, convenience and general welfare of the inhabitants of the Town. This Article regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances.

The principle areas of concern are:

- A) The balancing of landowners' rights to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances.
- B) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
- C) The adequacy of waste disposal methods and protection from pollution of surface or groundwater
- D) The protection of historic and natural environmental features on the site under review and in adjacent areas.

Section 702 Developments Requiring Site Plan Review

Those development projects requiring Site Plan Review are listed on Schedule I. Unless specifically exempted from Site Plan Review, no permit for the construction, exterior alteration, relocation, occupancy, or change in use of any building shall be issued; no existing use shall be established or expanded in floor area except in conformity with a site plan approved by the Planning Board. The introduction of new materials or processes not previously associated with an existing use is also subject to site plan review.

Section 703 Exemptions from Site Plan Review

Notwithstanding Scedule I, Site Plan Review shall not be required for:

- A) The construction or enlargement of any single-family or two-family dwelling, or building accessory to such dwelling;
- B) The construction or alteration of any building used exclusively for agriculture, horticulture, or floriculture;

- C) The construction or alteration providing for not more than two hundred (200) square feet total floor area after construction;
- D) Home occupations as defined in Article II, Definitions.
- E) Ordinary repair or maintenance of existing structures or uses.
- F) Temporary structures related to the sale of agricultural products.

Section 704 Procedure

- A) Prior to the submission of a formal site plan, a presubmission conference may be held wherein the applicant shall meet in person with the Code Enforcement Officer to discuss the proposed site plan so that the necessary subsequent steps may be undertaken with a clear understanding of the Town's requirements in matters relating to the development of the site.
- B) Within six (6) months following the presubmission conference, five (5) copies of the site plan and any related information shall be submitted to the Code Enforcement Officer, accompanied by a fee in accordance with the schedule of fees of the Town of Delhi, payable to the Town Clerk. If the application is not submitted within this six month period, another presubmission conference may be required. An Environmental Assessment Form as required by the State Environmental Quality Review Act shall also be submitted.
- C) The Code Enforcement Officer shall certify on each site plan or amendment whether or not the application is complete in accordance with Section 706 (Submission Requirements) and whether the plan meets the requirements of all Zoning Ordinance provisions other than those of this Article, such as setbacks, number of parking spaces, etc. The Code Enforcement Officer shall act to certify the application or return it to the applicant for completion or revision within ten (10) days of submission by the applicant.
- D) Following certification of a complete application, the Code Enforcement Officer shall forward the application to the Planning Board no later than ten (10) days prior to their next meeting.
- E) The Planning Board may, at its discretion, hold a Public Hearing on the application. Said hearing shall be held within forty-five (45) days of submission to the Planning Board of said application. The Planning Board shall give notice of the hearing in a newspaper of general circulation in the Town at least ten (10) days prior to the hearing. In addition, the applicant shall give notice in writing by Certified Mail to all property owners of the land immediately adjacent to, extending five-hundred (500) feet therefrom, and directly opposite thereto, extending five-hundred (500) feet from the street frontage of the land in said application. The applicant shall mail these notices at least ten (10) days in advance of the hearing and furnish the Planning Board with Post Office receipts as proof of notification.
- F) The Planning Board shall make a determination of significance of the proposed site plan according to SEQR. The time limitations of paragraph H of this Section shall not apply until the conclusion of the SEQR process.

- G) Whenever any Site Plan involves real property in an area described in Section 239-m of the General Municipal Law, said Special Use Permit shall be referred to the County Planning Board, which Board shall report its recommendations to the Town Planning Board. Failure of the County Planning Board to report within thirty (30) days may be construed to be approval. The concurring vote of a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modifications or disapproval.

In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Town Planning Board acts to the contrary, the Town Planning Board shall file a report of its final action with the County Planning Board within seven (7) days after final action.

- H) The Planning Board shall, within 45 days of the public hearing, if one is held, or within 45 days of the date of the meeting at which the site plan was submitted, either:
- 1) Approve the site plan if the Board finds that the plan meets the requirements of this Ordinance and any other applicable rules and regulations; or
 - 2) Condition approval of the site plan upon the applicant making certain changes or modifications to the plan, said conditions to be set forth in writing by the Board; or
 - 3) Disapprove the site plan, the reasons for such action to be set forth in writing by the Board.

Failure to act within the required time shall be deemed approval. Should the Planning Board need an additional thirty (30) days to consider the application, then they may do so with consent of the applicant. Said agreement shall be recorded in the minutes.

- I) Review of amendments to an approved site plan shall be acted upon in the same manner as the review of the original plan.

Section 705 Enforcement

- A) The Planning Board may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. The Code Enforcement Officer may suspend any permit or license when work is not performed as required.
- B) Any Special Permit issued under this Article shall lapse within one year if a substantial use thereof has not commenced, except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to Chapter 274-a of the Town Law shall be included within the one-year time limit.
- C) The Planning Board may adopt additional detailed design guidelines and performance standards, as it deems necessary by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing shall be advertised once in a newspaper of general local circulation, at least seven (7) days prior to the hearing. Such standards and guidelines shall not become effective until approved by the Town Board.

Section 706 Submission Requirements

- A) The site plan shall include the following data, details, and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan, except in accordance with paragraph B) of this Section.
- B) The Code Enforcement Officer may waive any of the requirements of Section 706, paragraphs C) and D), or part thereof, prior to the submission of a formal site plan, when such requirements are not material to the project under review. The Planning Board may overrule any waivers so granted and require compliance with these requirements before accepting a site plan submission.
- C) Site plans shall be prepared by a surveyor, registered professional engineer, architect, or landscape architect at a scale of one (1) inch equals twenty (20) feet or less, on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written information.
- D) Items required for submission include:
- 1) Name of the project, boundaries, and location maps showing site's location in the Town, date, north arrow and scale of the plan.
 - 2) Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
 - 3) Names and addresses of all owners of record of abutting parcels and those within three hundred (300) feet of the property line.
 - 4) All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses, and the location and use of structures within three hundred (300) feet of the site.
 - 5) The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
 - 6) The location of all present and proposed public and private ways, parking area, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, and walls. Location, type, and screening details for all waste disposal containers shall also be shown.
 - 7) The location, height, intensity, and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
 - 8) The location, height, size, materials, and design of all proposed signage.
 - 9) The location of all present and proposed utility systems including:
 - a) sewage or septic system;
 - b) water supply system;

- c) telephone, cable and electrical systems;
- d) storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

The Planning Board may also request soil logs, soil profile analysis (deep test pits), percolation tests and storm water run-off calculations for large developments or developments in environmentally sensitive areas.

- 10) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- 11) Existing and proposed topography at a five- (5-) foot contour interval. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the 100-year flood plain, the area will be shown, and base flood elevations given. Indicate areas within the proposed site and within fifty (50) feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
- 12) A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material, and erosion control measures. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
- 13) Zoning district boundaries within one hundred (100) feet of the site's perimeter shall be drawn and identified on the plan.
- 14) Traffic flow patterns within the site, entrances and exits, loading and unloading area, curb cuts on the site and within one hundred (100) feet of the site.

The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- a) the projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic level;
 - b) the projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 - c) the impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels as well as road capacity levels shall also be given.
- 15) For new construction or alterations to any existing building, a table containing the following information must be included:
- a) area of building to be used for a particular use such as retail operation, office, storage, etc.;
 - b) maximum number of employees;

c) maximum seating capacity, where applicable; and

d) number of parking spaces existing and required for the intended use.

16) Elevation plans at a scale of $1/4" = 1'$ for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.

E) An Environmental Assessment Form (either a short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to insure compliance with the New York State Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.

Section 707 Standards for Review

The Planning Board shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed below. Pursuant to Section 705, paragraph C, detailed design guidelines and performance standards may be adopted by the Planning Board to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

A) Legal

Conformance with the provisions of the Local Laws and Ordinances of the Town, the Town Law of New York, and all applicable rules and regulations of state and federal agencies.

B) Traffic

Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

C) Parking

Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.

D) Public Services

Reasonable demands placed on public services and infrastructure.

E) Pollution Control.

Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.

F) Nuisances

Protection of abutting properties and Town amenities from any undue disturbance caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.

G) Existing Vegetation

Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.

H) Amenities

The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.

I) Town Character

The building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape and the natural landscape.

ARTICLE VIII. NONCONFORMING USES, STRUCTURES AND LOTS

Section 801 Intent

It is the intent of this Article to permit nonconforming lots, structures, and uses to continue until they are removed, but not to encourage their continuance. Therefore, lots, structures and uses of land and/or structures which lawfully existed at the time of enactment of these regulations and which would be prohibited or restricted under the terms of this Ordinance may continue subject to the following provisions.

Section 802 Nonconformance

A) Nonconforming Lot

Any lot which legally existed at the time this Ordinance was enacted and which is deficient in depth, width, frontage, area or other dimensional requirement when compared to the present requirements of the zoning district (See Sections 803 and 804).

B) Nonconforming Structure

Any structure, building or sign which legally existed at the time of enactment of this Ordinance and which is used for a permitted use, but does not conform to the present requirements of zoning district for size, dimensions or setbacks (See Sections 803 and 805).

C) Nonconforming Use

Any use of land, premises, building or structure, legally existing at the time of enactment of this Ordinance, which is not a permitted use, permitted accessory use or special use as specified in the regulations applicable to the zoning district in which such use is located (see Sections 803 and 806).

Section 803 General Provisions

A) Construction Approved Prior to Enactment of Ordinance

Nothing contained in this Ordinance shall require any change in plans, construction or designation of use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three (3) months of the date of such permit.

B) Transference

Rights granted to nonconforming lots, structures and uses pursuant to this Article shall remain with the land when title is transferred.

C) No unlawful use of property existing at the time of enactment of this Ordinance shall be deemed a nonconforming use; no unlawful structure existing at the time of enactment of this Ordinance shall

be deemed a nonconforming structure; no unlawful lot existing at the time of enactment of this Ordinance shall be deemed a nonconforming lot.

D) District Changes, Ordinance Amendments

Whenever the boundaries of a zoning district are changed so as to transfer an area from one district to another district of a different classification, or whenever the text of this Ordinance is changed the provisions of this Article shall also apply to any use, structure or lot made nonconforming by district change or ordinance amendment.

E) Existing Special Uses Deemed Conforming

Any use lawfully existing at the time of enactment of this Ordinance, in the zoning district in which such use is classified herein as a special use, shall, without further action, be deemed a conforming use; provided any extension of or addition to such use shall require a special use permit and if applicable, site plan review.

Section 804 Nonconforming Lots

- A) On any lot nonconforming because of insufficient width, side yard requirements shall be reduced in accordance with the following standards:

Width of lot at front yard setback line (feet)	Minimum side yard width (feet)
Less than 55	5
55 but less than 65	8
65 but less than 75	10
75 but less than 85	12
85 but less than 100	15
More than 100	20

B) Depth or Area

On any lot nonconforming because of insufficient depth or area (acreage) front setback requirements shall not apply for additions to existing buildings located on such lots; provided such additions shall not exceed the present front line of the main structure if such main structure is located closer to the front property line than would be permitted by this Ordinance.

C) Subdivision

A nonconforming lot may be subdivided if every part of such lot is purchased by the owners of adjoining properties to increase the dimensions of such adjoining properties. Otherwise, the dimensions of a nonconforming lot may not be reduced.

Section 805 Nonconforming Structures

- A) Nonconforming structures may be enlarged or altered provided such construction will not result in the increase of any nonconformity in height, setback, land coverage or other dimensional requirement. Such alterations or additions shall not extend into any front or side yard beyond the existing nonconforming structure.
- B) Nothing in this Article shall prevent normal maintenance and repair of any nonconforming building or structure.
- C) No nonconforming structure shall be moved to another location where such building or structure would also be nonconforming.
- D) Any nonconforming structure may be restored or reconstructed after being destroyed or damaged by fire, accident or other act of God provided that the restoration or reconstruction is started within twelve (12) months and completed within eighteen (18) months after such damage is incurred.

Section 806 Nonconforming Uses

A) Nonconforming Use of Land

Where no building is involved, the nonconforming use of land may be continued, provided however:

- 1) that no such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area of land than that lawfully occupied by such use at the time of the enactment of this Ordinance, unless specifically allowed by other provisions hereof;
- 2) that no such nonconforming use be moved in whole or in part to any other portion of the lot or parcel of land lawfully occupied by such nonconforming use at the time of enactment of this Ordinance;
- 3) that if such nonconforming use of land, or any portion thereof ceases for any reason for any continuous period of more than one year, or is changed to a conforming use, any future use of the land shall be in conformity with the provisions of this Ordinance;
- 4) that no nonconforming use of land shall be changed to another nonconforming use.

B) Nonconforming Use of Structures

No building or structure used for a nonconforming use shall be enlarged, extended or moved nor additional structures allowed; however, the Zoning Board of Appeals may grant a special permit allowing a building or structure containing the nonconforming use to be enlarged or an additional structure to be constructed to an extent not exceeding 25 percent of the gross floor area of the existing building or buildings devoted to a nonconforming use at the time of enactment of this Ordinance. The Board shall apply the standards of paragraph (D) below.

- C) Once changed to a conforming use, the use of any structure shall not be permitted to revert to a nonconforming use; however, the Zoning Board of Appeals may grant a special permit allowing

nonconforming use of a structure to be changed to another nonconforming use. The Board shall apply the standards of paragraph (D) below.

D) In granting special permits for changes permitted in paragraphs (B) and (C), the Zoning Board of Appeals shall find the following:

- 1) The procedural requirements of Section 5.03 have been met, including if applicable, site plan review (Note: the Zoning Board of Appeals shall act as the administrative agent responsible for holding hearings and carrying out the procedural requirements for these special permits); and
- 2) The applicant has shown that the proposed change will be no more objectionable in external effects than the existing nonconforming use with respect to:

- a) Traffic generation and congestion, including truck, passenger car and pedestrian traffic.
- b) Noise, smoke, dust, noxious matter, heat, glare, vibration.
- c) Storage and waste disposal.
- d) Appearance.

E) Maintenance and repair work as is required to keep a structure housing a nonconforming use in sound condition shall be permitted.

F) Any nonconforming use may be extended throughout any parts of the building which were manifestly arranged or designed for such use at the time of enactment of this Ordinance.

G) Discontinuance

Whenever a nonconforming use of a structure has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be conforming with the provisions of this Ordinance. Discontinuance necessary pending action by a probate court shall not be counted as part of the one year period.

H) If a building or structure or part thereof containing a nonconforming use has been damaged or partially destroyed by any cause, it may not be reconstructed or restored unless reconstruction or restoration plans are submitted to the Zoning Board of Appeals for approval within twelve (12) months of said destruction or damage. Such nonconforming use shall be reconstructed or restored with the same or less floor area and cubic content, and with the same or improved site layout as that of the original structure. This paragraph shall only apply if the damage exceeds thirty-three (33) percent of the value of the structure at the time of damage.

Section 807 Mobile Homes

Existing mobile homes, that, for whatever reason, are to be replaced on the same lot and/or on the same site, shall only be replaced with a mobile home meeting the requirements of this Ordinance and the construction standards of the New York State Uniform Fire and Building Code.

ARTICLE IX. ADMINISTRATION

Section 901 Enforcement

The duty of administering and enforcing the provisions of this Code is hereby conferred upon the Code Enforcement Officer. He shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

Section 902 Duties and Procedures of the Code Enforcement Officer

A) Administer the Zoning Law

The Code Enforcement Officer shall review all applications for Building Permits, and if the minimum requirements of this Code are met, he shall issue a Zoning Permit.

If the applicant's plans do not meet the zoning requirements, he must deny the Zoning Permit. The Code Enforcement Officer may not use discretionary judgement. He must enforce the "Letter of the Law".

B) Referral to the Zoning Board of Appeals

An applicant, after he has been denied a Zoning Permit, may appeal the Code Enforcement Officer's findings to the Zoning Board of Appeals (ZBA) for an interpretation or a variance. Should an appeal be requested, the Code Enforcement Officer shall notify the Secretary of the ZBA of the request and forward all necessary supporting information.

C) Referral to Town Planning Board

Any application for a Special Permit, change of zoning district or use that requires a Site Plan Review shall be forwarded by the Code Enforcement Officer to the Chairman of the Town Planning Board along with all supporting information.

D) Cite Zoning Violations

For any plans, constructions, building, use of premise found in violation of this Code, the Code Enforcement Officer shall order the responsible party, in writing, to remedy the conditions. He shall have the authority to secure from the Town Justice a stop order to constrain the continuance of violation.

E) Report to Town Board

A monthly report to the Town Board describing and enumerating actions taken and Zoning Permits issued shall be given.

F) Public Record

The Code Enforcement Officer shall file all permit actions with the Town Clerk.

Section 903 Permits Required

The Building Inspector shall not issue a Building Permit unless and until the Code Enforcement Officer has issued a Zoning Permit or determined that a zoning permit is not required.

No use or structure shall be established, erected nor land developed until a Zoning Permit has been issued by the Code Enforcement Officer who shall issue such permits in accordance with regulations in this Code.

A) Preapplication Conference with Planning Board

Preapplication conferences with the Town's Planning Board are encouraged for all applicants seeking permits for non-residential uses or nonfarm uses.

B) Application

All applications for Zoning Permits shall be in writing, signed by the owner, on forms furnished by the Code Enforcement Officer and shall be filed with the officer and briefly state:

- 1) Nature and definite purpose of the building or use sought.
- 2) Description of the property and buildings to be placed thereon.
- 3) Statement of any restrictions by deed or other instrument of record.
- 4) An agreement to comply with this Ordinance and all other laws, ordinances and regulations that may be applicable.
- 5) Such other information as the Town Board, the Board of Appeals or Code Enforcement Officer may require.
- 6) Evidence that application for a Sewage Disposal Application from the New York City Board of Water Supply has been made.

C) Action

The Code Enforcement Officer shall act upon all applications for Zoning Permits within twenty (20) working days from the day of application. Such official shall issue or refuse to issue such permits.

D) Refusal

Where the proposed construction, alteration or use of the building or lot is in violation of any of the provisions of this Ordinance or when a Special Permit or Site Plan approval is needed, the Zoning Permit shall not be issued. Such refusal shall be in writing, a copy of which shall be sent to the applicant. Such refusal will enable the applicant to submit an appeal to the Zoning Board of Appeals, or the Town Board or Planning Board, as specified elsewhere in this Ordinance, for relief from the Code Enforcement Officer's decision.

E) Term

A Zoning Permit shall become void 12 months from the date of issuance unless substantial progress has been made since that date on the project described therein; provided, however, that the permit shall be renewed by the Code Enforcement Officer for an additional twelve (12) months upon application therefor. Additional extensions shall be subject to approval by the Zoning Board of Appeals.

F) Exceptions

1) Farm Structures

The provisions of this Article IX shall not apply to any farm building or use as defined in Article II of this Ordinance. Residential farm dwellings are not exempt.

2) Maintenance and Repair

No building permit shall be required for normal maintenance and repair work, for painting, interior decoration, landscaping and the construction of a structure, such as a utility shed or animal shelter, where the total floor area is 144 square feet or less.

G) Environmental Assessment

Until authorized by the appropriate lead agency, no Zoning Permit shall be issued for any proposed building or land use which would require an environmental assessment in accordance with the State Environmental Quality Review Act of 1975 and any County or Town rules and regulations enacted pursuant thereto. Such application shall be referred to the appropriate lead agency for a determination as to whether an environmental impact assessment will be required.

H) Fees

All fees shall be paid at the office of the Town Clerk upon filing an application. Fees shall be in accordance with the Town of Delhi standard fee schedule.

Section 904 Certificate of Compliance

A) Applicability

- 1) No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a Certificate of Occupancy shall have been issued by the Code Enforcement Officer stating that the building or proposed use thereof complies with the provisions of this Ordinance.
- 2) No nonconforming use shall be maintained, renewed, changed or extended without a Certificate of Occupancy (certificate of existing use, therefore) having first been issued by the Code Enforcement Officer.
- 3) All Certificates of Occupancy shall be applied for coincident with the application for a Building Permit. Said Certificate shall be issued within ten (10) days after the erection or alteration shall have been approved as complying with the provisions of this Ordinance.
- 4) The Code Enforcement Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.
- 5) No permit for excavation for, or the erection or alteration of, or repair to any building shall be issued until an application has been made for a Certificate of Occupancy.

B) Refusal

If the Building Inspector, after such final inspection, refuses to issue a Certificate of Occupancy, he shall state such refusal in writing with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the application.

C) Temporary Certificate of Occupancy

If use or occupancy of land, a building, or part thereof, is desired prior to completion of all details proposed in the application for which a Building Permit was issued, the Planning Board, upon request, may authorize the Building Inspector to issue a temporary Certificate of Occupancy. A letter of credit, or equal security, of sufficient amount to complete all unfinished improvements, may be required by the Planning Board before a Temporary Certificate is authorized.

Section 905 Board of Appeals

A) Creation, Appointment and Organization

A Board of Appeals shall consist of five members appointed in accordance with Section 267 of the Town Law. The Town Board shall designate a chairman, and from its membership

the Board of Appeals shall appoint a secretary and shall prescribe rules for the conduct of its affairs. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals.

B) Powers and Duties

The Board of Appeals shall have all the powers and duties prescribed by statute and by this Ordinance, which are more particularly specified as follows:

1) Interpretation

Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of a district boundary if there is uncertainty with respect thereto.

2) Appeals for Variances

Upon denial of a building permit by the Code Enforcement Officer, the Zoning Board of Appeals shall hear requests for variances.

3) Area Variance

a) Area variances may be granted where setback, frontage, lot size, density or yard requirements of this Ordinance cannot be reasonably met. The Zoning Board of Appeals, in its findings, must find that "Practical Difficulty" was present.

b) In determining "Practical Difficulty", the Zoning Board of Appeals shall respond in its findings to each of the following questions:

i. How substantial the variance is in relation to the zoning requirement.

ii. Whether a substantial change will be produced in the character of the neighborhood, or whether a substantial detriment to adjoining properties will be created.

iii. Whether the difficulty can be eliminated by some method other than a variance which is feasible for the applicant to pursue. In the case of side yard variances, in particular, it is frequently feasible, proper and possible for the applicant to alter the plot plan to locate a proposed structure or addition in a new location which does not require a variance.

iv. Whether, in view of the manner in which the difficulty arose and in consideration of the above factors, the interests of justice will be served by allowing the variance.

v. Proof of significant economic injury, or ability to improve access to solar radiation for energy uses, may be grounds for granting an area variance. In granting any area

variance, the Board of Appeals shall prescribe any conditions that it deems necessary or desirable.

c) The following shall not be considered in determining "Practical Difficulty".

- i. The owner is merely inconvenienced.
- ii. The owner is prevented from building a second or subsequent structure.
- iii. The owner is prevented from building a structure as large as he/she would like, provided he/she can build one of reasonable size.
- iv. A larger building will merely improve the efficiency of a business or yield more profit.

4) Use Variance

a) Use variance may be granted by the Zoning Board of Appeals only after the findings of the Zoning Board of Appeals establish that "Unnecessary Hardship" exist.

b) In determining whether "Unnecessary Hardship" exists, the Zoning Board of Appeals' findings must establish each of the following criteria:

- i. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone. A promise of greater yield by allowing a prohibited use is not to be considered. The applicant must present economic evidence in support of this claim.
- ii. The use to be authorized by the variance will not alter the essential character of the neighborhood and is compatible with the area.
- iii. The use to be authorized by the variance will not be contradictory or detrimental to the spirit or intent of the Zoning District or Zoning Law itself.
- iv. That the hardship claimed is not self-created.
- v. The applicant is able to identify a unique circumstance.

C) Procedure

- 1) All applications for variances shall be in writing on forms established by the Zoning Board of Appeals. They are available from the Code Enforcement Officer.
- 2) Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted.

3) Upon receipt of the completed application, the Zoning Board of Appeals:

- a) Shall schedule a public hearing within forty-five (45) days.
- b) Shall arrange publication of notice of public hearing in the Town's official newspaper.
- c) May require the applicant to notify all land owners within 500 feet of the applicant's parcel.
- d) All use variances submitted to the Board of Appeals may be referred to the Planning Board for review as to the conformance with the objectives of the Comprehensive Plan. No decision shall be made by the Board of Appeals until such Planning Board review has been completed and a report issued. If the Planning Board fails to issue its report within 30 days, the Board of Appeals shall assume that a favorable report has been issued.
- e) Refer application to the County Planning Board as required by General Municipal Law, Section 239, if required.
- f) Determine whether a Draft Environmental Impact Statement should be required.

4) Within (60) days of the public hearing, the Zoning Board of Appeals shall render a decision. If matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals' findings and decision must be sent to the County Planning Board.

Section 906 Planning Board

A) General

In all cases where this Ordinance requires authorization and approval of plans by the Planning Board, no building permit shall be issued by the Code Enforcement Officer except upon authorization of and in conformity with the plans approved by the Planning Board.

B) Site Plan

The Town hereby authorizes the Planning Board to review and approve, to approve with modification, or to disapprove site plans.

C) Special Permits

The Planning Board is further authorized to issue special permits upon determination that the public health, safety and welfare shall be served and neighboring properties will not be injured.

D) Referrals and Reports

The Town Planning Board will receive referrals from the Zoning Board of Appeals on certain actions and will prepare and submit reports to the Zoning Board of Appeals.

Section 907 County Planning Board

Actions subject to General Municipal Law 239-m require any proposals for a special permit, variance, site plan approval, change in zoning law text or map (rezoning, amending the zoning law) must be referred to the County Planning Board who shall have 30 days from date of County receipt to take action on the matter.

Section 908 Violations

Any one or combination of the following three procedures (A, B, and C, below) may be used in response to violations of this Ordinance:

A) Complaint of Violations

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

B) Notice of Violation

Whenever, in the opinion of the Code Enforcement Officer, after examination and inspection, there appears to exist a violation of any provision of this Ordinance, or of any rule or regulation adopted pursuant thereto, he/she shall serve a written notice of violation. Such notice shall inform the recipient of:

- 1) The nature and details of such violation,
- 2) Recommended remedial action which, if taken, will effect compliance with the provisions of this Ordinance and with rules and regulations adopted pursuant thereto,
- 3) The date of compliance by which the violation must be remedied or removed.

C) Stop Work Order

In case of noncompliance with this order within allotted time, the Code Enforcement Officer, by reason of the defective or illegal work in violation of the provision or requirement of this

Ordinance the continuance of a building operation is contrary to public welfare, shall order in written form all further work to be stopped, and may require suspension of work until the conditions in violation have been remedied.

D) Abatement of Violation

Appropriate action proceedings may be taken at law, or in equity to prevent unlawful construction or to restrain, correct or abate the violation, or to prevent the illegal occupancy of a building, structure or premises; or to prevent illegal act, conduct a business in or about any premises, shall be written in addition to penalties otherwise prescribed by law.

E) Penalties

Violators of this Ordinance will be notified by the Code Enforcement Officer via Certified Mail. If the violations have not been removed within 10 days of the date of receipt of letter, a summons will be issued subjecting the violator to fines of not more than \$100.00 per day, commencing at the termination on the ten-day grace period.

Section 909 Procedure For Amendments

- A) Official notice must be given and a public hearing held by the Town Board as required by law prior to approval of amendments or other such modifications as mentioned herein.
- B) Each petition requesting a change of zoning regulations or district boundaries shall be typewritten, signed by the owner, filed in triplicate, and accompanied by the required fee.
- C) Every such proposed amendment shall be referred to the County Planning Board, when applicable, and to the Planning Board for a report to the public hearing.
- D) In case, however, of a protest against such change signed by the owners' of 20 percent or more of the area of land included in such proposed change, or of that immediately adjacent extending 100 feet therefrom, or of that directly opposite thereto and extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board as set forth by Section 265 of the Town Law of the State of New York.
- E) Before adopting any proposed amendment to this Ordinance, the Town Board shall assess the environmental impact of such amendment in accordance with the State Environmental Quality Review Act and may determine that an environmental impact statement on such amendment shall be prepared.
- F) In approving subdivision plats which involve modifications of the zoning regulations, the Planning Board may make such zoning changes only after these have been disclosed at the

public hearing required by the Land Subdivision Rules and Regulations for the Town. Changes made pursuant to this Section are at the discretion of the Planning Board and must be made in accordance with the provisions of Section 281 of Article 16 of Town Law of the State of New York and Section 107 B) of the Town of Delhi Subdivision Regulations.

SCHEDULE I

Town of Delhi Zoning Ordinance Types of Uses and Districts

P = Permitted
SP = Special Permit
X = Not Permitted

Use	Zoning Districts			Site Plan Required
	R	R-1	R-3/5	
<u>Residential Uses</u>				
One-Family Dwelling	P	P	P	NO
Two-Family Dwelling	P	P	P	NO
Multi-Family Dwelling	X	SP	SP	YES
Mobile Home	P	P	P	NO
Mobile Home Park	X	SP	SP	YES
Cluster Subdivision	X	SP	SP	NO
Condominiums	X	SP	SP	YES
Townhouse Dwelling	X	SP	SP	YES
Bed and Breakfast	SP	SP	SP	NO
<u>Agricultural, Natural Resource</u>				
Agricultural, Commercial	X	P	P	NO
Farm	X	P	P	NO
Nursery/Greenhouse, Commercial	X	SP	SP	NO
Forest Management	P	P	P	NO
Wildlife Management	P	P	P	NO
<u>Public Use</u>				
Cultural, Recreation	X	SP	SP	YES
Educational Institution	X	SP	SP	YES
Health Care Facility	X	SP	SP	YES
Public Facilities	SP	SP	SP	YES
Public Parksand Recreation Facilities	SP	SP	SP	YES
Religious Institution	SP	SP	SP	YES
Airport/Heliport	X	SP	SP	YES
Cemetary	X	SP	SP	YES
Telecommunications Towers	X	SP	SP	YES

Use	Zoning Districts			Site Plan
	R	R-1	R-3/5	Required
<u>Commercial Uses</u>				
Animal Hospital	X	SP	SP	YES
Building and Farm Supply	X	SP	X	YES
Business / Professional Office	SP	SP	SP	YES
Campground	X	SP	SP	NO
Car Wash	X	SP	X	YES
Club	X	SP	SP	YES
Commercial Recreation	X	SP	SP	YES
Commercial Storage, Enclosed	X	SP	X	YES
Drive-In Use	X	SP	SP	YES
Eating and Drinking Establishment	X	SP	SP	YES
Flea Market	P	P	P	YES
Hotel	X	SP	SP	YES
Junkyard	X	SP	SP	YES
Kennel (Small Animal Boarding Facility)	X	SP	SP	YES
Mixed Use Buildings	X	SP	SP	YES
Model Homes	SP	SP	SP	YES
Motel	X	SP	SP	YES
Motor Vehicle, Boat Trailer Sales	X	SP	SP	YES
Motor Vehicle Repair Shop	X	SP	SP	YES
Outdoor Recreation	SP	SP	SP	YES
Public Garage	X	SP	SP	YES
Retail Trade	X	SP	SP	YES
Resort	X	SP	SP	YES
Service Establishment	X	SP	SP	YES
Service Station	X	SP	X	YES
Shopping Center	X	SP	X	YES
Summer Camp	X	SP	SP	YES

Use	Zoning Districts			Site Plan
	R	R-1	R-3/5	Required
<u>Industrial Uses</u>				
Alternative Energy Systems, Commercial	X	SP	SP	YES
Bulk Storage	X	SP	SP	YES
Enclosed Manufacturing	X	SP	SP	YES
Light Industry / Manufacturing	X	SP	SP	YES
Mineral Extraction / Mining	X	SP	SP	YES
Oil and Natural Gas Drilling	X	SP	SP	YES
Sanitary Landfill / Dump / Junkyard	X	SP	SP	YES
Sawmill, Lumberyard	X	SP	SP	YES
Warehousing	X	SP	SP	YES
Wholesaling	X	SP	SP	YES

