

Chapter 200

ZONING

[HISTORY: Adopted by the Town Board of the Town of Bolton 12-6-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management — See Ch. 125.

Subdivision of land — See Ch. 150.

ARTICLE I

Introductory Provision

§ 200-1. Short title.

This chapter shall be known as the "Town of Bolton Zoning Ordinance." The Town of Bolton is sometimes hereinafter referred to as the "Town."

§ 200-2. Authority.

Enactment of this chapter by the Town is pursuant to Article 16 of the Town Law of the State of New York and Article 27 of the Executive Law of the State of New York.

§ 200-3. Purpose and objective of chapter.

- A. The purpose of this chapter is to promote the health, safety, and general welfare of the community and to protect the property values and aesthetics of the community by channeling and directing growth and by regulating and restricting the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yard, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence and other purposes, to the maximum extent permissible within the proper exercise of the police power as delegated by the Town Law.
- B. It is the further purpose and objective of this chapter to ensure optimum overall conversion, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack Park and to preserve the beauty and character of the Adirondack Park setting to the benefit of the community; and to retain the natural vistas of the Adirondacks and of Lake George to the benefit of the residents and visitors to the community.

§ 200-4. Zoning Board of Appeals. [Amended 2-3-2009 by L.L. No. 2-2009]

Pursuant to § 267 of the Town Law, the Town of Bolton has created a Zoning Board of Appeals consisting of seven members appointed by the Town Board in such manner and

for such term as provided in the Town Law. The Zoning Board of Appeals shall have all the powers and perform all the duties prescribed by statute and by this chapter. The Zoning Board of Appeals shall have appellate jurisdiction for all matters pertaining to this Zoning chapter. The Zoning Board of Appeals shall be authorized to have up to two alternate members to serve in the event of illness, unavailability or conflict of interest in the place and stead of any regular Zoning Board of Appeals member. An alternate Zoning Board of Appeals member shall act in such manner and for such term as provided by Town Law.

§ 200-5. Planning Board. [Amended 2-3-2009 by L.L. No. 1-2009]

Pursuant to § 271 of the Town Law, the Town of Bolton has created a Planning Board. Said Board consists of seven members appointed by the Town Board in such manner and for such term as provided for by Town Law. In addition, the Planning Board shall be authorized to have up to two alternate members to serve in the event of illness, unavailability or conflict of interest in the place and stead of any regular Planning Board member. An alternate Planning Board member shall act in such manner and for such term as provided by Town Law. The Planning Board shall have all the powers and perform all the duties prescribed by statute and by this Chapter. The Planning Board shall have original jurisdiction for all matters pertaining to this Zoning Chapter pursuant to § 274-a, Site plan review, of the Town Law.

ARTICLE II
General Provisions

§ 200-6. Applicability to land use or development within Town.

No land use or development shall be undertaken or maintained except in conformity with all provisions contained in this chapter relating to both the zoning district and the land use area in which the land, water, site, structure or use is located, or is proposed to be located, and in conformity with the permit requirements of § 200-78 if applicable. Where this chapter is more restrictive than covenants or agreements between parties or other plans or other rules or regulations or ordinances of the Adirondack Park Agency Act, the provisions of this chapter shall control.

§ 200-7. Authority of the Adirondack Park Agency.

Nothing in this chapter shall be deemed to supersede, alter, enlarge, or impair the jurisdiction of the Adirondack Park Agency, pursuant to the Adirondack Park Agency Act, to review and approve, approve subject to conditions, and disapprove those land uses and developments and subdivisions of land defined therein as Class A regional projects, or otherwise supersede, alter or impair the statutory function, duties and responsibilities of that Agency with regard to matters involving a Town in which an Agency-approved local land use program has been validly adopted or enacted; provided that the Adirondack Park Agency cannot, in the context of its Class A regional project review, override a local decision not to permit a given land use or development.

§ 200-8. Definitions.

A. As used in this chapter, unless the context otherwise requires, the following terms shall have the meanings indicated:

ACCESSORY USE — Any use of a structure, lot or portion thereof, that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including the case of residential structure, professional, commercial and artisan activities carried on by the residents of such structures.

ACCESSORY USE STRUCTURE — Any structure or a portion of a main structure customarily incidental and subordinate to a principal land use or development, including a guest cottage or any structure in excess of 100 square feet, not for rent or hire, that is incidental and subordinate to and associated with a single-family dwelling. [Amended 4-6-2004]

ADIRONDACK PARK AGENCY or AGENCY — The Adirondack Park Agency created by § 803 of Article 27 of the Executive Law of the State of New York.

ADIRONDACK PARK AGENCY ACT — Article 27 of the Executive Law of the State of New York, including any future amendments thereto.

ADIRONDACK PARK or PARK — Land lying within the area described in Subdivision 1 of § 9-0101 of the Environmental Conservation Law of the State of New York, including any future amendments thereto.

AGRICULTURAL SERVICE USE — Any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

AGRICULTURAL USE — Production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts, berries and vegetables.

AGRICULTURAL USE STRUCTURE — Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

AIRPORT/HELIPORT — A place where aircraft can land and take off.

ALTERATION — Any structural change, arrangement or addition other than repairs not exceeding 50% of the cost of the building; any modification in construction or in building equipment.¹

AMUSEMENT DEVICE — Any mechanical contrivance used to provide games of chance, skill, or pleasure and where a fee is charged.

¹ . Editor's Note: The definition of "amusement center," which immediately followed this definition, was deleted 6-6-1995.

AMUSEMENT DEVICE FACILITY — Any place, site, structure or building or part thereof which provides more than three amusement devices in various number or any ride, booth or game of chance. [Added 6-6-1995; 2-20-1997]

AMUSEMENT PARK — An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items and buildings for shows and entertainment.

AMUSEMENT RIDE — Any mechanical contrivance used to transport an occupant or occupants over a short defined distance or course for thrill or pleasure and where a fee is charged.

ANTENNA — A device used to collect and transmit to a receiver telecommunication signals that have been generated at a distant location.

APARTMENT; DWELLING APARTMENT — A single dwelling unit within a multiple-family or other structure on the same lot. May or may not be metered separately. [Added 2-20-1997]

APPLICANT — A person, partnership, or corporation that applies for a permit.

AUTOMOBILE REPAIR CENTER — Any building, premises and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

AUTOMOBILE SERVICE STATION — Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories, or minor repairs.

BARN — A structure which is principal to agricultural uses and which is used for the housing of animals, such as horses, chickens, cows, pigs, or their food and forage, such as hay, grains, straw, and equipment used to implement the agricultural use, such as a tractor, manure spreader, planter, etc., as an accessory use.

BASAL AREA — As applied to tree measurements is the area in square feet of the cross section of a tree at breast height (4 1/2) feet. Basal area per acre is the total area in square feet of the cross section of all trees on an acre. [Added 2-20-1997]

BOAT — For the purposes of this chapter, this shall not include canoes, rowboats or sailboards.

BOATHOUSE — A structure with direct access to a navigable body of water (1) which is used for the storage of boats and associated equipment and (2) which does not have bathroom or kitchen facilities and is not designed for lodging or residency.

BOAT LAUNCH — A place, site or structure to facilitate the ingress or egress of a watercraft into or onto a body of water.

BOAT MAINTENANCE FACILITY — Any building, land area or other premises, or portion thereof, used or intended to be used for the care, maintenance and/or repair of boats and/or marine products and accessories.

INDOOR BOAT MAINTENANCE FACILITIES — A boat maintenance facility where all activities, including storage of more than three boats shall be undertaken.

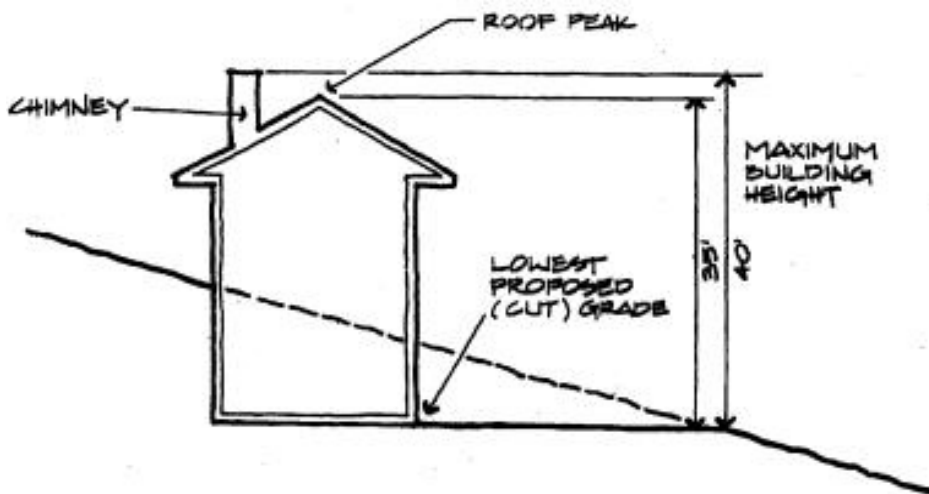
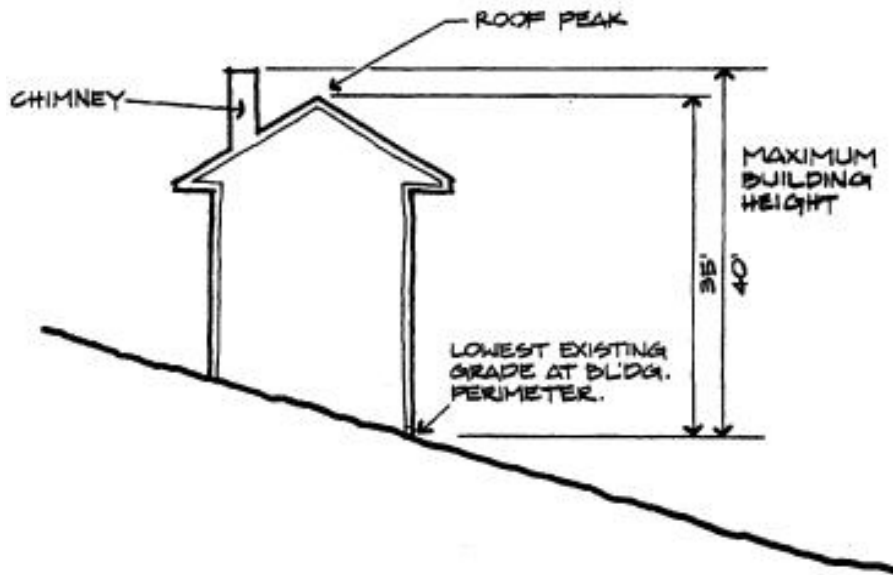
BOAT STORAGE FACILITY — A place, site or structure used to store a watercraft for 30 consecutive days or more. (See definition of "commercial boat storage.")

BUILDING — Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property. [Added 2-20-1997]

BUILDING AREA — The total ground floor area of a principal building and accessory buildings exclusive of uncovered porches, steps and terraces. [Added 2-20-1997]

BUILDING HEIGHT — The vertical distance measured from the lowest portion of the natural grade of the building site covered by the building or finished grade of cut required to accommodate the building to the highest point of the structure.

Building Height Definition



BUILDING LINE — The point from which all yard requirements are measured and

which is determined by a line formed by the intersection of a horizontal plane of the lowest grade level and a vertical plane that extends from the most projected part of the building open to the sky.

BUILDING PERMIT — Written permission issued by proper municipal authority for the demolition, construction, repair, alteration or addition to a structure.

BUSINESS — See definition of "commercial use."

CABIN COLONY — A development of small single unit or two-family structures designed with kitchens and bathrooms on a single lot. Originally designed as tourist accommodations for seasonal use, these properties may be condominiums or cooperatives, or rented or lived in on a year-round basis.

CAMP — A structure with no piped plumbing or public utility power, designed for occasional occupancy for hunting, fishing or similar purposes. The structure may or may not be fully enclosed. [Added 2-20-1997; amended 10-3-2000]

CAMPGROUND — Any area designated for transient occupancy by camping in tents, camp trailers, motor homes, transient mobile homes, truck campers, or pickup campers or similar facilities designated for temporary shelter.

CEMETERY — Land used or intended to be used for the burial or deceased human beings and dedicated for cemetery purposes. [Added 2-23-1999]

CHANGE OF USE — Any use which substantially differs from the previous use requiring alteration to the building or site; for example, different parking spaces, service docks, ingress and egress standards, etc. Change of use will require site plan approval.

CHURCH — A building for public worship, including a synagogue or mosque.

CLASS A REGIONAL PROJECT — A land use or development which is classified and defined as such in Appendix A of this chapter.²

CLASS B REGIONAL PROJECT OR TYPE II - SITE PLAN REVIEW PROJECT — A land use or development which is classified and defined in Article V of this chapter³ as such. A list of Class B Regional projects is included as Appendix B of this chapter.

CLASS A REGIONAL SUBDIVISION — A subdivision which is classified and defined as such in the Town Subdivision Regulations.⁴

CLASS B REGIONAL SUBDIVISION — A⁵ subdivision which is classified and defined as such in the Town Subdivision Regulations.

CLEAR-CUTTING — Any cutting of all or substantially all trees over six inches in diameter at 4 1/2 feet above the ground whereby less than 60 square feet of basal area remains, over any ten-year cutting cycle.

² . Editor's Note: See Ch. 150, Subdivision of Land, Appendix A.

³ . Editor's Note: See Ch. 150, Subdivision of Land, Appendix B.

⁴ . Editor's Note: See Ch. 150, Subdivision of Land, Appendix A.

⁵ . Editor's Note: See Ch. 150, Subdivision of Land, Appendix B.

CLUB — An organization catering exclusively to members and their guests, or premises and buildings for recreational use or athletic purposes which are not conducted primarily for gain, provided that there are not conducted any commercial activities except as required generally for the membership and purposes of such club.

COLUMBARIUMS — An external structure containing vaults lined with recesses for cinerary urns. [Added 2-23-1999]

COMMERCIAL BOAT STORAGE — Dry storage of more than three boats on a lot.

COMMERCIAL RECREATION USE — Any use involving the provision of recreation facilities or activities for a fee.

COMMERCIAL SAND AND GRAVEL EXTRACTION — Any excavation of the land of more than 50 cubic yards in any two-year period of sand, gravel or topsoil, (1) for the purpose of sale or use by persons other than the owner of the land, or (2) for the purpose of use by any municipality.

COMMERCIAL USE — Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale.

COMMUNITY FACILITY — A building or structure owned and operated by a governmental agency or not-for-profit organization to provide a public or semipublic service, such as libraries, museums, governmental buildings, firehouses, and churches.

COMPUTER-RELATED FACILITY — A commercial retail service business oriented to providing educational services, repair, communications, word processing or other services using computers where sales is clearly incidental to the services provided and not including assembly or manufacturing.

CONDOMINIUM — A building or group of buildings in which dwelling units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. The purchaser has title to his or her interior space in the building and an undivided interest in parts of the interior, the exterior, and other common elements. The property is identified in a master deed and recorded on a plat with the local jurisdiction.

CONDOMINIUM DEVELOPMENT - DETACHED UNITS — A condominium that involves the use of detached units, single-family or multifamily. The total available land for use of the entire project must equal the sum of the permitted lot sizes of the total number units in the zone(s) within which the project is located.

COOPERATIVE — A multifamily project of one-family dwelling units, offices or commercial shops which may include one or more buildings on the same lot or property. These dwelling units, offices, shops or spaces, common areas and facilities which are owned by an organization, independent corporation, partnership or other enterprise are in turn owned and operated for the benefit of those using or occupying the property.

COTTAGE INDUSTRY — Any use conducted from a residence and carried on by the inhabitants and employees not residing at the residence, and which is not incidental and secondary to the use of the building for dwelling purposes to the extent where the

industry changes the character of the dwelling.

COURT, INNER — An open area unobstructed from the ground to the sky which is bounded on more than three sides by the exterior walls of one or more buildings.

COURT, OUTER — An open area unobstructed from the ground to the sky which is bounded on not more than three sides by the exterior walls of one or more buildings.

DAY-CARE CENTER — A site, building, or place designed and/or operated to provide day care and/or instruction for four or more persons and operated on a regular basis for a fee.

DRIVEWAY — Any area privately reserved on any lot, plot, site or parcel of land for the purpose of providing vehicular access from an access road or state, county or Town highway to a private dwelling or other private principal buildings located on said lot, plot, site or parcel of land, to certain portions of said dwellings or other principal buildings to accessory buildings or to private parking spaces, the use of said area being private to residents or owners of said dwellings, to the occupants or owners of such other private principal buildings and to such other persons as may be designated or permitted to use such private area by the owners thereof. [Added 2-20-1997; amended 8-2-2005]

DWELLING, ATTACHED — A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

DWELLING, DETACHED — A dwelling which is not attached to any other dwelling by any means.

DWELLING, MULTIFAMILY — Any apartment, townhouse, condominium or similar building, including the conversion of an existing single-family dwelling, designed to occupy in separate dwelling units therein by more than one family; any such building containing two or more separate dwelling units used on a time-sharing, leased time or other similar basis whereby more than one person, group of persons or family has legal right of occupancy at different times.

DWELLING, SINGLE-FAMILY — A detached building (not including a mobile home) of one or more stories in height, above main grade level, which is designed or used exclusively as living quarters for one family or household.

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 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 structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. (See definition of "dwelling, multifamily.")

DWELLING UNIT — One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household for year-round or

seasonal/temporary use.

ERECT — To build, construct, attach, hang, place, suspend, or affix, including the painting of wall signs.

ESSENTIAL SERVICES — The construction, alteration or maintenance by public utilities or governmental agencies of gas, electrical, steam, sewer system or water transmission or distribution systems.

EXCAVATION — Any extraction from the land of more than 20 cubic yards of sand, gravel, clay, shale, rock, topsoil or other natural mineral deposits.

FAMILY — One or more persons related by blood, marriage or adoption, or one or more persons in a permanent and stable relationship and residing as a traditional family unit sharing living expenses, cooking together as a housekeeping unit, sharing expenses for food, rent, utilities and other household expenses. [Amended 4-6-2004]

FENCE — An artificial structure designed to or which, in fact, does divide, enclose or screen a parcel of land or portion thereof.

FIRING RANGE — A site or building used for the orderly discharge of firearms, including targets or skeet.

FOOD STORE — A self-service retail operation offering a variety of food goods for sale to the general public.

FORESTRY USE — Any management, including logging of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings, fences and forest drainage systems.

FOREST USE STRUCTURE — Any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

FRATERNAL ORGANIZATION — See definition of "club."

FUNERAL HOME — A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GAME PRESERVE — A land area used for the protection of wildlife, usually because of its unique natural character, which provides habitat, food or shelter for wildlife.

GARAGE, PRIVATE RESIDENTIAL — A structure which is accessory to a residential building and which is used for the parking and storage of vehicles owned and operated by the resident thereof, and which is not a separate commercial enterprise available to the general public.

GARAGE, PUBLIC — A building, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

GOVERNMENT OFFICE OR AGENCY — Any department, commission, independent

agency or instrumentality of the United States, of New York State, of Warren County, and/or the Town of Bolton.

GREENHOUSE — A structure whose roof and sides are made largely of glass or other transparent or translucent material and used for personal enjoyment.

GREENHOUSE, COMMERCIAL — A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal enjoyment.

GROUP CAMP — Any land or facility for seasonal housing and recreational, educational or business-related use by private groups or semipublic groups, such as a boy or girl scout camp, fraternal lodge, university or college conference center, religious camp, or conference center.

GUEST COTTAGE — An accessory use structure designed and used to provide sleeping accommodations for guests of a residence, without fee. Such structure may include a bathroom but shall not include a kitchen or kitchen facilities.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling or in an accessory structure and carried on by the inhabitants thereof and up to one employee not residing at the dwelling, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

HOTEL — A commercial facility providing transient lodging containing six or more rental units and where the customary uses such as restaurant facilities, meeting rooms, recreation facilities and leisure rooms are provided for use by the lodger and the general public.

IMMEDIATE FAMILY — Siblings, parents, grandparents, spouse, children and grandchildren.

INDUSTRIAL USE — A manufacturing or maintenance facility where any process is used to alter the nature, size or shape of articles or raw materials or where articles are assembled and where said goods or services are consumed or used at another location.

IN EXISTENCE — With respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed.

INN — A commercial facility, resembling in character traditional residential construction with common access providing transient lodging and meals which is characterized by common dining facilities and leisure rooms available for use by lodgers and limited general public.

JUNK AUTOMOBILE — Any unregistered, old or secondhand motor vehicle, no longer intended or in condition for legal use on the public highways. For the purpose of this definition, motor vehicle shall mean all vehicles propelled or drawn by power, other than muscular power, originally intended for use on public highways or for use in agricultural or construction activity.

JUNKYARD — Any open lot or area for the dismantling, storage or sale of such items as parts, scrap, or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, household appliances or other discarded materials.

KENNEL — An establishment in which more than four dogs more than one year old are housed, groomed, bred, boarded, trained or sold.

LAKE — A large inland body of standing water.

LANDOWNERS ASSOCIATION — An organization established by owners of buildings, site and/or facilities for the express purpose of managing, maintaining, operating, and/or developing common areas or interests related to those buildings, site or other facilities.

LAND USE AREA — Those areas delineated on the official Adirondack Park Land Use and Development Plan Map adopted under Article 27 of the Executive Law of the State of New York and designated thereon as "hamlet," "moderate intensity use," "low intensity use," "rural use," "resource management," and "industrial," and such portions of those areas as are located within the Town and delineated on the Adirondack Park Land Use and Development Plan Map incorporated in this chapter by § 200-11 hereof.

LAND USE or DEVELOPMENT or USE — Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or structure.

LOGGING ROAD — An access road usually created by removing trees and stumps in a confined space to facilitate the removal of logs during tree harvesting operations. The construction of such a road shall be considered clear-cutting if trees over six inches in diameter are removed to create a cleared road area greater than 16 feet wide. No logging road can be less than 500 feet from another logging road.

LOT — A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

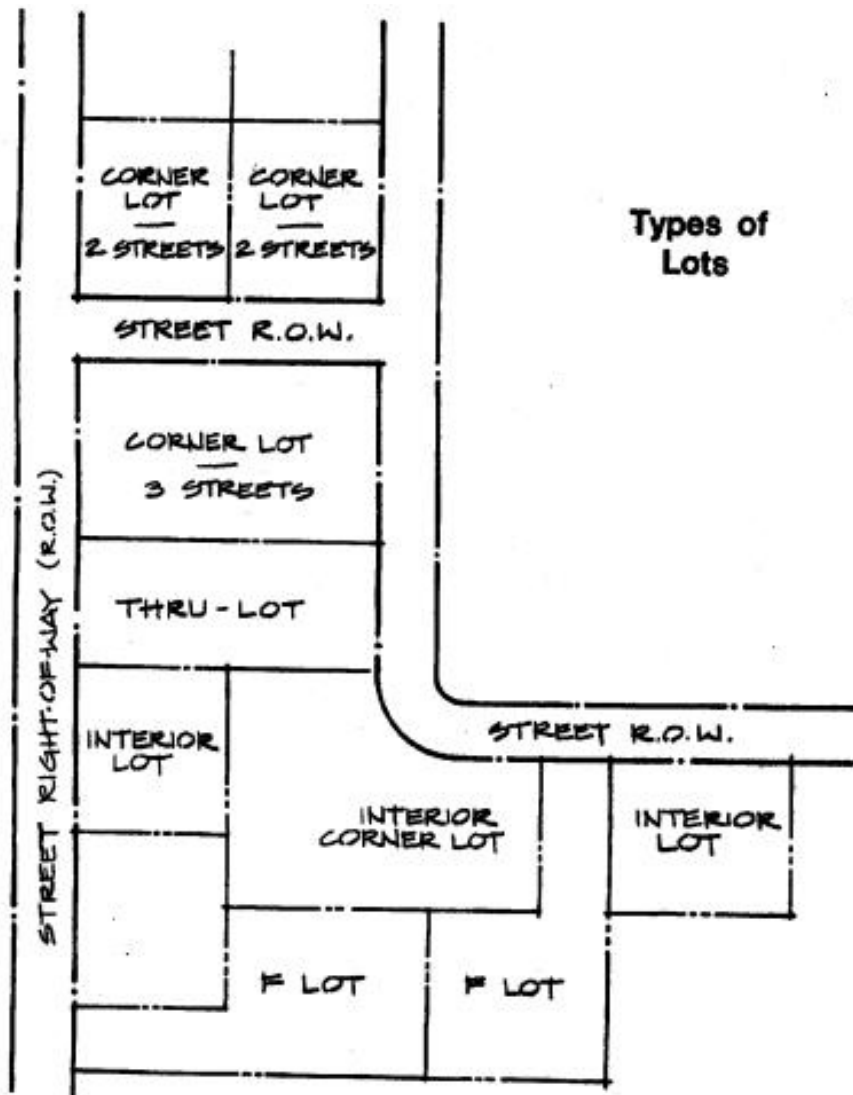
LOT, CORNER — A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

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

LOT DEPTH — The minimum contiguous distance measured from the front lot line to the rear lot line.

LOT, MINIMUM AREA OF — The smallest lot area established by the Zoning Chapter on which a use or structure may be located in a particular district.

LOT WIDTH — The minimum contiguous distance between the side lines of a lot.



MAIL ORDER BUSINESS — A general retail business which is transacted through a catalogue with use of a mail carrier and where on-site customer visitation and transaction are clearly incidental to the services and sales technique.

MAJOR PUBLIC UTILITY USE — Any electric power transmission or distribution line with associated equipment of a rating of more than 15 kilovolts which is one mile or more in length; any telephone interchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing 25 or more pairs of wire and designed to provide initial telephone service for new structure; any telephone or other communication transmission tower, any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits, including any water storage tanks designed to service 50 or more principal buildings.

MARINA — Any waterfront facility which provides accommodations or services for

boats by engaging in any of the following:

- (1) The sale of marine products or services.
- (2) The sale, lease, rental or charter of boats of any type.
- (3) The sale, lease, rental or any other provisions of storage, wharf space, or mooring for more than two boats not registered to the owners of said facility, member of the owner's immediate family, the owner or lessee of the immediately adjoining upland property, or members of their immediate families, or an overnight guest on said property.

MARINA/QUICK LAUNCH — A storage facility which provides out-of-water short-term storage for boats which are launched regularly, providing out-of-water storage as an alternative to in-water mooring or docking during the boating season when the boat(s) are in use.

MEAN HIGH WATER MARK — The average annual high water level of a lake, pond, river, stream, creek or other body of water.

MEDICAL BUILDING — A facility that contains establishments dispensing health services.

MINERAL EXTRACTION — Any excavation, other than specimens or samples from the land of stone, coal, salt, ore, talc, granite, petroleum products or other materials, except for commercial sand, gravel, or topsoil mining, including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps, and mine drainage.

MINERAL EXTRACTION STRUCTURE — Any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings, garages or other main buildings or structures.

MOBILE HOME — Any self-contained dwelling unit, but not including travel trailers, that is designed to be transported to its site on its own wheels or those of another vehicle, which may contain the same water supply, kitchen facilities and plumbing, sewage disposal and electric systems as immobile housing and is designed to be used exclusively for residential purposes; or any structure so marked as a mobile home or structure by New York State. (A modular home or other dwelling unit that is constructed in two or more main sections and transported to and permanently assembled on site is not considered a mobile home.)

MOBILE HOME COURT — A parcel of land under a single deed ownership which is designed and improved for the placement of two or more mobile home units thereof.

MOTEL — A commercial facility providing transient lodging containing six or more rental units with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, and where customary uses such as but not limited to playgrounds, game rooms, recreation facilities, snack bars, and restaurants may be provided for use by the lodger and the general public.

MOTOR HOME — See definition of "transient mobile home."

NONCONFORMING LOT — Any legally created lot of record on the effective date of Article IX of this chapter which does not meet the minimum lot area and/or lot width requirements of this chapter for the zoning district in which such lot is situated. [Amended 4-3-2007 by L.L. No. 1-2007]

NONCONFORMING STRUCTURE — Any structure which is in existence within a given zoning district on the effective date of Article IX of this chapter, but which is not in conformance with the dimensional regulations for that zoning district. Any structure built, expanded or constructed with a prior grant of an area variance shall presumptively, thereafter, constitute a nonconforming structure. [Amended 4-3-2007 by L.L. No. 1-2007]

NONCONFORMING USE — Any use which is in existence within a given zoning district on the effective date of Article IX of this chapter, but which is not an accessory use, a permissible use or use allowed for that zoning district. [Amended 4-3-2007 by L.L. No. 1-2007]

OFFICE — An office or place to conduct activities normally associated with their occupation. [Added 2-20-1997]

OFF-STREET PARKING SPACE — A temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.

OPEN SPACE RECREATION USE — Any recreation use particularly oriented to and utilizing the outdoor character of an area which does not depend on amusement devices or rides. These recreational uses may include a snowmobile trail, bike, jeep or all-terrain vehicle trail, cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, as well as playground, picnic area, public park, and public beach for activities such as soccer, baseball, football, tennis and water-related activities.

OUTSIDE BAR — A specified area or facility either affixed or not affixed to any structure or building where patrons are seated and/or stand at said facility and where alcoholic beverages are prepared and/or served and/or consumed by said patrons. A portable service bar without seating shall not be considered an outside bar as defined herein. [Added 12-1-1998]

PARCEL OF PROPERTY — Parcels separated by a public highway and owned by the same owner shall be deemed the same parcel of property. The division of any tax map parcel shown on the County Tax Map as a unit by a public highway does not constitute a subdivision of the tax map parcel. [Amended 9-4-2007]

PERSON — Any individual, corporation, partnership, association, trustee, or other legal nongovernment entity.

PERSONAL WATERCRAFT (PWC) — A device which uses an inboard motor powering a waterjet pump as its primary source of motor power and which is designed to be operated by a person sitting, standing or kneeling on, or being towed behind the device rather than in the conventional manner of sitting or standing inside the device. The term shall include jet skis, surf skis, fun skis, wave runners or other similar type of devices. [Added 2-20-1997]

POND — An inland body of water smaller than a lake.

PRINCIPAL BUILDING

- (1) Any one of the following:
 - (a) A single-family dwelling or mobile home constitutes one principal building.
 - (b) A tourist cabin or similar structure for rent or hire involving 300 square feet or more of floor space constitutes one building.
 - (c) Each dwelling unit of a multiple-family dwelling, including each separate dwelling unit used on a time-sharing, leased time or other similar basis whereby more than one person, group of persons or family has a legal right of occupancy at differing times, constitutes one principal building.
 - (d) Each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than 300 square feet of floor space constitutes one-tenth of a principal building.
 - (e) Each commercial use structure and each industrial use structure in excess of 300 square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each 11,000 square feet of floor space or portion thereof of such commercial use structure constitutes one principal building.
 - (f) All agricultural use structures and single-family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as one principal building.
 - (g) Any other structure which exceeds 1,250 square feet of floor space constitutes one principal building.
 - (h) A structure containing a commercial use which is also used as a single-family dwelling constitutes one principal building.
- (2) An accessory structure does not constitute a principal building.

PRIVATE SAND, GRAVEL OR TOPSOIL EXTRACTION — Any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land, or any extraction for the purpose of sale of less than 50 cubic yards in any two-year period.⁶

PUBLIC OR SEMIPUBLIC BUILDING — Any component building or a college,

⁶. Editor's Note: The definition of "professional office," which immediately followed this definition, was deleted 2-20-1997.

school, hospital, animal hospital, library, place of worship, museum, research center, rehabilitation center, or similar facility or a municipal building.

PUBLIC UTILITY USE — Any public utility use, equipment or structure which is not a major public utility use. A public utility use does not include any use which is subject to the jurisdiction of the Public Service Commission pursuant to Article VII or VIII of the Public Service Law.

RESTAURANT, FAST-FOOD — An establishment whose principal business is the sale of pre-prepared or rapidly prepared food/meals directly to the customer in a ready-to-consume state for consumption either within the restaurant or off premises.

RESTAURANT, FULL SERVICE — An establishment, excluding taverns, where food and drink is prepared, served, and sold for on-premises consumption to patrons seated at tables.

RETAIL BUSINESS, GENERAL — The offering, for a fee, of goods or merchandise, excluding food products, to the general public and where the providing of services is clearly incidental to the sale of such goods or merchandise.

RETAIL SERVICES, COMMERCIAL — Establishments providing, for a fee, services or entertainment, as opposed to products, to the general public, such as educational services, day-care centers, repair shops, dry cleaners and laundromats.

RETAINING WALL — A retaining wall more than two feet in height or in excess of 100 square feet shall be considered a structure. All measurements are to be taken from the vertical square area. [Added 2-20-1997; amended 4-6-2004]

RIDING STABLES — A place, site or building used for the housing, care and riding of horses or other animals.

RIGHT-OF-WAY — A parcel of land open to the public for vehicular or pedestrian traffic.

ROAD — A paved or unpaved pathway serving as access for pedestrians and vehicles, freely open and accessible to the public, to and from common areas and adjacent private lands; may or may not be owned by the municipality; may or may not be included on the municipal road inventory. [Added 8-2-2005]

ROOMING HOUSE — An owner-occupied commercial facility providing lodging in which at least two but no more than six rooms are offered for rent and which may be characterized by common dining facilities and leisure facilities available for use by the lodgers.

SAWMILL — Any building, site or place used for the cutting or milling of raw timber into dimensional lumber.

SCHOOL — Any building or part thereof which is designed, constructed and used for the education or instruction in any branch of knowledge which includes public or private, elementary, secondary, vocational or religious education.

SEASONAL-BUILDING — A structure designed to be used on a seasonal basis by

virtue of its construction, or the design or construction of the infrastructure servicing the building. (April 1 through October 31)

SEASONAL USE — A use which occupies continually a building or site for less than nine months of the year. (April 1 through October 31)

SETBACK — The horizontal separation distance from the property line, highway right-of-way line or, in the case of shoreline property, from the mean high water mark to the building line of the structure. (See definition of "building line.")

SETBACKS - FRONT — A front lot line setback shall be effected from any ROW, any common driveway, or common entryway or roadway, or any vehicular easement. Rights-of-way shall be considered as a front lot line and shall require a front lot line setback. [Added 2-20-1997]

SHOPPING CENTER — A building or buildings located on one lot containing numerous businesses, services and/or restaurants with a total gross square footage exceeding 10,000 square feet.

SHORELINE — The mean high water mark at which land adjoins the waters of lakes, ponds, rivers and streams within the Town.

SHORELINE BUILDING SETBACK — The shortest distance, measured horizontally, between any point of a building and the shoreline of any lake or pond, or the shorelines of any brook, stream or river within the Town.

SHORELINE LOT WIDTH — The distance measured along the shoreline as it winds and turns between the boundary lines of a lot as they intersect the shoreline of any lake or pond and the shorelines of any river to be studied as wild, scenic, or recreational river in accordance with the Environmental Conservation Law or any river or stream navigable by boat, including by canoe.

SKI CENTER — Any trail or slope for alpine and nordic skiing, including lifts, terminals, base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

STORAGE SHED — Any structure used to store equipment, supplies, tools, etc., which is subordinate to or supports the activities of the principal use or structure.

STRUCTURE — Any object constructed, installed or placed on the land to facilitate land use and development or subdivision of land, such as buildings, sheds, single-family dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto. Construction must be more than six inches above grade or in excess of 100 square feet to be considered a structure. Landscaping features shall not constitute structures. [Amended 2-20-1997; 10-3-2000; 4-6-2004]

SUBDIVISION OF LAND or SUBDIVISION

- (1) Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and

development preparatory or incidental to any such division) by any person or by a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses.

- (2) Subdivision shall also be any development of a parcel of land, as a shopping center, mobile home court, industrial area, condominium, or a multiple dwelling project, which involves the installation of streets and/or alleys, even though the streets and alleys may not be dedicated to public use and the parcel may not be divided immediately for the purpose of conveyance, transfer, or sale. The term "subdivision" includes resubdivision and, as appropriate in this chapter, shall refer to the process of subdividing land or to the land subdivided.

TIMBER HARVESTING — The cutting of trees over six inches in diameter measured at 4 1/2 feet above the ground.

TOURIST ACCOMMODATION — Any hotel, motel, resort, tourist cabin, bed-and-breakfast or inn designed to house the general public (excluding travel trailers, travel vehicles or motor homes).

TOURIST ATTRACTION — Any man-made or natural place of interest open to the general public and for which an admittance fees is usually charged, including but not limited to animal farms, amusement parks, replicas of real or fictional places, things or people, and natural geological formations.

TRANSIENT MOBILE HOME — Any portable vehicle, including a tent camper or motor home, which is designed to be transported on its own wheels, and which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes, and which may or may not include one or all of the accommodations and facilities customarily included in a mobile home.

TRANSIENT MOBILE HOME COURT or **TRAVEL TRAILER CAMP** — A parcel of land under single ownership which is designed and improved for use by two or more travel trailers.

VOLATILE SUBSTANCES, GAS OR LIQUIDS — Combustible solids, liquids or gases, including but not limited to butane, propane, gasoline, kerosene, alcohol or other combustible substance.

WASTE DISPOSAL AREA — Any area for the disposal of garbage, refuse and other wastes, including sanitary landfills and dumps, other than an on-site disposal area directly associated with an industrial use.

WASTE TREATMENT SITE — Any building, structure or area where sewage is treated.

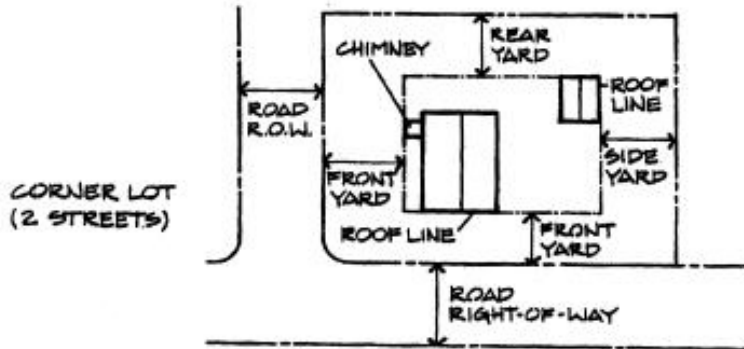
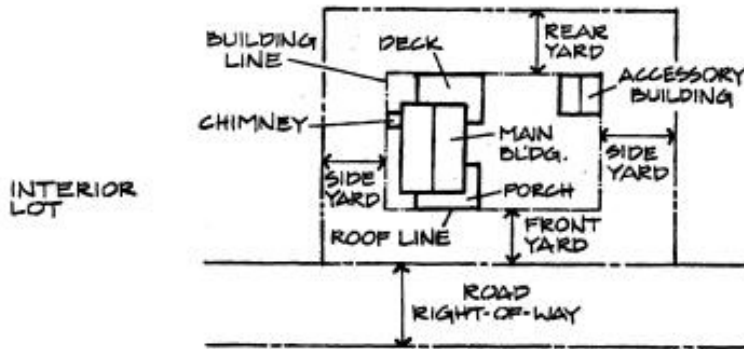
WATERSHED MANAGEMENT or **FLOOD-CONTROL PROTECT** — Any dam, impoundment, dike, rip-rap or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the

natural level or condition of lakes or ponds.

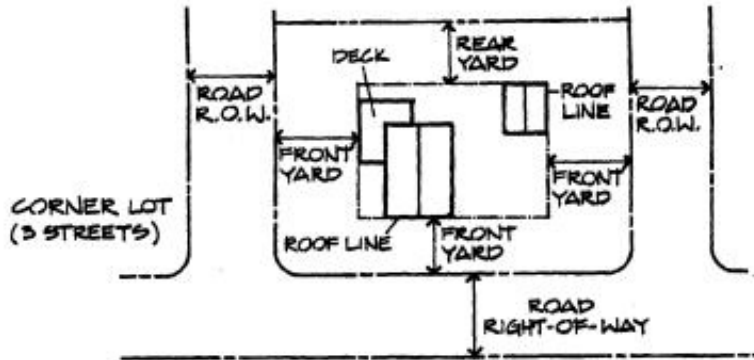
WETLANDS — Any land which is annually subject to periodic or continual inundation by water and commonly referred to as a "bog," "swamp," or "marsh," which is either (a) one acre or more in size, or (b) located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface, in which case there is no size limitation.

YARD — An unoccupied space open to the sky, on the same lot with a building or structure.

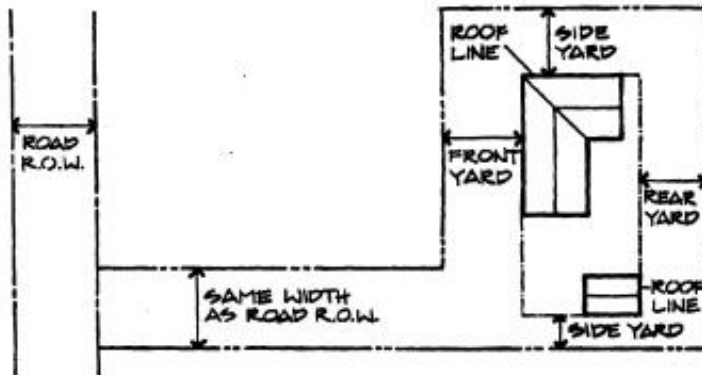
Front, Side, and Rear Yard Definitions



Front, Side, and Rear Yard Definitions (Cont.)



F Lot Example



YARD, FRONT — A yard that extends the full width of the lot and is situated between the adjacent highway right-of-way and building projected to the side lines of the lot. The depth of the front yard shall be measured between the building and the highway right-of-way line. Covered porches, whether or not enclosed, shall be considered as part of the main building and shall not project into a required front yard. When a building is situated on a corner lot which abuts two streets, the lot will be determined to have two front yards, one side yard and one rear yard. When a building is situated on a corner lot which abuts three streets, the lot will be determined to have three front yards and one rear yard. When a building is situated on a lot that extends through to another street, the lot shall be determined to have two front yards and two side yards.

YARD, REAR — A yard that extends the full width of the lot and is situated between the rear line of the lot and the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the building, including any covered porches, whether or not enclosed.

YARD, SIDE — A yard that is situated between the side line of the building and the

adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard, including any covered porches, whether or not enclosed.

- B. Any term in this chapter which is not defined in this or other sections of this chapter shall carry its customary meaning.
- C. The definition provided within "The (latest) Illustrated Book of Development Definitions" shall be available to supplement and assist in the application of the provisions of this chapter wherever this chapter shall fail to provide its own definition or meaning. In the event that local law, Town Code, Town ordinance or Zoning Board of Appeals interpretation defines, authorizes or provides a clear definition, stricter requirement, interpretation or specification, such Town Code, Town ordinance or Zoning Board of Appeals interpretation shall prevail. [Added 6-3-2008]

ARTICLE III
Zoning Maps

§ 200-9. Town Zoning Map.⁷

The boundaries for each zoning district are the boundaries indicated on the map entitled "The Town Zoning Map of the Town of Bolton 1987" which is hereby incorporated and declared to be part of this chapter, and hereinafter referred to as the "Town Zoning Map."

§ 200-10. Interpretation of zoning district boundaries.

- A. In making a determination where uncertainty exists as to boundaries of any of the zoning districts shown of the Town Zoning Map, the following rules shall apply:
 - (1) Where district boundaries are indicated as approximately following the center line or right-of-way line of streets, alleys, or highways, such lines shall be construed to be district boundaries.
 - (2) Where district boundaries are indicated as approximately following a stream, lake or other body of water, such stream center line, lake or body of water shall be construed to be such district boundaries (unless otherwise noted).
 - (3) Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be district boundaries.
 - (4) Where district boundaries are not indicated as approximately following the items listed in Subsection A(1), (2) and (3) above, or is not designated on the Zoning Map, the boundary line shall be determined by the use of the scale designated on the Town Zoning Map.
 - (5) Whenever any street, alley or other public way is abandoned in the manner authorized by law, the district adjoining each side of such street, alley or public way shall be automatically extended to the center of the former right-

⁷. Editor's Note: The Zoning Map is on file in the Town offices.

of-way and all of the area included in the abandoned right-of-way shall henceforth be subject to all regulations on the extended districts.

- B. In the event that none of the above rules are applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.
- C. Building rights may be transferred between contiguous districts which have the same density and are of one ownership. In no case shall the use be transferred between one zone district and another.

§ 200-11. Adirondack Park Land Use and Development Plan Map.

The boundaries within the Town of the land use areas established by the Official Adirondack Park Land Use and Development Plan Map, as may be from time to time amended, pursuant to Subdivision 2 of Section 805 of the Adirondack Park Agency Act, are indicated by the separate map entitled "Adirondack Park Land Use and Development Plan Map of the Town of Bolton" dated with the effective date of this chapter, which accompanies this chapter, and which is hereby adopted and declared to be part of this chapter, and hereafter known as the "Park Plan Map." Any change of the boundaries within the Town of a land use area by an amendment of the Official Adirondack Park Land Use and Development Plan Map pursuant to Subdivision 2 of Section 805 of the Adirondack Park Agency Act shall take effect for the purposes of this chapter concurrently with that amendment without further action, and the Park Plan Map shall be promptly changed in accordance with that amendment. The amendment provisions of Article XI of this chapter do not apply to the Park Plan Map which is amended only pursuant to the provisions of the Adirondack Park Agency Act. Copies of the Park Plan Map which may from time to time be published and distributed are accurate only as of the date of their printing and shall bear words to that effect.

ARTICLE IV
Zoning Districts and Regulations

§ 200-12. Zoning districts.

The Town is hereby divided into the following designated districts.

Symbol	Zone	Area Per Principal Building
LC-45	Land Conservation	45 acres
LC-25	Land Conservation	25 acres
RR-10	Rural Residential	10 acres
RR-5	Rural Residential	5 acres
RL-3	Residential - Low Density	3 acres
RCL-3	Residential - Commercial - Low Density	3 acres
RIL-3	Residential - Industrial - Low Density	3 acres
RM-1.3	Residential - Medium Density	1.3 acres
RCM-1.3	Residential - Commercial - Medium Density	1.3 acres
RCH-	Residential - Commercial - Hamlet	Varies from 20,000 to 5,000 square

§ 200-13. Schedule of regulations.

The restrictions and controls intended to regulate development in each district are set forth in the attached schedules which are supplemented in other sections of this chapter.⁸

§ 200-14. Use regulations.

- A. Permissible uses. A use shall be permitted in a district if it is listed in the schedules of regulations as a permissible use for that district, provided that all other requirements of this chapter are met, including Articles V, VI and XII.
- B. Type I or Type II uses with site plan review. A use listed in the following schedules of regulations as a Type I or Type II use for a given zoning district shall be permitted in that district when approved in accordance with Article V hereof, provided that all other requirements of this chapter are met, including Articles V, VI, and XII.
- C. Nonpermissible uses. Any use which is not a permissible use by right or by site plan review in a given zoning district or which is not an accessory use to such a permissible or site plan review use shall be a nonpermissible use, and shall be deemed prohibited in that zoning district. Amusement rides, amusement parks, commercial parasail, commercial use of personal watercraft and outside bars, except when such use is employed for noncommercial use in conjunction with a single-family dwelling use, are prohibited within the Town of Bolton. This does not prohibit rental of boats or commercial boat rides. [Amended 6-6-1995; 2-20-1997; 12-1-1998]
- D. Accessory use or accessory use structure. An accessory use or accessory use structure shall be permitted if the use to which it is accessory is a lawful use pursuant to the terms of this chapter and for which a permit has been issued if required pursuant to the terms of Article XII hereof, so long as said accessory use or structure does not result in an increase in any violation of the provisions of Articles IV and VII (especially shoreline regulations), provided that an accessory use or accessory use structure shall not include professional, commercial and artisan activities carried on by residents of residential structures, nor shall it include a sign as identified by the Lake George Park Commission Sign Regulations and the sign regulations within this chapter.

§ 200-15. Zoning Schedule of Area, Bulk and Height Controls.

This section lists the dimensional requirements for each zoning district established by § 200-12 of this chapter.⁹

⁸ . Editor's Note: The schedules are included at the end of this chapter.

⁹ . Editor's Note: The schedules are included at the end of this chapter.

§ 200-16. Special density regulations in certain districts.

In no event shall the number of principal buildings exceed that which is permitted by the district regulations.

- A. Residential Commercial (RCL-3). Tourist accommodation and cottage colonies require 15,000 square feet of land area per unit. A total of 900 square feet of gross floor area for tourist accommodations are allowed per acre except that a single unit may not exceed 300 square feet, unless attached to another unit by a party wall (i.e., duplex or attached motel units).
- B. Residential Commercial (RCH-5000).
 - (1) Commercial units meeting all other requirements must have 5,000 square feet of land area per principal units.
 - (2) Residential detached units require 20,000 square feet of land area per principal building.
 - (3) Apartments require 7,500 square feet of land per principal unit.
 - (4) Tourist accommodations and cabin colonies require 5,000 square feet of land area for the first unit and 1,500 square feet for each additional unit.
- C. Minimum lot size permitted. A minimum lot size specified in any Schedule of Area, Bulk and Height Regulations¹⁰ for any designated zone may be permitted so long as the minimum lot size created is in conformity with all other requirements of the Code and so long as the permitted number of building lots or principal building units does not exceed the overall density requirements of the designated zone as if the land were subdivided into conforming lots. [Added 8-2-2005]

§ 200-17. Provisions for clustering sites for development.

See Article XIV, Cluster Provisions.

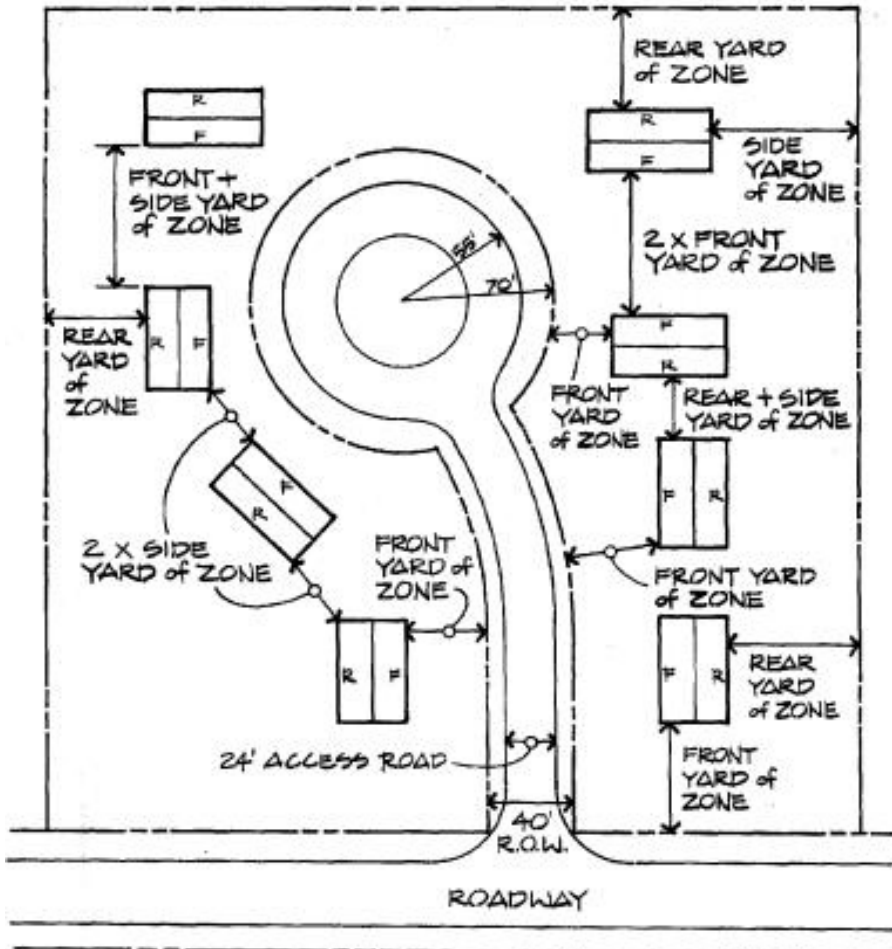
§ 200-18. New multiple principal buildings on same lot.

Where more than one principal building exists or is proposed to be located on the same lot, any construction, alteration or relocation of structures shall occur in accordance with the following regulations:

- A. Access. A right-of-way shall be provided for access to each principal building. Such access shall consist of a right-of-way not less than 40 feet wide with a roadway width of 24 feet. If such roadway terminates without connecting to a public road or highway, a properly designed turnaround shall be provided. Maximum grade of such access roadway shall not exceed 12%.

¹⁰ . Editor's Note: The Schedule of Area, Bulk and Height Regulations is included at the end of this chapter.

New Multiple Principle Buildings on the Same Lot



- (1) Dead-end access roadways greater than 200 feet shall terminate in a turnaround. The right-of-way for such turnaround shall be a minimum of 140 feet diameter with an outside edge of roadway diameter of at least 110 feet.
- (2) Parking shall be provided on site in accordance with § 200-48 of this chapter.

B. Setbacks. Setbacks for apartment buildings, single-family, attached dwellings, townhouses, and other principal buildings. Rights-of-way shall be considered as a front lot line and shall require a front lot line setback. [Amended 2-20-1997]

Front yard to lot line

-

same as zone in which lot is located.

Side yard to lot line

-

same as zone in which lot is located.

Rear yard to lot line

-

same as zone in which lot is located.

Distance between structures

-

the sum of the yard setbacks of the building sides facing each other of the zone in which the lot is located.

Distance to common access right-of-way

-

the front yard setback of the zone in which the yard which the yard is located.

§ 200-19. Setbacks for cabin colonies. [Amended 2-20-1997]

For approval of any alterations to existing cabin colonies, these standards must be met by all cabins and proper access as defined in this section must be provided. No cabin colony shall take on a different form of ownership until all criteria of this section have been met.

Front yard to lot line	- same as zone in which lot is located.
Side yard to lot line	- same as zone in which lot is located.
Rear yard to lot line	- same as zone in which lot is located.
Distance between structures	- 1.5 times the height of the tallest of the two walls facing each other or 20 feet, whichever is greater.
Distance to access structure right-of-way	- 1.0 times the height of the wall of the facing the road or 20 feet, whichever is greater.

§ 200-20. Scenic travel corridor overlay district.

A. Purpose.

- (1) Tourists and residents are attracted to the Town of Bolton because of its small town, rural character. Development pressures, strip development and construction activities immediately adjacent to major roadway systems in the Town have begun to erode this character.
- (2) In order to preserve the rural character of the Town of Bolton, all major

roadways in the Town have been designated as scenic corridors.

- B. The following roads have been designated as scenic travel corridors: [Amended 2-20-1997]

New York State Route 9N	Mohican Road
County Route 11	Dixon Hill Road
Homer Point Road	Braley Hill Road
Padanarum Road	Federal Hill Road
Trout Falls Road	Valley Wood Road
New Vermont Road	Finkle Road
Alder Brook Road	Edgecomb Pond Road
Sherman Lake Road	Potter Hill Road
South Trout Lake Road	Trout Lake Road
Coolidge Hill Road	Lamb Hill Road
Church Hill Road	Wall Street
Cotton Point Road	North Bolton Road

- C. Regulations. No building shall hereafter be erected or altered within this overlay district which will have a smaller front yard than as herein required for the zoning district in which such building is located in accordance with § 200-15, the Schedule of Area, Bulk and Height Controls.¹¹ In the case where in certain zones, site plan review is required for any activity within 250 feet of the lakeshore and a variance is required for an activity within the lakefront setback, if there is no other activity beyond that requiring the variance, then no site plan review shall be required. [Amended 2-20-1997]

- D. Supplemental County Route 11 regulations. Properties along County Route 11 (River Bank Road) from the Adirondack Northway (Route I-87) to New York State Route 9N shall be subject to the following additional provisions: [Added 10-2-2001 by L.L. No. 5-2001]

- (1) Each property shall maintain the minimum scenic corridor front setback set forth in § 200-15 of the Zoning Ordinance as an undeveloped buffer area. Within this buffer area there shall be no significant disturbance such as building, grading or clearing or any removal of trees, shrubs or other vegetation, trimming of major branches or cutting of roots except as required to remove dead or diseased trees or branches. The buffer shall remain in a natural state and closely resemble the appearance of the undeveloped land; provided, however, that a driveway to and from the property may be constructed after site plan review and approval by the Planning Board. Any other development within the buffer shall require an area variance from the Zoning Board of Appeals and, if the development is subject to Planning Board review, Planning Board approval.

- (2) The provisions of Subsection D(1) above shall not apply to existing

¹¹. Editor's Note: The schedule is included at the end of this chapter.

development on property within such designated area; provided, however, that the character of what would be the required vegetative buffer must be maintained in its current state or returned to a state similar to that required in Subsection D(1) above.

- (3) Each property should utilize the most unobtrusive lighting that provides adequate illumination to ensure safe access, and lighting devices should be directed or otherwise shielded to prevent a direct beam of light or excessive glare from shining onto other properties or being visible from the highway corridor.
- (4) Electric and communications distribution wires should be installed underground rather than overhead whenever possible to minimize the risk to public health and safety and to enhance public and private views.

§ 200-21. Application of regulations.

Except as hereinafter provided:

- A. No new building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the districts in which it is located.
- B. No building that is hereafter allowed for the district in which such building is located shall be erected or altered which will:
 - (1) Exceed the height or bulk.
 - (2) Accommodate or house a greater number of families.
 - (3) Occupy a greater percentage of lot area.
 - (4) Have narrower or smaller front yards, rear yards or side yards.
- C. No part of a yard, lot or other open space, about any building required for purpose of complying with the provisions of this chapter, shall be included as part of a yard, lot or other open space similarly required for another building.
- D. No building permit shall be issued for any clearing or principal building for any multifamily residence, or any business or industry, or any use listed for site plan review in § 200-14 until a site plan has been approved by the Planning Board in accordance with Article V.

§ 200-22. Sign regulations.

Regulations for the design, erection and maintenance of signs shall be according to the Town of Bolton Sign Ordinance. Reference is made to § 200-78 as to all permit filing regulations and the criteria for the issuance of building permits. Site plan review is required for all advertising signs over four square feet in size.

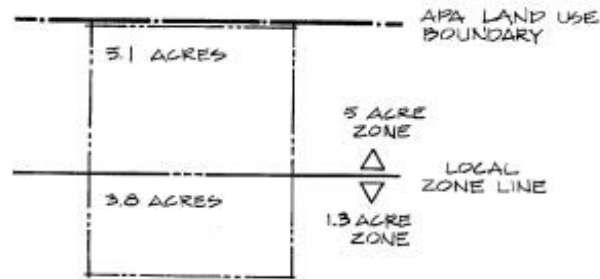
§ 200-23. Parcels located in more than one zoning district. [Amended 8-2-2005]

Where an applicant owns a parcel of land located in more than one zoning district, the total number of principal buildings allowable on such parcel pursuant to § 200-12 may be distributed amongst such districts, provided that:

- A. No lot is created which is smaller in area than the smallest lot permitted pursuant to § 200-15 of this chapter and the schedules attached thereto, in any of the districts involved.
- B. The total number of principal buildings permitted for the entire parcel as determined by § 200-12 of this chapter is not exceeded;
- C. Uses prohibited in a district pursuant to § 200-14 of this chapter are not located therein;
- D. Building rights are not transferred across boundaries of land use areas as shown on the Official Adirondack Park Land Use and Development Plan Map adopted pursuant to § 805 of the Adirondack Park Agency Act and incorporated into this chapter pursuant to § 200-11 hereof; and
- E. Deed restrictions, scenic or conservation easements or similar devices, approved as to form by the Town Attorney, shall be provided to implement density requirements and principal building limitations created by application of this section.

Parcels located in more than one zoning district

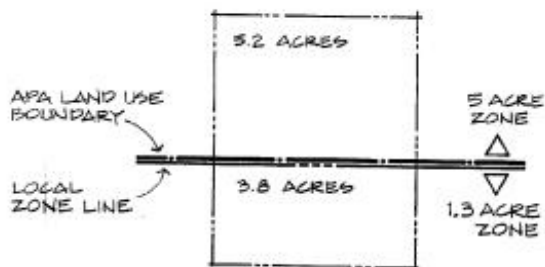
A. PROPERTY IN ONE APA LAND USE AREA.



TOTAL NUMBER OF UNITS ALLOWED: 3

SMALLEST LOT SIZE ALLOWED THROUGHOUT: 1 ACRE

B. PROPERTY IN TWO APA LAND USE AREAS



TOTAL NUMBER OF UNITS ALLOWED: 3

SMALLEST LOT SIZE: 5 ACRES IN 5 ACRE ZONE
1 ACRE IN 1.3 ACRE ZONE!

§ 200-24. Petition Zoning Ordinances.

Ordinances for the Town of Bolton Numbers 9 (Homer Point Zoning Ordinance) and 15 (Cotton Point Zoning Ordinance) remain in effect unaltered by this chapter.

ARTICLE V

Approval of Site Plans and Certain Uses

§ 200-25. Purpose of article.

The purpose of this article is to allow the proper integration of commercial and industrial uses and other uses into the community which are listed in Articles IV and VII of this chapter which may be suitable within a zoning district only on certain conditions and only at appropriate locations. Because of their characteristics, or the special characteristics of the area in which they are to be located, these uses require special consideration so that they may be properly located and planned with respect to:

- A. The objectives of this chapter.
- B. Their effect on surrounding properties.
- C. The ability of the Town to accommodate the growth resulting from the proposed

use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of health, safety and welfare of the Town and its citizens.

D. The objectives of the Land Use Plan.

§ 200-26. Applicability of article.

A land use or development involving a use listed in Article IV as multifamily dwellings, commercial uses, or industrial uses (including new construction, additions or changes in use) or under site plan review or in Article VII hereof, shall not be undertaken unless and until the Planning Board has approved or approved with conditions such use, and the Zoning Administrator has issued a permit for such land use or development pursuant to the terms of Article XII hereof. Type I uses, listed under site plan review in Article IV, require a permit from the APA as a Class A Project. A list of Class A Projects is included in this chapter under Appendix A. Class B Regional Projects are Type II uses under site plan review. A list of Class B Projects is included in this chapter under Appendix B.¹²

§ 200-27. Authorization to approve or disapprove site plan.

In accordance with § 274-a of the Town Law, the Planning Board is authorized to review and approve, approve with modifications, or disapprove site plans prepared to specifications set forth in this chapter and in regulations of the Planning Board, showing the arrangement, layout and design of the proposed use of the land shown on such plan, including activities designated as Class A (Type I) and Class B (Type II) regional projects by the Adirondack Park Agency and all commercial and industrial uses and multifamily residential uses.

§ 200-28. Application for review of site plan.

- A. Application for project approval shall be made to the Planning Board using forms approved by the Board. Applications shall include forms approved by the Board to make its findings under § 200-29 of this chapter. In determining the content of these application forms, the Planning Board may require different information for different types of scales of projects.
- B. Generally, the following information would be a required minimum: a detailed description of the natural features of the project and its components, including all proposed road and accesses, water supply and sewage disposal systems and the relationship to natural features; an analysis with supporting data on the impact of the project on the environment, both during construction and thereafter; and an analysis and supporting data of any benefits that might be derived from the project.
- C. At least two weeks in advance of the scheduled Planning Board meeting date at which a site plan is to be considered, at least 10 copies of the site plan and 10 copies of the application for site plan approval shall be submitted to the Zoning Administrator. The site plan shall show the following: [Amended 10-2-2001 by L.L. No. 2-2001]

¹². Editor's Note: See Ch. 150, Subdivision of Land, Appendix B.

(1) Existing conditions.

(a) Legal data.

- [1] Name and address of applicant and authorization of owner, if different from applicant.
- [2] Name and address of owner(s) of record, if different from applicant.
- [3] Name and address of person or firm preparing the plan and map.
- [4] Ownership intentions, such as purchase options.
- [5] Current zoning classification of property, including exact zoning boundary if in more than one district.
- [6] Property boundary line plotted to scale. Distances, angles and area should be shown.
- [7] North arrow, scale and date.
- [8] Locations, widths, elevations and names of existing and proposed adjacent streets.
- [9] Property lines and names of owners of adjoining parcels.
- [10] Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within and adjoining the property.
- [11] Description of all existing deed restrictions or covenants applying to the property.
- [12] The identification of any state or county permits required for execution of the project.
- [13] Other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.

(b) Natural features.

- [1] Geological features, such as depth to bedrock and the location of rock outcrops.
- [2] Topographic features, including a map showing existing slope at two-foot contour intervals.
- [3] Vegetative cover, including existing wooded areas, significant isolated trees and similar features.
- [4] Soil characteristics, such as load bearing capacity and drainage capacity.
- [5] Hydrologic features should include drainage and runoff patterns,

flood hazard areas, wetlands and depth to groundwater.

(c) Existing development and infrastructure.

- [1] Location and dimensions of major buildings and structures and their use.
- [2] Location and width of roads and paths, including site access.
- [3] Location, size and flow direction of sewers, water supply lines and culverts. Major electric, gas and telephone lines and appurtenances should also be shown.
- [4] Location of other existing development and uses, including parking and loading areas, fences, trees and landscaping.

(2) New conditions.

(a) Proposed development.

- [1] Grading and drainage plan showing proposed topography at appropriate contour intervals. This information shall be combined with the map of existing topography.
- [2] Location, proposed height and use of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air-conditioning units and waste disposal units.
- [3] Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading and outdoor storage areas.
- [4] Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross sections of roadways and sidewalks showing grades, widths and location and size of utility lines.
- [5] Location and size of water and sewer lines and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
- [6] Location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy.
- [7] Location, size and design and construction materials of all outdoor signs.
- [8] General landscaping plan and planting schedule, including areas of natural vegetation to remain, the treatment of buffer areas and the location and type of trees to be planted.

- [9] Estimated project construction schedule with possible phasing plan for large projects.
- [10] Additional specifications for materials.
- [11] Performance bond, amount, completion schedule, public improvements covered, inspection and bond approval if required.
- [12] Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.

NOTE: All plans shall be at a scale of one inch equals 40 feet or larger scale showing the proposed development and their immediate environs. When development is proposed for larger lots, those areas left undeveloped may be shown on a site location map at an appropriate scale and level of detail.

- (3) Review. In considering the approval of the site plan, the Planning Board shall take into consideration the public health, safety and general welfare, the comfort and convenience of the public in general and residents of the immediate neighborhood in particular and shall find that the proposed development meets all the requirements of this chapter.

- (a) Impact of proposal on environs.

- [1] Relationship to adjacent and nearby land uses, both public and private.
- [2] Relationship to existing and proposed traffic patterns.
- [3] Relationship to existing and proposed water supply, sewage disposal and other service capabilities.
- [4] Relationship to the community's ability to provide adequate recreation, education, fire protection and similar facilities and services to its residents and visitors.
- [5] Visual compatibility with surroundings.
- [6] Effect on air and water quality standards applicable primarily to industrial site development plans.
- [7] Effect on energy consumption and conservation.
- [8] Draft Environmental Impact Statement (DEIS) and Environmental Impact Statement (EIS) will be required if the reviewing agency deems the proposal to be significant pursuant to the State Environmental Quality Review Act (SEQRA).

§ 200-29. Procedure.

- A. Application to Zoning Administrator. Following receipt of an application for a project listed as "site plan review," or as designated in § 200-15, the Zoning

Administrator shall notify the Planning Board and the Planning Board shall determine its completeness at its next scheduled meeting, and the Zoning Administrator shall notify the Adirondack Park Agency of such receipt as required, shall furnish each body a copy of the project application, and shall furnish to the Agency such pertinent information as the Agency may deem necessary and shall afford each body the opportunity to comment. Any application which meets the criteria of §§ 239-l and 239-m of the General Municipal Law must be sent to the Warren County Planning Board prior to the Planning Board decision.

- B. Planning Board schedules optional hearing. Within 45 days following the determination of a complete application by the Planning Board, the Planning Board shall hold a public hearing if a public hearing is deemed necessary. In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the possibility of an eventual disapproval. No site plan review project may be disapproved unless a hearing shall have first been held on the project application. The Planning Board shall give public notice thereof by the publication in the official newspaper of such hearing at least five days prior to the date thereof. In the case of Type II actions, a copy of the public hearing notice shall be mailed to the Adirondack Park Agency and to the Zoning Board of Appeals. The Adirondack Park Agency shall be a full party in interest with standing to participate in any and all proceedings conducted pursuant to this section.
- C. Planning Board decision. Within 62 days after a required public hearing or within 62 days after the receipt of a complete application by a Planning Board where no public hearing is required, the Planning Board shall render a decision. Said decision shall be in the form of an approval, approval with conditions, or disapproval based on the criteria and procedures cited in Articles IV, V, VI and VII of this chapter. The decision shall incorporate the specific description and expiration date for any outstanding variances granted for lots, structures, vegetative cutting and other aspect of the site plan. [Amended 9-5-2000; 10-2-2001 by L.L. No. 2-2001]
- D. Filing of decision. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant. The decision shall contain such findings of fact as are required by § 200-31 hereof. The Planning Board, in conjunction with its approval of any site plan review project, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that guidelines as to intensity of development as provided in this chapter shall be respected. The Planning Board may impose reasonable conditions to ensure that the project will be adequately supported by services and improvements made necessary by the project, and to ensure that the project will be completed in accordance with the requirements and conditions authorized under § 200-26 of this chapter. In addition, the Planning Board may require that the Zoning Administrator incorporate any such requirements and conditions in any permit issued with regard to such site plan review project.

- E. File Type II with Adirondack Park Agency. In the case of Type II site plan review projects, the decision shall also be mailed to the Adirondack Park Agency.

§ 200-30. Criteria for review of Type I and Type II site plan review.

- A. All Type I plans, uses or projects shall be referred to the APA for Class A regional project review simultaneous to the site plan review process. This identical process will be followed for any use exceeding Type I thresholds of Part 617 of the New York State Environmental Quality Review Act (SEQRA).
- B. The Planning Board shall not approve a use unless it first determines that such site plan review use meets the site plan review standards and requirements of § 200-31 and that such site plan review use meets any additional standards and requirements of Article VII applicable to that use and Appendix C as it may apply.¹³

§ 200-31. Requirements for Type I and Type II site plan review.

In order to approve any Type I or Type II site plan review use, the Planning Board shall find that:

- A. The use complies with all other requirements of this chapter, including the dimensional regulations of the zoning district in which it is proposed to be located;
- B. The use would be in harmony with the general purpose and intent of this chapter, specifically taking into account the location, character, and size of the proposed use and the description and purpose of the district in which such use is proposed, the nature and intensity of the activities to be involved in or conducted in connection with the proposed use, and the nature and rate of any increase on the burden of supporting public services and facilities which will follow the approval of the proposed use;
- C. The establishment, maintenance or operation of the proposed use would not create public hazards from traffic, traffic congestion, or the parking of automobiles or be otherwise detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to the property and improvements in the neighborhood or the general welfare of the Town; and
- D. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space to provide supporting facilities and services made necessary by the project - taking into account the commercial, industrial, educational, residential, recreational or other benefits that might be derived from the project. In making this determination, the Planning Board shall consider those factors pertinent to the project contained in the development considerations set forth hereof, and in so doing, the Planning Board shall make a net overall evaluation of the project in relation to the development objectives and general guidelines set forth in § 200-28 of this article.

¹³ . Editor's Note: See Ch. 150, Subdivision of Land, Appendix C.

§ 200-32. Development considerations.

The following are those factors which relate to the potential for adverse impact upon the park's natural aesthetic, ecological, wildlife, historical, recreational or open space resources which shall be considered, as provided in the chapter, before any Type I or II site plan review project is undertaken in the Town. Any burden on the public in providing facilities and services made necessary by such land use and development or subdivisions of land shall also be taken into account, as well as any commercial, industrial, residential, recreational or other benefits which might be derived therefrom.

A. Natural resource considerations.

- (1) Water.
 - (a) Existing water quality.
 - (b) Natural sedimentation or siltation.
 - (c) Eutrophication.
 - (d) Existing drainage and runoff patterns.
 - (e) Existing flow characteristics.
 - (f) Existing water table and rates of recharge.
- (2) Land.
 - (a) Existing topography.
 - (b) Erosion and slippage.
 - (c) Floodplain and flood hazard.
 - (d) Mineral resources.
 - (e) Viable agricultural soils.
 - (f) Forest resources.
 - (g) Open space resources.
 - (h) Vegetative cover.
 - (i) The quality and availability of land for outdoor recreational purposes.
- (3) Air.
 - (a) Air quality.
- (4) Noise.
 - (a) Noise levels.
- (5) Critical resource areas.
 - (a) Rivers and corridors of rivers designated to be studied as wild, scenic or

recreational in accordance with the Environmental Conservation Law.

- (b) Rare plant communities.
 - (c) Habitats of rare and endangered species and key wildlife habitats.
 - (d) Alpine and sub-alpine life zones.
 - (e) Wetlands.
 - (f) Elevations of 2,500 feet or more.
 - (g) Unique features, including gorges, waterfalls, and geologic formations.
- (6) Wildlife.
- (a) Fish and wildlife.
- (7) Aesthetics.
- (a) Scenic vistas.
 - (b) Natural and man-made travel corridors.
- B. Historic site considerations.
- (1) Historic factors.
 - (a) Historic sites or structures.
- C. Site development considerations.
- (1) Natural site factors.
 - (a) Geology.
 - (b) Slopes.
 - (c) Soil characteristics.
 - (d) Depth to groundwater and other hydrological factors.
 - (2) Other site factors.
 - (a) Adjoining and nearby land uses.
 - (b) Adequacy of site facilities.
- D. Governmental considerations.
- (1) Governmental service and finance factors.
 - (a) Ability of government to provide facilities and services.
 - (b) Municipal school or special district taxes or special district.
 - (2) In considering the approval of columbariums, the Planning Board shall require reasonable conditions or provisions to ensure the continued

maintenance of the columbarium facility in perpetuity. [Added 2-23-1999]

- E. Governmental review considerations.
 - (1) Governmental control factors.
 - (a) Conformance with other governmental controls.

ARTICLE VI
Regional Project Review

§ 200-33. Purpose of article.

The purpose of this article is to further the general purposes, policies and objectives of this chapter and the Adirondack Park Agency Act by setting forth the criteria for review of Type I site plan review projects by the Adirondack Park Agency (Class A regional projects, as defined in Appendix A¹⁴).

- A. No person shall undertake a Class A regional project unless and until the Agency shall have reviewed and approved, or approved subject to conditions, such project, and has issued an Agency permit with respect thereto, pursuant to the terms of the Adirondack Park Agency Act and the pertinent Agency rules and regulations.
- B. Type I site plan review projects are Class A regional projects (or Class A subdivisions). Said projects shall be subject to the review authority of the Adirondack Park Agency.
- C. Planned Unit Developments are Class A regional projects reviewable by the Adirondack Park Agency.

§ 200-34. Criteria for review of Class A regional projects by Adirondack Park Agency.

- A. The Adirondack Park Agency shall have jurisdiction to review and approve, approve subject to conditions, or disapprove all Class A regional projects proposed to be located within the territory of the Town, pursuant to and in accordance with Section 809(9) of the Adirondack Park Agency Act, the applicable Agency rules and regulations, and the criteria hereinafter set forth.
- B. The Adirondack Park Agency shall not approve a Class A regional project unless it first determines, after consultation with the Planning Board and receipt of the advisory recommendations of the Planning Board relative to the project, that the project would comply with all provisions of the chapter, including those contained in Articles IV, V and VII hereof, and of such other ordinances and regulations as shall be components of the Town Land Use Plan.
- C. In making the determination required by Section 809(9) of the Adirondack Park Agency Act as to the impact of a proposed Class A regional project upon the resources of the Adirondack Park, including the ability of all levels of government to provide supporting facilities and services made necessary by the project, the

¹⁴. Editor's Note: See Ch. 150, Subdivision of Land, Appendix A.

Agency shall consider those factors pertinent to the project contained in the development considerations set forth in § 200-31 and in so doing shall make a net overall evaluation of the project in relation to the development objectives and general guidelines set forth in Appendix B of this chapter.

- D. Notwithstanding the fact that Class A regional project approval may have been granted by the Adirondack Park Agency, should the Planning Board rule that said project does not comply with the provisions of this chapter, the Board may disapprove the project, irrespective of any Agency approval. In such case, the reasons for Planning Board disapproval shall be specified in writing.

§ 200-35. Planning Board authority regarding Class A regional projects.

- A. The Planning Board is hereby designated to consult with the Adirondack Park Agency with regard to Agency review of Class A regional projects (Type I, site plan review).
- B. As soon as reasonably practicable following receipt by the Planning Board from the Adirondack Park Agency of notice of application completion with regard to a Class A regional project, the Planning Board or one or more designers thereof shall consult with the Agency for the purpose of analyzing the project application and formulating advisory recommendations as to whether the project meets all of the pertinent requirements and conditions of the Town Land Use Plan.
- C. Not later than 30 days following receipt by the Planning Board from the Agency of notice of application completion with regard to Class A regional project, the Planning Board shall notify the Agency whether the project meets the pertinent requirements of the Town Land Use Plan.

§ 200-36. Regional project review criteria.

The principal aspects of a project site to be considered in completing regional project review are found in a supplementary¹⁵ document titled "Regional Project Review Criteria," Appendix C, for the Town of Bolton.

ARTICLE VII
Supplementary Regulations

§ 200-37. Shoreline regulations.

- A. Purpose. The purpose of these shoreline regulations is to promote and protect the public health, welfare and safety, and to protect economic property values, aesthetic and recreational values, and other natural resource values associated with all lakes, ponds, streams, swamps or wetlands. It is the further purpose of these regulations:
 - (1) To provide for the protection, preservation, proper maintenance and use of Town watercourses and wetlands in order to minimize disturbance to them and to prevent damage from erosion; turbidity or siltation; a loss of wildlife

¹⁵ . Editor's Note: See Ch. 150, Subdivision of Land, Appendix C.

and/or vegetation, and from the destruction of the natural habitat thereof.

- (2) To provide for the protection of the Town's potable fresh water supplies from the dangers of drought, overdraft, pollution or mismanagement.

B. Regulations. In the case of the shoreline of all lakes, ponds, swamps or wetlands and the shoreline of the Schroon River, the following restrictions shall apply:

- (1) Cutting restrictions. In the case of the shoreline of all lakes, ponds, rivers, streams, swamps, or wetlands and the shoreline of the Schroon River, the removal of vegetation, including trees, shall be permitted on shorefront lots, provided that the following standards are met:
 - (a) Within 35 feet of the mean high water mark, no vegetation may be removed, except that up to a maximum of 30% of the trees in excess of six inches in diameter at 4 1/2 feet above ground elevation existing at any time may be cut over any ten-year period. [Amended 2-20-1997; 3-6-2001]
 - (b) Within six feet of the mean high water mark no vegetation may be removed, except up to a maximum of 30% of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to Subsection A(1) above.
 - (c) The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or other vegetation that presents safety or health hazards.
- (2) Shoreline setbacks. The minimum setback on all bodies of water measured from the mean high water mark to all principal buildings and accessory structures in excess of 100 square feet cumulatively, other than docks or boathouses, shall be 50 feet in the GB-5000 and RCH-5000 zones; 75 feet in the RM-1.3, RCM-1.3, RL, RCL and RIL zones, and 100 feet in the LC-25, LC-45, RR-5 and RR-10 zones. [Amended 2-20-1997; 4-6-2004]
- (3) Minimum lot width. The minimum lot width measured along the shoreline for each one-family residential structure shall be 60 feet in the GB and RCH zones; 150 feet in RM-1 and RCM-1 zones; 210 feet in the RL-3, RCL-3 and RIL-3 zones; 250 feet in RR-5 and RR-10, and 400 feet in LC-25 and LC-45 zones. [Amended 12-7-1999]
- (4) Minimum shoreline frontages. The following minimum shoreline frontages shall be required for deeded or contractual access to all such lakes, ponds, rivers or streams for one lot, parcel, or site or multiple-family dwelling unit not having separate and distinct ownership of shore frontage. A total of not less than 125 linear feet of shoreline in the GB, RCH, RM-1 and RCM-1 zones; 175 feet in the RL, RCL and RHS zones; 250 feet in the RR-5 and RR-10; and 400 feet in the LC-25 and LC-45 zones for the first lot and each additional lot will require an additional 10 linear feet of shoreline frontage.
- (5) Sewage facilities. Except as otherwise herein provided, in the case of all

lakes, ponds, rivers, streams, swamps or wetlands, the minimum setback of any on-site sewage drainage field or seepage pit shall be 100 feet from the mean high water mark, irrespective of the zoning district or land use classification. In the case of Lake George, Trout Lake, Edgecomb Pond and Schroon River, any septic system or sewage facility shall meet the requirements of Section 3.020 of the General Standard of Sanitary Sewage Disposal Ordinance of the Town of Bolton.

- (6) There shall be neither removal of vegetation nor any grading within 10 feet from the top of the slope of any stream bed or drainageway.
- (7) Nothing herein shall be deemed to preclude the application of appropriate shoreline restrictions to new uses other than one-family residential structures subject to site plan review or otherwise by this chapter.
- (8) Within 1/4 mile of the mean high water mark of the Schroon River, in the LC-25, LC-45, RR-10, RR-5, RIL-3 Zoning Districts, an Adirondack Park Agency permit is required for all uses. Also applicable are: a shoreline setback of at least 150 feet, or the shoreline setback of the affected zoning district, whichever is greater; and special vegetative cutting restrictions. An APA permit or determination of non-jurisdiction must be obtained prior to issuance of a special use permit and/or building permit.

§ 200-38. Docks and boathouses.

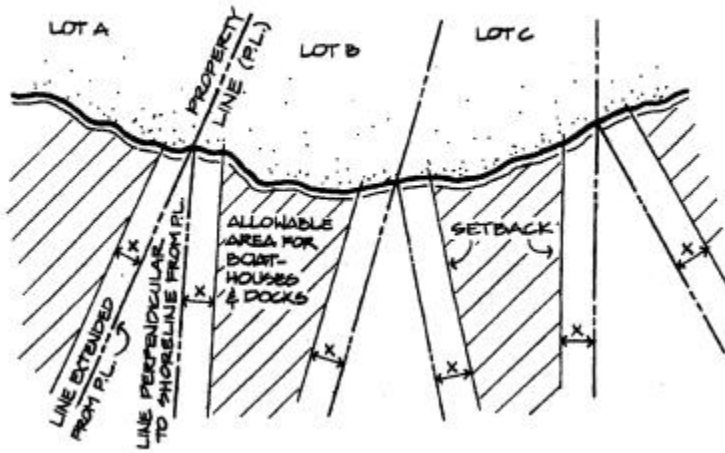
- A. Purpose. The following regulations are established to preserve the open, rural character of the Town of Bolton along its shorelines; provide access to adjacent waterfront properties; and provide safe vessel maneuvering around waterfront structures.
- B. Boathouse widths. Boathouse shall be limited to an accumulated width dependent upon the width of the lot at the lakeshore. The width shall be parallel to the shoreline or as seen viewed from the lake. In no case shall the accumulated widths of boathouses on one lot exceed the following: [Amended 2-20-1997; 12-4-2001 by L.L. No. 6-2001]

Lot Width (feet)	Maximum Cumulative Boathouse Width (feet)
At least 60 but less than 100	15
At least 100 but less than 200	30
200 and greater	45

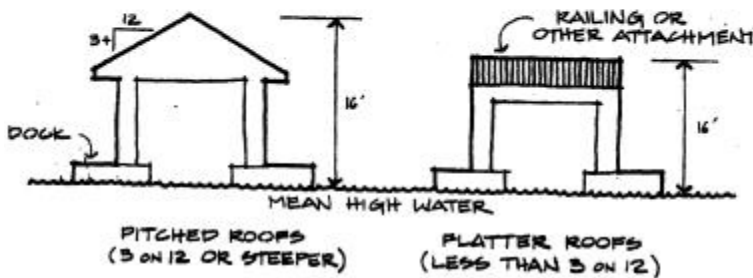
- C. Boathouse height. The height of all boathouses shall not exceed 16 feet all inclusive from mean high water mark. [Amended 2-20-1997]
- D. Setbacks for docks and boathouses. Setbacks for docks and boathouses shall be such that any dock or boathouse shall not be within 20 feet of any property line extended into a body of water or extended perpendicular to a body of water from

the point where it touches said body of water at the shoreline at the mean high water mark.

Setbacks for Docks and Boathouses



Height of Boat Shelters.



§ 200-39. Tourist accommodations.

- A. For tourist accommodation units which are attached to a similar unit by a party wall, units of tourist homes or similar structures, and tourist cabins or similar structures for rent or hire involving an average of less than 300 square feet of floor space each, the minimum land areas necessary shall be one-tenth the minimum lot area required for the zoning district in which the tourist accommodation is to be located, except in the General Business and Residential/Commercial-Hamlet Districts where the minimum lot area for each tourist accommodation unit described above shall be 5,000 square feet for the first unit and 1,500 square feet for each additional unit.
- B. The minimum land area for a tourist cabin or similar structure for rent or hire involving more than 300 square feet of floor space as per § 200-16 shall be the minimum lot area in the zoning schedules contained in § 200-15 hereof, for the zoning district in which the cabin or structure is to be located.
- C. Adequate off-street parking shall be provided as per § 200-48 of this chapter.

- D. Where a motel, hotel or tourist accommodation involves the shoreline of any lake or pond, or any river or stream navigable by boat, including canoe, the following shoreline frontages shall be required per room or unit, unless the minimum shoreline lot width in § 200-37 hereof for the zoning district involved is greater, in which case the greater lot width shall be required: 100 feet for first 10 accommodation units; for each additional unit up to 20 units, eight additional feet; for each additional unit up to 40 units, five additional feet; for each additional unit thereafter, three additional feet.

§ 200-40. Multiple-family dwellings.

- A. The minimum land area necessary per each individual dwelling unit shall be the minimum lot area required for the zoning district in which the multiple-family dwelling is to be located as per the zoning schedules in § 200-15.
- B. Adequate off-street parking shall be provided as per § 200-48 of this article.
- C. Approval of water supply and sewage disposal by the New York State Department of Health or other appropriate regulating agency shall be mandatory.

§ 200-41. Agricultural uses.

Supplemental regulation of agricultural uses shall be as set forth in §§ 200-42 and 200-43, as follows.

§ 200-42. Animal husbandry.

Standards contained herein are on a "per animal" basis, unless specified otherwise.

- A. Enclosures. Shelter shall be provided for all farm animals according to their individual need with consideration given to:
- (1) Weatherproofing.
 - (2) Ventilation.
 - (3) Drainage.
 - (4) Dry storage for feed.
 - (5) Secure enclosure - fence, cage, barn, etc.
- B. Manure. Animal waste must be treated as follows:
- (1) Bulk storage must be:
 - (a) Fifty linear feet from property line.
 - (b) Two hundred linear feet from stream or shoreline.
 - (c) Handled to minimize odor and pests.
 - (2) Soil application must:

- (a) Not permit leaching or runoff into any stream, pond, river or lake.
 - (b) Be generally according to provisions of § 200-46, Soil erosion standards.
- C. Farm animals. The following are minimum standards for individual accommodations:
- (1) Horse and cattle.
 - (a) Tie stalls: 12 feet by five feet.
 - (b) Enclosed box stalls: 12 feet by 12 feet.
 - (c) Common pen type enclosure: 150 square feet per animal.
 - (d) Exercise yard of 500 square feet per animal. If more than two horses are kept, a minimum of one acre of pasture/exercise area per animal is required.
 - (2) Pigs.
 - (a) Enclosed pens must allow 50 square feet per animal.
 - (b) Exercise yard accessible to each pen with 100 square feet per animal.
 - (c) Enclosure secure from burrowing.
 - (3) Goats and sheep (or equivalent).
 - (a) Tie stalls: two feet by five feet.
 - (b) Enclosed box stalls: six feet by six feet.
 - (c) Common pen enclosure of 20 square feet per animal.
 - (d) Exercise yard of 150 square feet per animal, accessible to each animal.
 - (4) Chickens (and other fowl) and rabbits (and other small mammals).
 - (a) Generally accommodations must be secure from predators.
 - (b) Adequate room for the animals' mobility is necessary, common area should be a minimum of 18 inches high.
 - (5) Standards for accommodations of animals not covered by § 200-42 will be determined by the Planning Board with help from the Warren County Cooperative Extension Service.

§ 200-43. Cultivation.

Large open areas as specified in the zoning schedules are subject to the restrictions herein:

- A. Furrows shall be parallel to the contour of the land.

- B. Grades steeper than 10% shall be interrupted every 100 feet of descent by an undisturbed strip of sod or shrubbery 10 feet or more in depth.
- C. Manure or commercial fertilizer shall be applied to land so as to minimize offensive odors to neighbors and in no case shall be closer than 50 feet from a stream or lake or pond.
- D. Cultivation methods shall minimize runoff or leaching into a stream, river, pond or lake and in no case shall be closer than 50 feet to the mean high water mark of said body of water, except that in the case of an intermittent stream where cultivation may extend to 25 feet from the high water mark.

§ 200-44. Mining, excavation of minerals/gravel.

- A. Excavation.
 - (1) Slopes caused by the excavation shall not exceed 30%.
 - (2) Depth of excavation shall approach no closer than five feet to the average high point of the groundwater table measured annually.
 - (3) Stockpiled material shall not exceed 35 feet.
- B. Buffer zones.
 - (1) An undisturbed fifty-foot buffer zone shall surround the excavation within the limits of the property.
 - (2) The entry into the excavated area shall be curved so as to prevent a direct view from the public right-of-way.
 - (3) The provisions of the Soil Erosion Standards shall govern all excavations.
 - (4) An undisturbed seventy-five-foot buffer zone shall separate the excavation from any stream bed.

§ 200-45. Storage of volatile liquids.

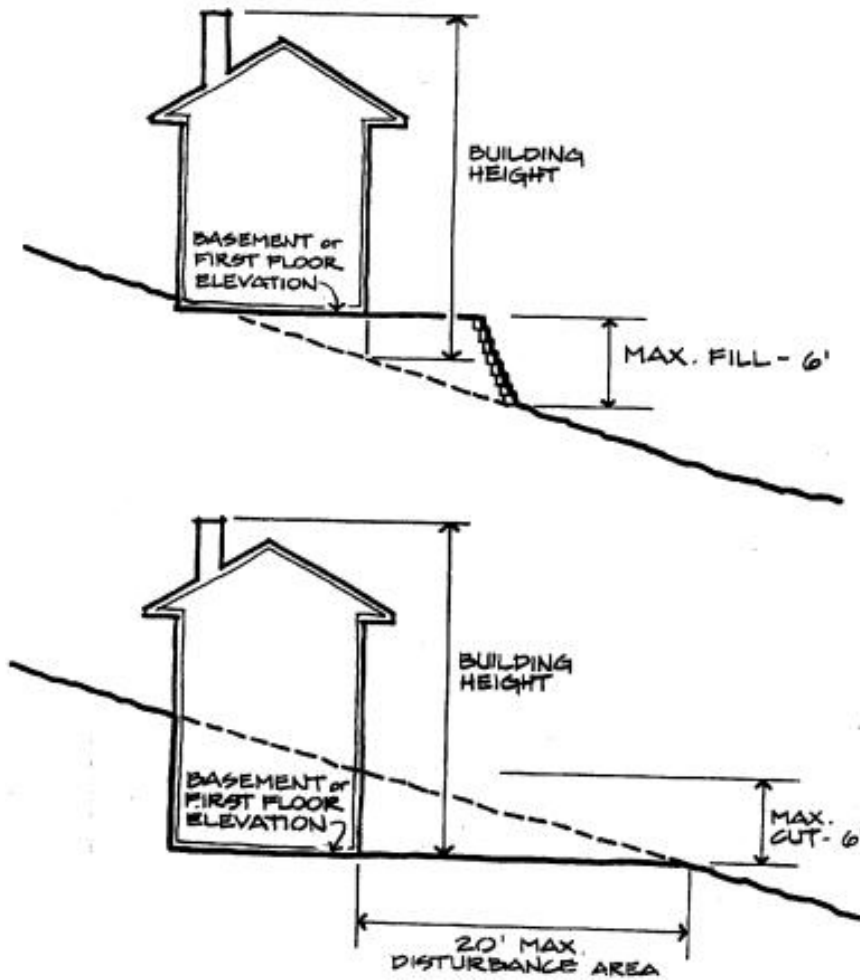
- A. Location. No proposed storage area can be within 500 feet of any residential development.
- B. Dike. A dike capable of containing the entire stored volume must surround the storage facility. In no case shall the height of the dike be less than five feet.
- C. Buffer. A one-hundred-foot buffer must surround the entire parcel. Existing vegetation should be retained or additional new plantings should be installed to create a visual screen.
- D. This article shall not apply to the storage of home heating fuels by individual users.

§ 200-46. Soil erosion standards.¹⁶

- A. Guidelines. Unless the standards in Subsection B below are more restrictive, the applicant shall conform to the published "Guidelines for Erosion and Sediment Control in Urban Areas of New York State" by USDA - SCS, copies of which are maintained at each Soil and Water Conservation District Office.
- B. Standards.
- (1) When land is exposed during development, the exposure should be kept to the shortest practicable period of time and the smallest amount of land possible.
 - (2) Grading and development shall preserve salient natural features such as trees, groves, natural terrain, waterways and other similar resources, keep cut and fill operations to a minimum and ensure conformity to existing topography so as to create the least erosion potential and adequately accommodate the volume and rate of velocity of surface runoff.
 - (3) Disturbed soils shall be stabilized as soon as possible. Temporary vegetation and/or mulching shall be used to protect exposed land areas during construction.

¹⁶ . Editor's Note: See also Ch. 125, Stormwater and Erosion Control.

Cut and Fill for Residential Construction



- (4) Permanent vegetation shall be successfully established and erosion control structures shall be installed within a time specified on the building permit. Wherever feasible, natural vegetation shall be retained and protected.
- (5) Topsoil removed from areas for structures shall be redistributed within the boundaries of the lands in question so as to provide suitable base for seeding and planting.
- (6) The development shall be fitted to the topography and soils to create the least erosion potential.
- (7) Provision shall be made prior to, during and after construction to dispose of increased runoff caused by changed surface conditions, in a manner which minimizes danger of flooding, erosion and pollutants from urban runoff entering lakes, streams or rivers.
- (8) Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained to remove sediment runoff waters from land undergoing development. Provisions shall be made to prevent surface water from

damaging the cut face of excavations, fills, or sloping surfaces.

- (9) The control of erosion and sediment shall be a continuous process undertaken as necessary prior to, during and after site preparations and construction. Sedimentation control measures shall be installed as part of site preparation prior to beginning any construction.
- (10) Fills shall not endanger adjoining property nor divert water onto the property of others. Maximum cut or fills shall be six feet for all construction; however, this limitation shall not be applicable to any cut or fill required for the placement of a basement under a building. [Amended 2-20-1997; 7-3-2007 by L.L. No. 2-2007]
- (11) Fills shall not encroach on natural watercourses, constructed channels or floodway areas. Fills placed adjacent to, or having impact on, natural watercourses, constructed channels or floodplains shall have suitable protection against erosion during periods of flooding. There will be no discharge of sediment or other material into the watercourses.
- (12) All fill material shall be of a composition suitable for the ultimate use of the fill, free of rubbish and carefully restricted in its content of brush, stumps, tree debris, rocks, frozen material, and soft or easily compressible material. Fill material shall be compacted sufficiently to prevent problems of erosion.
- (13) Grades of at least one-half percent and drainage facilities shall be provided to prevent the ponding of water, unless such ponding is proposed within site plans, in which event there shall be sufficient water flow to maintain proposed water levels and avoid stagnation.
- (14) No development shall be permitted in a floodway if such development shall raise water surface elevation of the base flood at any point in the community.
- (15) The rate of surface runoff shall not be increased by new construction. Whenever possible, drainage shall be sheet drained into earthen swales and collected in a detention or retention basin. Where soils permit, the water shall be allowed to percolate into the soils. Where clayey soils occur, water shall be collected during storm periods and released slowly into existing streams and drainage channels.
- (16) During grading operations, appropriate measures shall be taken for dust control.
- (17) Grading equipment shall not be allowed to enter into or cross any watercourse, except in accordance with the best management practices as defined in the building permit.
- (18) Whenever lawns are established, areas of natural vegetation shall be maintained to filter fertilizers, pesticides or other chemicals before the runoff enters natural streams or drainage channels. Property owners shall be encouraged to leave natural vegetation rather than develop lawns.

- (19) Boat ramps shall be limited to public boat launch sites and commercially operated boat launches.
- (20) Boat ramps shall be designed to accommodate most runoff before it enters the lake or river.

§ 200-47. Standards for regulation of mobile homes, transient mobile home courts and campgrounds.

- A. Purpose. The purpose of these standards is to promote the health, safety, and general welfare of the inhabitants of the Town of Bolton by establishing specific minimum requirements and regulations governing the occupancy and maintenance of mobile homes, transient mobile home courts and campgrounds.
- B. Licenses required for transient mobile home courts or campgrounds. No person, being the owner, lessee or occupant of any land within the Town of Bolton shall use, permit, or continue any existing use of said land as a transient mobile home court or a campground unless a license therefor has been obtained as hereinafter provided.
- C. Application for a license for transient mobile home court or campground.
 - (1) Each application for such a license shall be in writing signed by the applicant and filed in triplicate with the Town Clerk.
 - (a) The name and address of the applicant.
 - (b) The name and address of each partner if the applicant is a partnership.
 - (c) The name and address of each officer and director if the applicant is an association or a corporation.
 - (d) A complete legal description of the land upon which the proposed court or campground is to be located.
 - (e) The number of lots to be used for dependent or other mobile homes, or for both such uses, in the proposed or existing court or campground.
 - (2) Such application shall be accompanied by 10 complete sets of plans and specifications prepared and certified by a registered architect, licensed professional engineer or licensed surveyor. Such plans shall show the date thereof and the name of the applicant, be drawn to a scale of 20 feet to one inch, show contours at two-foot intervals, indicate the north point thereof, and shall show and identify: [Amended 10-2-2001 by L.L. No. 2-2001]
 - (a) The location and boundaries of the land proposed to be used as a transient mobile home court or campground.
 - (b) The major physical features of the land within the court or campground and within 500 feet thereof, including all watercourses, marshes and areas subject to flooding, and all wooded areas.

- (c) All existing development within the court or campground within 500 feet thereof, including structures, streets, woods and highways, utilities and service facilities.
 - (d) All proposed development within the court or campground, including:
 - [1] Entrances, exits, streets and walkways, with suitable indication of the widths thereof;
 - [2] Each proposed transient or other mobile home lot, driveways, parking area, and refuse collection area, with suitable indication of the dimensions thereof;
 - [3] Structures and improvements;
 - [4] Grading and landscaping;
 - [5] Stormwater drainage;
 - [6] Utilities and service facilities;
 - [7] Public improvements proposed by the Town in or adjoining the park or camp with 500 feet thereof; and
 - [8] Any existing zoning.
 - (e) Detailed drawings of and specifications for proposed structures, utilities, and other improvements, and the method and plan for exterior lighting within the park.
- (3) Such application shall be accompanied by letters or other acceptable certificates indicating compliance by the applicant with all pertinent rules and regulations of the New York State Department of Health, the Sanitary Code of the State of New York, Adirondack Park Agency and, if within the Lake George Park, the Lake George Park Commission, and the approval of the Town Sanitary Inspector.
 - (4) If the applicant is not the owner of the premises upon which the proposed court or campground is to be located, such application shall also be accompanied by an original or certified copy of a lease of the premises to the applicant, and a statement signed and acknowledged by the owner of the premises, consenting that the premises be used as a transient mobile home court or campground.
 - (5) Such application shall be accompanied by the proper application fee as hereinafter provided.¹⁷
- D. Licensing procedure for transient mobile home courts and campgrounds.
- (1) Upon receipt of a license application as hereinabove provided, the Town Clerk shall indicate the date of receipt thereon and promptly transmit one

¹⁷. Editor's Note: See § 200-76, Application fees.

copy of the application and all accompanying plans and specifications and other supporting documents to the Zoning Administrator, and one copy thereof to the Town Planning Board for review and report pursuant to § 271 of the Town Law of the State of New York. The Town Clerk shall also place notice in the official Town newspaper to the effect that such application has been filed.

- (2) The Zoning Administrator shall promptly ascertain whether the court or campground complies with the requirements of this chapter, with § 43-0119 of the Environmental Conservation Law, if applicable, and the applicable rules and regulations of the New York State Department of Health, the Sanitary Code of the State of New York, the Adirondack Park Agency and the Lake George Park Commission. The Zoning Administrator shall, after such investigation, and within 45 days of the date of receipt of the application by the Town Clerk, transmit his written approval or disapproval of the application and his recommendation pertaining thereto to the Planning Board.
- (3) Planning Board Review and Public Hearing. In consultation with the Chairman of the Planning Board, the Zoning Administrator will decide if a public hearing of the Planning Board is necessary. Said decisions must be made within 15 days of receipt of the full application by the Town Clerk. If a public hearing is required it must be scheduled within 45 days of receipt of the full application by the Town Clerk.
- (4) Lake George Park Commission. If the application is for lands within the Lake George Park, a public hearing must be held pursuant to § 43-0119 of the Environmental Conservation Law.
- (5) Decision of the Planning Board.
 - (a) Without a public hearing the Planning Board has 62 days from receipt of the full application by the Town Clerk to render a decision of approval, disapproval, or approval with conditions. [Amended 10-2-2001 by L.L. No. 2-2001]
 - (b) If a public hearing is required, the Planning Board has 62 days from the date of said hearing to render a decision of approval, disapproval, or approval with conditions. [Amended 10-2-2001 by L.L. No. 2-2001]
- (6) Planning considerations. Along with other considerations required by this chapter, the Planning Board shall promptly consider the location and the general arrangement of the court or campground, including the location and width of streets, the location, size and arrangement of the lots; the location of entrances and exits; and the location, type and extent of landscaping and screening materials.
- (7) Issuance of license for mobile homes. If the applicant is approved by the Planning Board, the Town Clerk shall, upon receipt of the applicable license fee herein provided, together with the actual cost to the Town of any engineering or other similar services incurred by the Town in consideration of

the application, issue a license to be effective from the date thereof, through the 31st day of December next succeeding. Such license shall specify the uses of each lot on the premises and shall designate the number of lots for dependent and for other mobile homes.

- (8) No such license shall be transferable or assignable.
- (9) Expansions of existing facilities. Any person holding a license for a transient mobile home court or campground, and desiring to add additional lots to such court or campground shall be considered as an original applicant.

E. Requirements for transient mobile home courts and campgrounds.

(1) Site.

- (a) The court or campground shall be located in the areas where grades and soil conditions are suitable for use as mobile home sites or campsites. Soil erosion standards of this article shall apply.
- (b) The court shall be located on a well-drained site which is properly graded and free at all times from stagnant pools of water.
- (c) The court or campground shall be at least 10 acres in size, with at least 100 feet of frontage on a public highway.

(2) Accessibility.

- (a) Every court or campground shall be easily accessible from a public highway or street.
- (b) Any court or campground containing more than 16 sites shall have two points of entry and exit, but no such court shall have more than four entry and exit points.
- (c) Every entrance and exit from a court or campground shall be so designed and located as to provide safe and convenient movement of persons and vehicles into and out of the court and to minimize friction with the free movement of traffic on the public highway and streets to which it connects. Every entrance and exit shall:

[1] Be at right angles to public highway or street to which it connects.

[2] Be free of any material which would impede the visibility of a driver on a public highway or street.

[3] Be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.

- (d) Each court or campground shall have streets providing convenient access to all lots and other important facilities within the site. All such streets shall:

- [1] Be improved to not less than minimum Town oil and stone road specifications.
 - [2] Be so designed as to permit safe and convenient vehicular circulation within the park.
 - [3] Be adapted to the topography and have suitable alignment and gradient compatible with other Town regulations.
 - [4] Intersect at right angles.
 - [5] Have a thirty-foot minimum width of right-of-way.
 - [6] Be maintained to a minimum width of 20 feet.
 - (e) Except in case of emergency, no parking shall be allowed on any street in any court.
 - (f) An improved driveway shall be provided for each lot. This driveway shall have a minimum width of nine feet.
- (3) Parking.
- (a) One off-street parking space shall be provided on each lot with access thereto by a driveway having a minimum width of nine feet.
 - (b) Additional off-street parking space shall be provided at strategic and convenient locations for guests and delivery and service vehicles.
 - [1] There shall be one such additional parking space for each two lots within the court or campground.
 - [2] Such parking spaces shall be provided in bays which shall provide for adequate maneuvering.
 - (c) Such parking spaces and driveways shall:
 - [1] Be constructed of an appropriate durable nonporous material adequate for the support of any load reasonably expected to be placed thereon.
 - [2] Have a durable surface and be suitably graded to permit rapid surface drainage.
- (4) Utilities and service facilities. The following utilities and service facilities shall be provided and shall be constructed and maintained in accordance with all requirements, rules and regulations of the New York State Department of Health, the Sanitary Code of the State of New York, and the Lake George Park Commission, where applicable.
- (a) Any transient mobile home court or campground shall be provided with sufficient drinking water, toilets, showers and other sanitary facilities to accommodate all dependent mobile homes therein as follows:

- [1] An adequate supply of pure water for drinking and domestic purposes and at least one cold water tap shall be provided for any two adjoining mobile home lots.
- [2] The toilet and other sanitary facilities for males and females shall be either in separate buildings or shall be separated, if in the same building, by soundproof walls.
- [3] Toilet facilities for males shall consist of not less than one flush toilet for every 15 dependent mobile homes, one shower, with individual dressing accommodations, for every 10 dependent mobile homes, and one lavatory for every 10 dependent mobile homes.
- [4] Toilet facilities for females shall consist of not less than one flush toilet for every 15 dependent mobile homes, one shower, with individual dressing accommodations, for every 10 dependent mobile homes, and one lavatory for every 10 dependent mobile homes.
- [5] An adequate supply of hot and cold running water shall be provided for each shower and lavatory.
- [6] Service buildings housing the toilet and sanitary facilities shall be permanent structures complying with all applicable ordinances and statutes, and shall be located not closer than 20 feet from any dependent mobile home.
- [7] The service building shall be well-lighted at all times of the day and night, well-ventilated with screened openings, constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing, and maintained at a temperature of at least 68° Fahrenheit during the period from October 1 to May 1. The floor shall be of water-impervious material.
- [8] All service buildings and the grounds of the court or campground shall be maintained at all times in a clean, sightly condition.
- [9] All sewage and wastewater shall be discharged into a public sewer system in compliance with applicable statutes or ordinances, or into a private sewer and disposal plan or septic tank system of such construction and in such manner as will meet all legal requirements and present no health hazards.
- [10] Garbage cans with tight fitting covers, in quantities adequate to permit the disposal of all garbage and rubbish from the court. Such cans shall be kept covered and in sanitary condition at all times. An adequate supply of such cans shall be kept within 100 feet of each lot. Garbage and rubbish shall be collected and disposed of

outside the court as often as may be necessary to ensure that such cans shall not overflow.

[11] Each mobile home lot shall be provided with weatherproof electric service connections and outlets which are of a type approved by the New York State Board of Fire Underwriters.

- (5) Open space and landscaping.
 - (a) Each court or campground shall provide common open space for the use of the occupants of such courts or campgrounds.
 - (b) Such open space shall be conveniently located in the court or campground. Such space shall have a total area equal to at least 10% of the gross land area of the court or campground.
 - (c) Every transient mobile home court or campground shall have lawn or other suitable vegetative cover in all areas not used for the placement of mobile homes and other buildings, walkways, roads, and parking areas. Trees or shrubs shall be provided to the extent necessary to screen objectionable views, and to provide adequate shade and a suitable setting for the transient mobile homes, campsites or other facilities in the court or campground.
 - (d) Views which shall be screened include fuel tanks and other nonresidential uses, garbage storage and collection areas, and all abutting yards of adjacent properties.
 - (e) Other plantings shall be provided along those areas within the court which front upon public highways and streets, to reduce glare from automobile headlights and provide pleasant outlooks for the living units.
- (6) Required records. The owner or operator of every transient mobile home court or campground shall keep a permanent record in writing of all persons occupying or using the facilities of such court, which shall include the following:
 - (a) The name and address of the occupant of each lot, and the automobile registration plate number.
 - (b) The name and address of the owner of each mobile home.
 - (c) The registration number, if any, and the make and color of each mobile home.
- (7) Required fees. Besides the fees required by site plan review, the fee for a transient mobile home court or campground shall be \$2 multiplied by the number of lots to be authorized by the license.

F. Inspection, maintenance, revocation, and renewal.

- (1) Administrator. The Zoning Administrator or other authorized representative of the Town of Bolton shall have the right, at any reasonable time, to enter any transient mobile home court or campground, and shall have the right to inspect all parts of said court or campground, and to inspect the records above required.
- (2) Violations. If the Zoning Administrator or authorized representative of the Town finds that any such court or campground is not being maintained in a clean and sanitary condition, or is not being conducted in accordance with the provisions of this chapter or any other ordinance, rule or regulation, the Zoning Administrator shall issue an order in writing upon the holder of the license, or the person in charge of said court or campground, directing the conditions therein specified to be remedied within the time specified in said order.
- (3) Revocation of license. If such conditions are not corrected within such period, the Zoning Administrator may cause a notice in writing to be served upon the holder of said license, or the person in charge of such court or campground, requiring the holder of the permit to appear before the Planning Board at a time to be specified in such notice and to show cause why such permit should not be revoked. The Planning Board may, after a hearing at which testimony of witnesses may be taken and the holder of the license shall be heard, revoke such license, or refuse to renew it at the next renewal date. Upon the revocation of or refusal to renew any such license, the premises shall forthwith or thereupon cease to be used for the purposes granted in said license, and all dependent or other mobile homes shall forthwith be removed therefrom. Said revocation would be in addition to other fines and/or imprisonment authorized by this chapter.
- (4) Annual application. An applicant for the annual renewal of any transient mobile home court or campground license or under the chapter must be filed with the Town Clerk on or before the first day of December of each year. The renewal application shall be in writing and signed by the applicant and shall contain the same information as required in the original application for a license. Such renewal application need not be accompanied by a plan of such court or campground, unless substantial changes have been made, nor by a copy of the lease of the premises, unless a new lease has been entered into subsequent to the time of filing the previous application. Upon review and approval by the Zoning Administrator, a renewal license shall be issued effective upon the expiration of the prior license and, subject hereto, shall continue in force for a period of one year. Such renewal license shall not be transferred or assigned. The applicant shall, at the time renewal license is issued, pay the required fee.
- (5) Denial. The renewal license may not be denied except on due cause as provided in Subsection F(1), (2) and (3) above, and then only by resolution of the Planning Board.

G. Regulation of mobile homes outside of transient mobile home courts or

campgrounds.

- (1) Temporary location. No occupied dependent, transient mobile home or other mobile home shall be parked or allowed to remain upon any street, highway, road, alley, or other public place, except that emergency stopping or parking occasioned by mechanical failure is permitted upon the shoulder of any street or highway for a period of not longer than 48 hours, subject, however, to any other and further prohibition, regulations or limitations imposed by law.
- (2) Permit required. No occupied dependent, transient mobile home or other mobile home shall be parked or placed outside a licensed mobile home court, transient mobile home court or campground for more than 48 hours, except upon a site plan review permit issued pursuant to the provisions of Article V of this chapter. Such a site plan review permit may be issued for a period not to exceed 10 days, and shall not be renewable within the same calendar year. Such a site plan review permit shall not be issued for any land restricted by deed or other covenants against placement of mobile homes or temporary structures.
- (3) Construction trailer. As an exception to Subsection G(2) above, application may be made, pursuant to the provisions of Article V of this chapter, for a site plan review permit for a period not to exceed 180 days by the owner of land within the Town who intends to construct on such land a dwelling house for his own occupancy, or his employee's occupancy. The owner of the land may place or park a mobile home on such land for his own occupancy, or his employee's occupancy, during the construction of such dwelling. Such a site plan review permit shall not be issued for any land restricted by deed or other covenants against placement of mobile homes or temporary structures. Such a site plan review permit shall be renewable for only one additional period not to exceed 180 days. However, if material progress with house construction is not made within 45 days from the issuance of the said site plan review permit or if construction work ceases for a consecutive period of 45 days, such site plan review permit shall become void. Said mobile home shall be removed from the premises upon expiration of the site plan review permit. Said site plan review permit shall not be transferable and becomes void if ownership of the land changes, or if the mobile home is unoccupied for more than 45 consecutive days.
- (4) Temporary displacement. As an exception to Subsection G(2) above, application may be made, pursuant to the provisions of Article V of this chapter, for a site plan review permit, for a period not to exceed 180 days, by the owner of land within the Town, to temporarily replace an occupied dwelling destroyed by fire or other disaster. Such a site plan review permit shall not be issued for any land restricted by deed or other covenants against placement of mobile homes or temporary structures. Such a site plan review permit shall not be transferable and becomes void if ownership of the land changes, or if the mobile home is unoccupied for more than 45 consecutive days. Such a site plan review permit shall be renewable for only one

additional period not to exceed 180 days.

- (5) Land owner permit. As an exception to Subsection G(2) above, application may be made, pursuant to the provisions of Article V of this chapter for a site plan review permit, for an initial period not to exceed one year by the owner of land within Rural Residential Zoning Districts (RR) only by the Town of Bolton to park or place one mobile home on such land for his own occupancy, as his one and only permanent residence. Said site plan review permit shall not be transferable and becomes void if ownership of the land changes, or if the mobile home is unoccupied for more than 45 consecutive days. Such a site plan review permit shall be renewable for successive one-year periods upon proper application and approval pursuant to the provisions of this chapter.
- (6) Compliance with all ordinances required. Additional standards for site plan review permits granted pursuant to this section. A site plan review permit for an occupied mobile home shall be issued only upon full compliance with all of the provisions of this chapter, and Town Private Residence Sewage Disposal Ordinance, and particularly to those regulations on the Schedule of Regulations for the zoning district in which the proposed site plan review use is to be located, and of the following additional regulations.
 - (a) No mobile home shall be located permanently within 100 feet of an existing dwelling fronting on any public highway, nor on a lot in any subdivision which has in part been developed with conventional dwellings, or upon any land restricted by deed or other covenants against placement of mobile homes or temporary structures.
 - (b) Each mobile home shall be located on (a) a permanent, continuous, masonry foundation, or (b) on posts or concrete blocks, provided that, in this second case, there shall be a continuous "skirting" of metal, wood or other durable, sightly material installed so as to obscure the wheels from view from the highway or street, and from any adjoining property, and such mobile home shall be situated on a lot meeting the same requirements in respect to areas and widths provided for one-family detached dwellings in the district in which such mobile home is proposed to be located, and not more than one mobile home shall be located on a lot without any other dwellings thereon.
- (7) Any dependent or other mobile home lawfully in existence on the effective date of this chapter, but not located in a court or campground for which a license is required hereunder, may be continued as a nonconforming use, pursuant to the provisions of this Zoning Chapter; provided, however, that if such mobile home is relocated on the site, or if a replacement or new mobile home is proposed to be located on the site, then all of the applicable provisions of this chapter shall apply.
- (8) Proposals for locating mobile homes in those areas of the RR Residential Zoning Districts which are within the boundaries of the Lake George Park, shall be referred to the Lake George Park Commission for its information and

for its advisory recommendation, if such Commission desires to submit one.

- H. Exceptions. None of the provisions of this chapter shall be applicable to the following:
- (1) The business of mobile home sales, except that where units are used as living quarters they shall conform with all of the provisions of this chapter applicable to the situation.
 - (2) The storage or garaging of dependent or other mobile homes, not being used for living or sleeping purposes, within a building or structure, or to the storage of one unoccupied such home on premises occupied as the principal residence by the owner; provided, however, that such unoccupied mobile home shall not be parked between the street line and the rear building line of such premises, and that the mobile home be adequately screened from view of any neighboring residential property and, provided further, that the Zoning Administrator has been notified in advance of the storing or garaging of such dependent or other mobile home.
 - (3) A dependent or other mobile home located on the site of a construction project, survey project or other similar work project, and which is used solely as a field office, work or tool house in connection with such project, provided that the Zoning Administrator has been notified in advance of the parking or placement of such a dependent or other mobile home and provided further that such dependent or other mobile home is removed from such site within 30 days after completion of such project.

§ 200-48. Off-street parking and loading.

- A. Off-street parking. Off-street parking space shall be required for all buildings constructed, altered, extended and engaged in use after the effective date of this chapter. Each off-street space shall consist of at least 200 square feet and shall be at least 10 feet wide by 20 feet long and shall be reached by an access driveway at least 20 feet clear in width. In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements are specified in Subsection B. For uses not specified in Subsection B, the Planning Board may establish parking requirements consistent with those specified in Subsection B.
- (1) For any building having more than one use, parking space shall be required as provided for each use.
 - (2) Parking spaces required in all districts shall be located in the side or rear yard on the same lot as the principal use unless otherwise permitted by the Planning Board.
 - (3) Floor areas for the purposes of computing parking requirements shall be the sum of the horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic uses primarily for storage or service.

- (4) Any parking lot or parking area that will contain more than 20 cars shall be effectively divided by internal traffic islands, including one for every 20 cars or part thereof to reduce the impact of the parking area and provide safety for vehicles moving within the area. Any parking lot or parking area that will contain more than 100 cars shall be effectively divided by planted divider strips or curbing fixed in place so as to effectively divide each parking area of 100 cars from another driveway and parking area for the purpose of ensuring safety of vehicles moving within the entire parking area and to control speed.
- (5) Off-street parking areas located within 50 feet of a residential use shall be shielded by wall, fencing or other suitable material which shall serve to screen noise and uncontrolled entrance. Parking lot shall be screened from all street rights-of-way in such a manner as to facilitate adequate site distance at points of egress.
- (6) Parking lots shall be planted in accordance with the following:
 - (a) One tree planted on the perimeter of the parking lot for every 10 cars or fraction thereof.
 - (b) One tree planted in the interior of a parking lot (on traffic islands) for every 10 cars or fraction thereof.
 - (c) Buffer planting shall be installed between the parking lot and adjacent properties.
 - (d) Buffer planting shall be installed between the parking lot and the street.
 - (e) If existing trees and vegetation are left on the site, these may be used in lieu of new plantings.
 - (f) New plantings shall comply with the following sizes:

Major tree
3-1/2" caliper

Flowering tree
2-1/2" caliper

Evergreen tree
4-6' height

Shrub
2-3" height or spread

- (7) Lighting for parking lots shall be designed in such a manner as to prevent glare onto other properties.

B. Off-street parking schedule.

Use	Minimum Spaces Required
Dwelling	Two spaces for each dwelling unit.
Rooming house, tourist accommodation	One space for each guest room and one space for each employee.
Church or temple	One space for each four seating spaces in the main assembly room, one space for each clergyman and one space for each employee.
Theater or other place of assembly	One space for each four seating spaces and one space for each employee.
Retail store	One space for each 100 square feet of gross floor area.
Office or bank	One space for each 300 square feet of gross floor area.
Clubs or restaurants	One space for each 100 square feet of gross floor area or one space for each four seats, whichever is greater, and one space for each two employees.
Wholesale, storage, freight terminal or utility use	One space for each 1,000 square feet of gross floor area.
Industrial use or manufacturing use	One space for each company vehicle and for each two employees, based on peak working hours.
Home occupation	One space for each 100 square feet of space devoted to such use.
Drive-in restaurant	One space for each 25 square feet of gross floor area.
Shopping center	Five and one-half spaces for each 1,000 square feet of gross leasable floor area.

Off-street parking regulations may be waived in lieu of landscaping or a fee to be established by the Bolton Town Board.

- C. Off-street loading. At least one off-street loading space shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet, computed as described below. Space for off-street loading shall be in addition to space for off-street parking. Each off-street loading space shall be subject to the following minimum requirements:

- (1) Each berth shall be not less than 12 feet wide, 40 feet long and 14 feet in height when covered.
- (2) Off-street loading space (or spaces) located within 50 feet of residential property shall be shielded by wall, fencing, or other suitable material which shall serve to screen noise and uncontrolled entrance.

Regulations for the design, erection and maintenance of signs shall be according to the Sign Regulations for the Town of Bolton. See § 200-22, Sign regulations.

§ 200-50. Antennas and dishes.

- A. Small antennas used for the reception of local television or radio channels shall not be considered a structure and as such will not be regulated by this chapter.
- B. Larger dish, satellite, ham radio, CB, cellular phone, shortwave or other major antenna structures shall be considered a structure and shall be reviewed under site plan review in accordance with Article V of this chapter and shall be regulated as follows:
 - (1) Setbacks: same as the principal building in each zone.
 - (2) Height: 35 feet maximum.
 - (3) Clearing: screened from any scenic travel corridor, Trout Lake, Schroon River, Lake George or residential, recreational or tourist-oriented use.
 - (4) Color: muted earth tones.

§ 200-51. Clearing regulations.

Purpose. The protection of the natural resources in Bolton is important to its economic success as a tourist community in the Adirondack Park. The clear-cutting of trees has in the past opened up objectionable views, exposed sensitive soils to erosion causing siltation in streams, ponds and lakes and generally degraded the natural environment in the Town of Bolton.

- A. Lumbering or timber harvesting.
 - (1) No lumbering shall be allowed within the setbacks for front yard in any zone.
 - (2) Any slash and debris from lumbering activities shall be removed from all sites in view of all sensitive land use areas and public rights-of-way.
 - (3) No clear-cutting shall be permitted on slopes greater than 25%.
 - (4) Clear-cutting on slopes between 15% and 25% shall be limited to one-hundred-foot swaths perpendicular to the slope of the land. A fifty-foot undisturbed buffer shall be left between clear-cutting areas.
 - (5) Clear-cutting on slopes between 8% and 15% shall be limited to one-hundred-fifty-foot swaths perpendicular to the slope of the land. A fifty-foot undisturbed buffer shall be left between clear-cutting areas.
 - (6) Clear-cutting on slopes between 3% and 8% shall be limited to two-hundred-foot swaths perpendicular to the slope of the land. A fifty-foot undisturbed buffer shall be left between clear-cutting areas.
 - (7) In no case shall clear-cutting exceed 200 feet perpendicular to the slope without a fifty-foot undisturbed buffer.

- (8) All clear-cutting operations must make provisions for protection against erosion in accordance with § 200-46.
- (9) No lumbered land which has been clear-cut shall be considered for residential development for at least five years after completion of lumbering activities on that section of land.

B. Subdivisions.¹⁸

- (1) During construction, clearing shall be limited to the extent of grading only as approved by the Planning Board.
- (2) All clear-cutting operations must make provision for protection against erosion in accordance with § 200-46.

C. Single-family home construction.

- (1) Cutting on slopes greater than 25% shall be prohibited except for the construction of buildings in accordance with this section.
- (2) Clearing for residential building(s) shall be limited to 20 feet outside the area occupied by the foundation of that building(s).
- (3) Clearing for a driveway shall be limited to a sixteen-foot right-of-way.
- (4) Clearing for a septic field, or pit or sewer line shall be limited to 10 feet beyond the space occupied by the elements of the system.
- (5) Clearing for a well shall be limited to a fourteen-foot right-of-way to drill such well and service the residence.
- (6) All services to the structure are encouraged to be located underground.

§ 200-52. Fence regulations.

Any fence over six feet in height from natural grade will require a site plan review. Also, any fence in excess of 100 square feet on lakeshore lots that is within the setback requirements from the lakeshore will require a variance.

§ 200-53. Architectural review.

- A. Purpose. To preserve the open space rural character of Bolton; to maintain the small village character of the hamlet areas by providing a variety of architectural character while discouraging excessive dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings erected.
- B. Approvals. As part of site plan approval, the Planning Board may approve; conditionally approve subject to specific modifications; or disapprove any application, provided that such disapproval shall be by the unanimous vote of said Board present at any meeting where said vote is taken, and that the Board finds that

¹⁸ . Editor's Note: For clearing in regard to subdivisions, see Ch. 150, Subdivision of Land, §§ 150-2 and 150-17G.

the building for which the permit is applied would, if erected, be so detrimental to the desirability, property values or development of the surrounding area or region as to provoke one or more of the harmful effects set forth in Subsection A hereof by the following reason:

- (1) Excessive similarity to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street and within 250 feet of the proposed site, in respect to one or more of the following features of exterior design and appearance:
 - (a) Apparently identical facade;
 - (b) Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangement; or
 - (c) Other significant identical features of design, provided that a finding of excessive similarity shall state not only that such excessive similarity exists, but further that it is of such a nature as to be expected to provoke, beyond a reasonable doubt, one or more of the harmful effects set forth in Subsection A above.

- (2) Excessive dissimilarity or inappropriateness in relation to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street and within 250 feet of the proposed site, in respect to one or more of the following features:
 - (a) Cubical contents;
 - (b) Gross floor area;
 - (c) Height of building or height of roof; or
 - (d) Other significant design features such as material or quality of architectural design;

Provided that a finding of excessive dissimilarity or inappropriateness shall state not only that such excessive dissimilarity or inappropriateness exists, but further that it is of such a nature as to be expected to provoke, beyond a reasonable doubt, one or more of the harmful effects set forth in Subsection A hereof and that the finding is not based on personal preference as to taste or choice or architectural style.

- C. The Planning Board, in furtherance of the requirements of the purposes of this section, shall be empowered to enact and adopt by resolution and amend, modify or supplement written rules and regulations constituting specific criteria for consideration under its architectural review powers herein granted. Current rules and regulations specifying architectural review criteria shall be available to the public and all interested parties from the Zoning Administrator. [Added 10-5-2004; amended 8-2-2005]

ARTICLE VIII
General Exceptions

§ 200-54. General exception to minimum lot area requirements.

Any nonconforming lot of record as of May 22, 1979, which does not meet the minimum lot area and/or minimum lot width and depth requirements of this chapter for the zoning district in which such lot is situated shall be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:

- A. Such lot does not adjoin other lots in the same ownership; provided, however, that all such lots in the same ownership shall be treated together as one lot. [Amended 2-20-1997]
- B. The interpretation of Subsection A is that the section applies to effect a merger of two undeveloped lots. It would also apply to effect a merger of one developed and one undeveloped lot under the same ownership. It will not apply to two developed lots. See Zoning Board of Appeals minutes of November 14, 1988.

§ 200-55. Gifts, devises and inheritances.

- A. A natural person who, on May 22, 1973 (effective date of Executive Law, Article 27, Adirondack Park Agency Act), and since said date has continuously owned land in the Adirondack Park portions of the Town of Bolton may, by devise, bona fide gift or grant without consideration, convey a vacant portion of such land to members of his or her immediate family, and such division of land shall be exempt from the minimum lot size criteria specified by this Code. In no case shall any division of land pursuant to this section create a lot less than one acre in area. The use of such lot shall be for a single-family dwelling or mobile home, provided that such use is permitted in the district within which the premises are located. [Amended 8-2-2005]
- B. This section is intended for long-term use of the individual receiving the land.

ARTICLE IX
Nonconforming Uses, Structures and Lots
[Amended 2-20-1997; 4-6-2004; 4-3-2007 by L.L. No. 1-2007]

§ 200-56. Nonconforming uses.

- A. Continuation. Any nonconforming use which existed lawfully at the time of adoption of this article may be continued, subject to the following provisions.
- B. Expansion, extension, modification, or replacement.
 - (1) Expansion. A nonconforming use shall not be enlarged or extended beyond the area of the existing structure in which the use is located, which structure existed prior to adoption of this article, unless granted a use variance from the Zoning Board of Appeals and, if required by the terms of the area variance granted, site plan review by the Planning Board. In addition to dimensional criteria, expansion of a nonconforming use shall be considered as occurring

whenever the magnitude or intensity of the preexisting nonconforming use increases in volume or activity as evidenced by hours of operation, amounts of employees, deliveries, amounts of customers, additional parking requirements and similar material changes in circumstances which magnify the volume of the nonconforming use.

- (2) Extension. A nonconforming use which existed prior to adoption of this article may be extended within any portion of an existing structure in which it is located, and the same shall not be deemed an expansion of such nonconforming use; however, any extension of such nonconforming use shall require site plan approval from the Planning Board.
 - (3) Modification. A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified in a way that increases its nonconformity unless such modification results in a use of the same or a less nonconforming nature, and then only with prior site plan approval by the Planning Board.
 - (4) Replacement. If a nonconforming use is replaced by another use, such use shall conform to the regulations of the district in which it is located.
- C. Discontinuance. If a nonconforming use is discontinued for a period of 12 consecutive months, such nonconforming use shall expire and be deemed abandoned; and any subsequent use on the same lot shall conform to the regulations of the district in which it is located.
- D. Destruction and restoration. If any building or structure in which a nonconforming use is conducted is hereafter removed, or destroyed by fire, wind, explosion, structural failure or other natural cause, to the extent of 75% or more of its fair market value at the time of such damage, any reconstruction or restoration of such building or structure for such nonconforming use must be completed within one year of the issuance of a valid building permit.

§ 200-57. Nonconforming buildings and structures.

- A. Continuation.
- (1) Any nonconforming building or structure which existed lawfully at the time of adoption of this article may be maintained.
 - (2) Any building or structure, for which a valid building permit was lawfully issued prior to the adoption of this article, may be completed and used in accordance with the plans and specifications for such building or structure.
- B. Modification and replacement.
- (1) Modification.
 - (a) A nonconforming building or structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.

- (b) A nonconforming building or structure shall not be added to, enlarged, reconfigured or altered in any manner or in a way which increases its overall size, in any dimension or in any direction. All such modifications require an area variance from the Zoning Board of Appeals and, if required by the terms of the area variance granted, site plan review by the Planning Board.
 - (c) Resort hotels, rental cottages and group camps shall not be converted to single-family residences, condominiums, cooperatives or other nonseasonal occupancy except through site plan review. Said conversion, when made, must conform to the provisions of this article.
- (2) Replacement. A nonconforming building or structure may be replaced or rebuilt on its identical footprint, within 24 months after its removal, so long as it is not added to, enlarged, reconfigured or altered in any manner or in a way which increases its overall size, in any dimension or in any direction. After 24 months, such nonconforming structure may not be rebuilt on the same footprint but must conform to the regulations of the district in which it is located.

§ 200-58. Nonconforming lots.

- A. No new principal building may be created on any nonconforming lot, except in accordance with § 200-54, General exception to minimum lot area requirements.
- B. Buildings and structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the regulations of the district in which it is located.

§ 200-59. (Reserved)

§ 200-60. (Reserved)

§ 200-61. (Reserved)

ARTICLE X
Variances

§ 200-62. Purpose of article.

The purpose of this article is to provide for variances from this chapter in cases where the strict application thereof would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and objectives of this chapter.

§ 200-63. Authorization to grant or deny variances.

Any variance to this chapter shall be granted by the Zoning Board of Appeals in accordance with the standards and procedures set forth in this article. In granting a variance, the Zoning Board of Appeals may impose conditions similar to those provided

for site plan review uses to protect the best interests of the surrounding property, the neighborhood and the Town as a whole.

§ 200-64. Application for variance.

- A. File with Zoning Administrator. Variances may be instituted by filing an application with the Zoning Administrator in behalf of the Zoning Board of Appeals (ZBA).
- B. Required form. The variance form contained in Appendix F of this chapter shall be used by the applicant, plus any additional information required by the Zoning Board of Appeals as necessary to make its findings according to § 200-65 of this chapter. The Zoning Administrator shall include with the variance application the variance checklist as provided by the Planning Board.
- C. Additional information required. The applicant must supply the Zoning Board of Appeals with:
 - (1) A legal description of the property.
 - (2) A map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof.
 - (3) Plans and elevations necessary to show the proposed variance.
 - (4) The setbacks and location of all proposed structures from the lakeshore. [Amended 12-7-1999]
 - (5) The color and construction materials of all structures. [Added 12-7-1999]
 - (6) The requirement of a cutting and/or landscaping plan acceptable to the Board. [Added 12-7-1999]
 - (7) Other drawings or information considered necessary by the Zoning Board of Appeals to make an informed decision. [Added 12-7-1999]
- D. Changes, data and documentation made regarding any application shall be submitted at least 14 days prior to the next meeting so that the Board members can review them. [Added 2-20-1997]

§ 200-65. Requirements for granting variances. [Amended 2-20-1997; 3-8-2000]

- A. Area variance. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Administrator, to grant area variances as defined herein.
 - (1) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) Whether the alleged difficulty was self created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
 - (2) The Board of Appeals, in granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- B. Use variance. The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances as defined herein.
 - (1) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) That the alleged hardship has not been self-created.
 - (2) The Board of Appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- C. Conditions. Imposition of conditions. The Board of Appeals shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the Zoning Chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 200-66. Referrals.

- A. All complete use variance applications shall be referred to the Town Planning Board for its advisory report and recommendation. In addition, the Zoning Board of Appeals, in its discretion, may by resolution refer any complete area variance to the Planning Board for its advisory report and recommendation. Where required by § 239-m of the General Municipal Law, the Zoning Board of Appeals shall also refer a complete variance application to the Warren County Planning Board for its report and recommendation. In the event of any such referral, then the Zoning Board of Appeals shall not take final action on the variance application until the Planning Board and/or the Warren County Planning Board, as appropriate, have submitted recommendations or returned the application to the Zoning Board of Appeals with no recommendation or until 30 days have passed since the date of referral with no action, whichever occurs first. [Amended 10-2-2001 by L.L. No. 3-2001]
- B. In the case of any variance application involving land, buildings, or structures in any land use area except hamlet, or any variance application involving the shoreline restrictions, the Zoning Board of Appeals shall submit a copy of the application to the Adirondack Park Agency.
- C. General Municipal Law § 239-m.
 - (1) Any variance application, site plan review or zoning amendment within the following thresholds shall be referred to the Warren County Planning Board for their review and comment:
 - (a) Within 500 feet of the Town boundary.
 - (b) Within 500 feet of an existing or proposed county or state:
 - [1] Park or recreation area;
 - [2] Right-of-way, parkway, thruway, road or highway;
 - [3] Stream or drainage channel or easement;
 - [4] Public building or institution.
 - (2) Within 30 days after receipt of a full statement of such referred matter, the Warren County Planning Board shall report its recommendations to the referring Town body.
 - (3) If the County Planning Board fails to report within 30 days, the Town body

may act without such report.

- (4) If the County Planning Board recommends disapproval of the proposal, or recommends modification thereof, the Town body having jurisdiction shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof, and after the adoption of a resolution, fully setting forth the reasons of such contrary action.
- (5) Within seven days after final action by the Town body a report of said final action shall be filed with the Warren County Planning Board and any other regulatory agency affected by the decision.

§ 200-67. Variance application hearing and decision.

- A. Within 15 days of receipt of a completed application for a variance, the Zoning Board of Appeals shall give notice of a public hearing to be held on the application not less than 15 days nor more than 30 days after the notice. The Adirondack Park Agency shall be a full party in interest, with standing to participate in any and all proceedings under this article for which the Agency was required to be sent notice under § 200-66C(1)(b) of this chapter.
- B. Within 30 days of the final adjournment of a public hearing, called and held under Subsection A of this section, the Zoning Board of Appeals shall grant, grant with conditions, or deny the variance applied for. The decision of the Board shall be in writing and shall contain each of the findings specified in § 200-65 of this chapter, and the factual basis for each finding from the record of hearing, which shall support the decision of the Board. The Board shall notify the Adirondack Park Agency, by certified mail, of such decision. Any variance granted or granted with conditions shall not be effective until 30 days after such notice to the Agency. If, within such thirty-day period, the Agency determines that such variance involves the provisions of the land use and development plan as approved in the local land use program, including any shoreline restriction, and was not based upon the appropriate statutory basis of practical difficulties or unnecessary hardships, the Agency may reverse the local determination to grant the variance.
- C. Expiration of variances. [Added 9-5-2000; amended 12-4-2001 by L.L. No. 6-2001]
 - (1) Unless otherwise specified or extended by the Zoning Board of Appeals, any variance approval shall expire one year from the date of its authorization by the Zoning Board of Appeals if the applicant has failed to undertake the proposed action.
 - (2) For the purpose of this provision, "undertaking" the action shall be deemed to be the substantial commencement of construction for projects other than subdivisions and the filing of the subdivision map in the County Clerk's office for subdivision projects.
 - (3) Prior to such expiration, an applicant may seek a one-year extension of the variance from the Zoning Administrator, who shall grant such extension if there have been no material changes in the circumstances surrounding the

application.

- (4) If the Zoning Administrator is unable to determine whether there have been material changes in the circumstances surrounding the application, the Zoning Administrator shall refer the request for extension to the Zoning Board of Appeals for decision.

ARTICLE XI
Amendments

§ 200-68. Purpose of article.

The purpose of this article is to allow for amendment to this chapter whenever the public necessity and convenience and the general welfare require such amendment, by following the procedure of this article.

§ 200-69. Referrals.

When directed by the Town Board, the Town Clerk shall submit a copy of the proposed amendment to the Adirondack Park Agency for a determination as to whether the proposed amendment is subject to Agency approval under Section 807 of the Adirondack Park Agency Act; the Town Clerk shall simultaneously refer such proposed amendment to the Planning Board, and where required by § 239-m of the General Municipal Law, to the County Planning Board having jurisdiction, for the report and recommendations by those bodies to the Town Board (see § 200-66).

§ 200-70. Hearing and decision on proposed amendment.

The procedure as to the notice of a public hearing on an enactment of a proposed amendment shall follow and be governed by § 265 of the Town Law, and § 239-m of the General Municipal Law, including all subsequent amendments thereto. Notice of the decision of the Town Board shall be sent promptly to the Adirondack Park Agency.

§ 200-71. Records of amendments.

The Zoning Administrator and the Town Clerk shall each maintain records of amendments to the text of this chapter and of the Town Zoning Map and the official APA LUDP.

ARTICLE XII
Administrative Provisions

§ 200-72. Zoning Administrator/Code Enforcement Officer. [Amended 10-5-2004]

The Zoning Administrator and/or Code Enforcement Officer shall have the power and duty to administer and enforce the provisions of this chapter. The Zoning Administrator and/or Code Enforcement Officer shall be appointed and may be removed at the pleasure of the Town Board. An appeal from an action, omission, decision or rule by the Zoning Administrator regarding a requirement of the Code shall be made to the Zoning Board of Appeals. An appeal and hearing from a stop-work order issued by the Code Enforcement

Officer shall be made to the Planning Board or the Zoning Board of Appeals depending upon the nature of the project and the specifics of the stop-work order. All enforcement powers specifically authorized to the Zoning Administrator by any chapter, article or section of this Code shall, without limitation, also be authorized to the Code Enforcement Officer and agents or designees of that individual with the full force and effect as if made by the Zoning Administrator as herein specified.

§ 200-73. Required records.

The original or a certified copy of all decisions, approvals, rulings and findings of any Board under this chapter, and of all permits and certificates issued under this article, shall be promptly furnished by the Zoning Administrator to the Town Clerk and retained as a permanent Town public record.

§ 200-74. Appeal from action of Planning Board or Zoning Board of Appeals. [Amended 4-6-2004]

An action, omission, decision or ruling of the Planning Board or Zoning Board of Appeals pursuant to this chapter may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review must be made no later than 30 days from the effective date of the decision or ruling, or the date when the action or omission occurred, whichever comes later.

§ 200-75. Form of petitions, applications and appeals.

Unless otherwise stated, all petitions, applications and appeals provided for in this chapter shall be made on forms prescribed by the Planning Board. Completed forms shall be accompanied by whatever further information/plans for specifications as may be required by such forms.

§ 200-76. Application fees.

Fees provided for by this chapter shall be paid upon the submission of petitions, applications, and appeals, in such amount or amounts as shall be established by the Town Board from time to time.

- A. Fee for building permit. The proper fee shall accompany all applications for each building permit and shall be figured according to the schedule determined by the Town Board.
- B. Fee for certificate of occupancy. The proper fee shall accompany all requests for certificate of occupancy and shall be figured according to the schedule determined by the Town Board.
- C. Fee for site plan review. Applications requiring review according to the provisions of Article V of this chapter shall be accompanied by the appropriate fee figured according to the schedule determined by the Town Board.
- D. Fee for variance applications. The proper fee shall accompany all applications for variances and shall be figured according to the schedule determined by the Town

Board.

E. Payment of fees.

- (1) All fees shall be paid at the time of application to the Zoning Administrator.
- (2) No fee shall be allowed to be substituted for any other required fee.

F. In addition to the other fees provided herein, the Zoning Administrator, Planning Board or Zoning Board of Appeals may charge an additional fee to developers for projects requiring legal and/or technical review. The fee charged to the project developer shall reflect the actual costs of reasonable and necessary legal and technical assistance.

§ 200-77. Notice of public hearing.

Each notice of hearing upon an application for site plan review or for the review of a variance application, or upon appeal to the Zoning Board of Appeals from an action of the Zoning Administrator, shall be published once in the official newspaper of the Town at least five days prior to the date of the hearing. In addition, at least 10 days prior to the date of the hearing, notices shall be mailed to all adjacent owners of the property for which the application is made, as may be determined by the latest assessment records of the Town.

§ 200-78. Building permits.

A. Requirements.

- (1) Permit required. No structure, sign or dock (see Section 45 of the Sign Regulations for the Lake George Park Commission and Part 646 of the Lake George Recreation Zone Regulations of the Environmental Conservation Law) shall be erected, added to, or structurally altered, nor shall any new use be established, nor shall any well be drilled until a permit therefore has been issued by the Zoning Administrator. No such structure, sign or dock permit or certificate of occupancy shall be issued for any structure, sign or dock where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter and the Sign Regulations of the Lake George Park Commission and Part 646 of the Lake George Recreation Zone Regulations.
- (2) Submittal requirements. There shall be submitted with all applications for building permits three copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings or signs to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter in accordance with Article V.
- (3) Permit and certification. Upon receipt of all appropriate information and fees, and after all requirements of this chapter have been met, the Zoning Administrator shall issue a building permit. One copy of the submitted layout

or plot certified by the Zoning Administrator as to compliance with this chapter shall be returned to the applicant.

- B. Criteria for issuance of a building permit. The Zoning Administrator shall issue a building permit only if he determines the following:
 - (1) The new land use or development complies with any applicable sanitary codes.
 - (2) The new land use or development meets the area, road setbacks, bulk and height controls and the special shoreline restrictions of this chapter, unless an area variance has been granted pursuant to Article X hereof.
 - (3) The new land use or development has received site plan approval, if applicable, and if such approval is subject to conditions to be met prior to the granting of a permit, that all such conditions have been met.
 - (4) It is a nonpermissible use for which a use variance has been granted pursuant to the terms of Article X hereof, and if such grant was subject to conditions to be met prior to the granting of a permit, that all such conditions have been met.
 - (5) It is a sign and such complies with the provisions of § 200-78.
- C. Expiration of building permits. If a project for which a permit has been issued for which the building has not been enclosed within 365 days after the issuance of such permit, said permit shall expire, and the project may not thereafter be undertaken or continued, unless said permit has been renewed (allowed once) or, unless a new permit has been applied for and issued in the same manner and subject to all provisions governing the initial application for the issuance of a permit.
- D. Revocation of building permit. The Zoning Administrator may revoke a building permit theretofore issued in the following instances:
 - (1) Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
 - (2) Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.
 - (3) Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
- E. Preexisting violations. In the case of any existing or remaining violation(s) relative to zoning, construction, sanitation, or subdivision regulations, no permits or additional reviews will be granted to any applicant until all violations by the applicant are corrected or purged. [Added 2-20-1997]

§ 200-79. Certificate of occupancy.

A. Requirements.

- (1) No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Zoning Administrator.
- (2) No building hereafter enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than 30 days after the completion of the alteration of work unless a certificate of occupancy shall have been issued by the Zoning Administrator.
- (3) No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued by the Zoning Administrator.
- (4) The owner or his agent shall make application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the Zoning Administrator an affidavit of the registered architect or licensed professional engineer or registered landscape architect who filed the original plans, or of the registered architect or licensed professional engineer or registered landscape architect who supervised the construction of the work, or of the superintendent of construction who supervised the work and who, by reason of his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which the certificate of occupancy is sought, that the structure has been erected in accordance with the approved plans, and as erected complies with the laws governing building construction or as varied by a variance which has been legally authorized. Such variances and qualifying conditions imposed therewith, if any, shall be specified in the affidavit.

B. Inspection prior to issuance of certificate of occupancy. Before issuing a certificate of occupancy, the Zoning Administrator shall examine or cause to be examined all buildings, structures and sites for which the application has been filed for a building permit to construct, enlarge, alter, repair or change the use or nature of occupancy, and he may conduct such inspections as he deems appropriate from time to time during and on completion of the work for which the building permit has been issued. There shall be maintained in the Building Department a record of all such examinations and inspections together with a record of findings of violations of law.

C. Issuance of certificate of occupancy.

- (1) When and after final inspection, it has been found that the proposed work has been completed in accordance with the applicable building laws, ordinances, rules and regulations; and also in accordance with the applications, plans and specifications filed in connection with the issuance of the building permit, the

Zoning Administrator shall issue a certificate of occupancy upon the form provided by him. If it is found that the proposed work has not been properly completed, the building official shall not issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

- (2) A certificate of occupancy shall be issued, where appropriate, within 30 days after written application therefore is made.
- (3) The certificate of occupancy shall certify that the work has been completed, and that the proposed use and occupancy is in conformity with the provisions of the applicable building laws, ordinances, rules and regulations, and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

- D. Temporary certificate of occupancy. Upon request, the Zoning Administrator may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public safety or welfare. A temporary certificate of occupancy shall remain in effect for a period not exceeding three months from its date of issuance. For good cause the building official may allow a maximum of two extensions for periods not exceeding three months each.

§ 200-80. Site inspections.

The filing of an application for regional project approval under Article VI hereof, an application for a variance under Article X hereof, and an application for site plan approval under Article V hereof, or an application for a building permit under Article XII hereof by a person shall be deemed a granting of approval by such person to the Planning Board, the Zoning Board of Appeals, and the Zoning Administrator, and to such persons as they may designate, to conduct such examinations, tests, and other inspections of the sites which are the subjects of such applications, as the body or officer having jurisdiction deems necessary and appropriate for the purposes of this chapter.

ARTICLE XIII

Enforcement

[Amended 6-6-1995; 2-20-1997; 12-1-1998; 8-2-2005]

§ 200-81. Fines; penalties for offenses.

- A. It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building, structure or premises, or portion thereof, in violation of any provision of the Town of Bolton Zoning Ordinance, or to construct, alter or use and occupy any building, structure or premises in a manner not permitted by or inconsistent with a permit, approval or variance issued pursuant to the aforementioned, or fail to comply with a notice, directive or order of the Zoning Administrator or agents thereof.
- B. Any person who owns, controls or manages any building, structure or premises, and

who shall fail to comply with a written directive, including a stop-work order of the Zoning Administrator or an agent thereof with the time fixed for compliance, and any owner, builder, architect, contractor, subcontractor, construction superintendent or their agents, or any other person assisting in the construction or use of any building or structure, or in the land disturbance on or use of any premises who knowingly violates any of the applicable provisions of the Town of Bolton Zoning Ordinance, or any lawful order, notice, directive, permit, certificate, approval or variance issued hereunder shall be punishable as follows:

(1) Criminal sanctions.

(a) Criminal sanctions are as follows:

- [1] First offense: fine not exceeding \$350 or six months' imprisonment or both.
- [2] Second offense: fine of not less than \$350 or more than \$700, or up to six months' imprisonment, or both.
- [3] Third offense or subsequent offense (if committed within five years of first offense): fine of not less than \$700 or more than \$1,000, or up to six months' imprisonment or both.

(b) Every such person shall be deemed guilty of a separate offense for each week such violations, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purposes of this article.

(c) The Zoning Administrator or agent may commence criminal proceedings in the justice court by issuing an appearance ticket to any alleged violator and/or by filing an information and supporting deposition pursuant to the New York Criminal Procedure Law. Alternatively, the Zoning Administrator or agent, or the Town Board may request the District Attorney to prosecute the violation or to appoint the Town Attorney as a special district attorney for that purpose.

(2) Civil penalties.

(a) As an alternative to criminal sanctions, the Town may institute proceedings for civil penalties in the amounts stated herein for each such violation:

- [1] First violation: civil penalty not exceeding \$350.
- [2] Second violation (if committed within five years of first offense): civil penalty of not less than \$350 or more than \$700.
- [3] Third violation or subsequent offense (if committed within five years of first offense): civil penalty not less than \$700 or more than \$1,000.

- (b) Such fines or penalties may be compromised or released by the Town Board as a part of any disposition.

§ 200-82. Alternative or additional remedy.

In the case of any violation or threatened violation of any provisions hereof, or the terms and conditions imposed by any permit, approval, variance or order issued pursuant to the provisions hereof, in addition to other penalties and remedies herein provided, the Town may institute any appropriate action or proceedings against the owner of the premises and/or any other responsible person to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent or restrain the occupancy of such building, structure or land, to compel compliance with the provisions hereof and any permit, approval, variance, order or directive issued pursuant to it, and to prevent, restrain, correct or abate any illegal act, conduct, business or use in or about such premises. The alternative or additional remedy specified herein may be taken in addition to a proceeding for criminal sanctions or civil penalties. The Town Board may negotiate appropriate remediation and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner, which may include payment by the violator and/or owner of a monetary penalty which may include exemplary or punitive damages, plus recovery of actual costs incurred by the Town in connection with the enforcement proceeding, including actual attorneys' fees, disbursements and, in appropriate cases, reimbursements for the actual costs to be incurred in rectifying any circumstance or condition necessary to restore the premises into compliance, all and any of which may, if not voluntarily paid by the violator and/or owner, constitute the basis of a lien charge attachable to the premises as a special assessment or charge assessable and collectable on the tax bill associated with the subject premises.

§ 200-83. Stop-work order.

- A. The Town Board for the Town of Bolton hereby grants the Zoning Administrator plenary administrative responsibility to immediately suspend any continuing violations by posting a stop-work order on the premises wherein the violation has occurred.
- B. Whenever the Zoning Administrator has reasonable grounds to believe that work on any building, structure or development of any premises is being undertaken or continued in violation of the provisions of the applicable building laws or the provisions hereof, or other ordinances, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a permit was issued, or not in conformity with the terms or conditions of a permit, approval or variance, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work, and such persons shall forthwith stop such work and suspend all building and development activities until the stop order has been rescinded or superseded by a court order. Such order and notice shall be in writing, shall state the conditions under which the work or development may be resumed, and may be served upon a person to whom it is directed, either by delivering it personally to him, or by posting the same upon a

conspicuous portion of the building or premises where the work or development is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for permission for the construction of such building or development of such premises.

- C. Obtaining relief or release from any stop-work order may be obtained in the proper circumstances as follows:
- (1) If all provisions hereof, together with all other reasonable conditions specified by the Zoning Administrator or agent, are satisfied, and thereafter by resolution of the Town Board, upon the advice of the Planning Board or Zoning Board of Appeals as the circumstances of each case may require, an authorization of release or lifting of a stop-work order may occur.
 - (2) Except in matters pertaining to violations of requirements imposed by site plan review, if a variance is granted by the Zoning Board of Appeals granting permission to maintain violations specified on a stop-work order and to continue such circumstances as thereafter allowable, the administrative determination of the Zoning Administrator or agent shall conform or terminate the stop-work order in accordance with the requirements mandated by the Zoning Board of Appeals.

§ 200-84. Suspension of administrative review.

Processing and review of any application pursuant to the provisions hereof may be suspended and the application deemed incomplete with written notice to the applicant if a stop-work order has been issued by the Zoning Administrator or agent, other written notice of an alleged violation has been delivered to the property owner or applicant, or a criminal or civil criminal action commenced against the property owner, applicant or other responsible person for alleged violations of law related to the activity for which the permit is sought or for alleged violation of the provisions hereof related to the site. Such suspension of application processing may remain in effect pending final resolution of any enforcement action by an order of court or by a negotiated settlement of the pending violations between the responsible parties and the Town Board. In any appropriate case, the Zoning Administrator or agent, Planning Board or Zoning Board of Appeals, in their respective roles as reviewing authorities, may suspend review of an application.

§ 200-85. Misrepresentation.

Any permit, variance or approval granted under the provisions hereof which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to diminish the penalties and remedies available to the Town under any enforcement provisions hereof.

§ 200-86. Cluster provisions as per Town Law § 278.¹⁹

- A. Authorization. The Town Board hereby authorizes the Planning Board, simultaneously with the approval of a plat or plats pursuant to this article, to modify provisions of Article IV of the Zoning Chapter, including lot area and lot width (overall densities and shoreline lot width shall not be varied) subject to the conditions hereinafter set forth and such other reasonable conditions as the Town Board may in its discretion add thereto.
- B. Purpose. The purpose of the cluster provisions is to encourage flexibility in the design and development of land in order to promote its most environmentally sensitive use; to facilitate the adequate and economical provisions of streets and utilities; to preserve the natural and scenic qualities of open space; and to encourage compatibility with the goals and objectives of the Comprehensive Land Use Plan.
- C. Objectives. In order to realize the purpose of this section, a cluster design shall achieve the following objectives:
 - (1) A development pattern which preserves outstanding natural topography and geological features, scenic vistas and trees, and prevents the disruption of natural drainage patterns.
 - (2) An efficient use of land resulting in smaller networks of utilities and streets.
 - (3) A development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Land Use Plan.

§ 200-87. Requirements for clustering.

- A. Application. If the owner makes written application for the use of this procedure, it may be followed at the discretion of the Planning Board if, in said Board's judgment, its application would benefit the Town.
- B. Must be zoned residential only. This procedure shall be applicable only to lands zoned for residential purposes, and its application shall result in a permitted number of dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size or lot width and density requirements of the Zoning Chapter applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.
- C. Unit types. The dwelling units permitted may be, at the discretion of the Planning Board and subject to the conditions set forth in this chapter, in detached, semidetached, attached, or multistory structures.
- D. Open space areas. In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space, conservation or other

¹⁹ . Editor's Note: See also Ch. 150, Subdivision of Land, § 150-12.

municipal purposes directly related to the plat, then the Planning Board, as a condition of plat approval, may establish such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

- E. Review of site plan. The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces, and streets, driveways and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes, or supplementation of existing zoning provisions as are not shown on said site plan, shall be subject to review and public hearing by the Planning Board in the same manner as set forth in Article V, Approval of Site Plans and Certain Uses.
- F. Chapter notations. On the filing of the plat in the office of the County Clerk or Registrar, a copy shall be filed with the Town Clerk who shall make appropriate notations and references thereto in the Zoning Chapter and Town Zoning Map.

ARTICLE XV

Planned Unit Development (PUD) Provisions

§ 200-88. Statement of purposes and objectives.

- A. Purpose. The purpose of the planned unit development regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use; to facilitate the adequate and economic provisions of streets and utilities; to preserve the natural and scenic qualities of open space; and to encourage, in compatibility with the goals and objectives of the Comprehensive Land Use Plan, large scale residential and/or commercial developments that are planned, designed and developed to function as integral units independent of adjacent building sites.
- B. Objectives. In order to realize the purpose of this section, a planned unit development (PUD) shall achieve the following objectives:
 - (1) All PUD projects.
 - (a) A development pattern which preserves outstanding natural topography and geological features, scenic vistas, trees, and prevents the disruption of natural drainage patterns.
 - (b) An efficient use of land resulting in smaller networks of utilities and streets.
 - (c) A development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Land Use Plan.
 - (d) The preservation, renovation and/or adaptive reuse of existing structures of historic and/or local significance.

- (e) A creative use of land and related physical development which allows an orderly transition of land from rural to urban character and uses.
 - (f) A more desirable environment than would be possible through the strict application of other articles of this chapter.
- (2) Residential PUD.
- (a) A maximum choice in housing environment and type, occupancy tenure (e.g., cooperatives, individual ownership, condominium, leasing), lot sizes and common facilities.
 - (b) More usable open space and recreation areas and, if permitted as part of a project, more convenience in location of accessory commercial and service uses.
- (3) Commercial PUD.
- (a) The maintenance and creation of commercial services at varying scales and intensities essential to the recreation-commercial economy of Bolton.
 - (b) More usable open space and recreation areas functioning as both as integral part of the commercial entities and public consumption.
 - (c) A symbolic relationship with residential units, both integral with and adjoining the project, creating a mutually beneficial functional interchange.

§ 200-89. General requirements for Planned Unit Development (PUD).

- A. Minimum project area. The minimum project area of a Planned Unit Development District shall be 50 contiguous acres of land. The Town Board, following referral to the Planning Board for its report and recommendations, may consider projects of lesser acreage where the applicant can demonstrate that the characteristics of his holdings meet the purpose and objectives of this section.
- B. Project ownership. The project land may be owned, leased or controlled either by a single person, or corporation, or by a group of individuals or corporations. Such ownership may be a public or private corporation. The approved project plan shall be binding on the project land and owner(s).
- C. Location of Planned Unit Development Districts. The PUD District shall be applicable to all zones, except GB - General Business and LC-45 - Land Conservation, where the applicant can demonstrate that the characteristics of his holdings meet the purpose and objectives of this article with particular respect to the Comprehensive Land Use Plan objectives. In no case shall the Zoning Map be noted to indicate a PUD if, in the judgment of the Town Board, the objectives are not realized in the PUD design. (In no case shall a PUD be approved unless a common water supply and sanitary sewer system are available to serve the development.)

D. Permitted uses. All uses within a PUD District shall be determined by the following provisions:

(1) Residential PUD.

(a) Residential uses.

[1] Residences may be of a variety of types, including single-family dwellings, townhouses and garden apartments, but shall not exceed three stories or 35 feet in height.

[2] In developing a balanced community, the use of housing types and densities shall be deemed most in complying with the objectives of the PUD. The developer must also demonstrate that he/she is reaching as broad an economic market as possible. The absence of any but middle income and higher income housing in the proposed PUD shall be considered grounds for disapproval of the proposed application.

(b) Nonresidential uses. Nonresidential uses may be permitted where such uses are scaled primarily to serve the residents of the PUD. Nonresidential uses shall be accessory commercial, accessory services or professional office only. The following proportions are deemed to be in keeping with the purpose and objectives of this article.

[1] There shall be 75 dwelling units in a PUD district before any nonresidential uses are permitted.

[2] The maximum floor area for PUD related nonresidential uses shall be no greater than 5% of the livable floor space of the project, but in no event more than 6,000 square feet, except where prior existing buildings considered significant according to the Town Plan require additional commercial intensity and square footage.

[3] Customary accessory or associated uses such as private garages, storage spaces, recreational and community activity centers may be permitted and shall not be subject to the above-stated restrictions for other nonresidential uses.

[4] Nonresidential buildings shall not exceed three stories or 35 feet, except where prior existing buildings considered significant according to the Town Plan are an integral part of the PUD.

(2) Commercial PUD.

(a) Commercial uses. Commercial uses may be a variety of scales, types and orientation from commercial recreation to general retail business to commercial retail services to wholesale commercial uses, except that the highway "strip" orientation of such uses shall be discouraged by the Town.

(b) Noncommercial uses. Noncommercial uses may be permitted where

such uses are designed to be integrated into the normal functioning of the PUD.

- E. Land use intensity considerations.
 - (1) The establishment of a PUD by the Town Board in essence amounts to a rezoning. In this respect, the land use intensities of the particular zone(s) listed in Article IV of the Zoning Chapter that are most like the proposed intensities of the PUD should be used, except that
 - (2) The overall intensity of the project cannot exceed the amount of available development potential of the individual APA-LUDP Land Use Intensity Zone(s) within which the proposed PUD is located.
- F. Common property in planned unit developments.
 - (1) Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the patrons, owners and occupants of the individual building sites.
 - (2) Common property shall comprise a minimum of 30% of any PUD. Such common property shall be either public or private. Public open space, when established by the Town Board, may be substituted for that amount of private open space. In cases of common property maintained privately, such lands shall be covenanted to the satisfaction of the Town Board to ensure that such areas shall not be utilized for future building sites, and also to ensure that said lands shall be maintained in a manner specified in the covenant, as approved by the Town Board. In the computation and determination of common property areas, lands shall be of such location to all building sites within the PUD and comprise lands that are suitable for open space use. Streets and parking areas shall not be included when computing the amount of common property.

§ 200-90. Planned unit development application procedure and approval process.

- A. General. Whenever a PUD is proposed, before any zoning and building permit shall be granted, and before any subdivision plat may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such Planned Unit Development in accordance with the following procedures.
- B. Preapplication review.
 - (1) Prior to the formal filing of an application or the preparation of a preliminary plat, the applicant shall submit to the Town Clerk, with copies to the Planning Board and the Adirondack Park Agency, a sketch plan of the proposed development, together with a key map and topographic and development data.
 - (a) Such sketch plan shall be approximately to scale and shall clearly show the following information.

- [1] The location of the various uses and their areas in acres.
 - [2] The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
 - [3] Delineation of the various residential areas indicating for each such area its general extent, size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type (i.e., single-family detached, duplex, townhouse, garden apartments, highrise) and general description of the intended market structure (i.e., luxury, middle-income, moderate-income, elderly units, family units, etc.); plus a calculation of the residential density in dwelling units per gross acre (total area, including interior roadways) for each such area.
 - [4] The interior open space system.
 - [5] The overall drainage system.
 - [6] A topographic map showing contour intervals of not more than five feet and the proposed grading concept, showing areas of cut and fill.
 - [7] Principal ties to the community at large with respect to transportation, water supply, and sewage disposal.
 - [8] General description of the provision of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
 - [9] A location map showing uses and ownership of abutting lands.
- (b) In addition, the following documentation shall accompany the sketch plan:
- [1] Evidence of how the developer's particular mix of land uses meets existing community demands to include area-wide as well as local considerations.
 - [2] Evidence that the proposal is compatible with the goals of local and area-wide Master Plans, if any.
 - [3] General statement as to how common open space is to be owned and maintained.
 - [4] If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project.
 - [5] Evidence of any sort in the applicant's own behalf to demonstrate

his competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.

- (c) Such sketch plan shall be submitted at least 14 days prior to the meeting date of a regularly scheduled meeting of the Planning Board at which time said Board shall determine the sufficiency and completeness of the material and if satisfactory shall forward it to the Town Board at least two weeks prior to the regular meeting date of said Town Board.
- (2) A simultaneous submittal of the accepted material shall be transmitted to the Adirondack Park Agency for its official review and comment.
 - (3) The Planning Board and Town Board shall meet, with or without the applicant, to discuss the proposed PUD, its relationship to the Town Plan(s) and other aspects of the proposal, including proposed public common open and recreation space such as:
 - (a) The proposal conforms to the Master Plan.
 - (b) The proposal meets the intent and objectives of the planned unit development as expressed in § 200-88.
 - (c) The proposal meets all the general requirements of this section.
 - (d) The proposal is conceptually sound in that it meets local and area-wide needs and it conforms to accepted design principles in the proposed functional roadway and pedestrian systems, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.
 - (e) There are adequate services and utilities available or proposed to be made available in the construction of the development.
 - (4) The Planning Board shall inform the applicant within 45 days of submission as to whether the sketch plan, as submitted or as modified, meets the planning objectives of the Town. If said plans and data do not meet the planning objectives, the Board shall express its reasons therefor.
 - (a) The Planning Board shall render either a favorable report to the Town Board or an unfavorable report to the applicant.
 - (b) An unfavorable report shall state clearly the reason therefor and, if appropriate, point out to the applicant what might be accomplished in order to receive a favorable report. The applicant may, within 10 days after receiving an unfavorable report, request the Town Board to call a public hearing and continue on with the approval process. The applicant is encouraged, however, to resubmit a sketch plan to the Planning Board.
 - (5) Within 45 days of receipt of a favorable report or upon receipt of a request from the applicant within 10 days after receipt of an unfavorable report, the Town Board shall conduct a duly advertised public hearing on the proposed

PUD. Comments on the Town Planning Board shall be read as public testimony at the public hearing.

- (6) Within 45 days from the date of the public hearing, the Town Board shall take action to approve, with or without modifications, or disapprove the proposed PUD.
 - (7) If approved or approved with modifications and accepted, the applicant may proceed to preliminary PUD plat application.
- C. Preliminary PUD plat review. This stage is where the Town Board officially establishes the PUD as to location and general content prior to referring it to the Planning Board to administer and review the approval process.
- (1) A preliminary PUD plat shall be submitted to the Town Clerk with copies to the Planning Board together with the application forms and fees as posted on the Schedule of Fees, and together with such other information specified in the informal preapplication process, including but not limited to:
 - (a) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivision, streets, and easements within 500 feet of the applicant's property.
 - (b) A topographic map showing contour intervals of not more than five feet of elevation shall be provided.
 - (c) A preliminary site plan, including the following information:
 - [1] Title of drawing, including name and address of applicant.
 - [2] North point; scale and date.
 - [3] Boundaries of the property plotted to scale.
 - [4] Existing watercourses.
 - [5] A site plan showing location, proposed use and height of all buildings, location of all parking and truck-loading areas, with access and egress drives thereto; location and proposed development of all open spaces, including parks, playgrounds, and open reservations; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal and location of such facilities; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.
 - (d) A tracing overlay showing all soils areas and their classifications, and those areas, if any, with moderate to high susceptibility to flooding, and moderate to high susceptibility to erosion. For areas with potential erosion problems, the overlay shall also include an outline and

description of existing vegetation.

Such preliminary plat shall be submitted at least 14 days prior the meeting date of a regularly scheduled meeting of the Planning Board, at which time said Board shall determine the sufficiency and completeness of the material and if satisfactory shall forward it to the Town Board at least 14 days prior to the regularly scheduled meeting of said Town Board.

- (2) Public hearing by the Town Board. Within 45 days of receipt of the preliminary PUD plat application the Town Board shall conduct a duly advertised public hearing on the application. In addition to plat review and comment from the Town Planning Board and Town Engineer, the plat shall be forwarded to the County Planning Board and Health Department, and Department of Environmental Conservation, if required, for review and comment. The Town Board shall give due consideration to such reviews in arriving at their decision.
- (3) Decision of the Town Board. Within 45 days from the date of the public hearing the Town Board shall take action to approve, with or without modifications, or disapprove the preliminary PUD plat.
- (4) If approval has been granted with modifications, the applicant shall have 30 days within which to notify the Town Board of his acceptance of all of said modifications and conditions.
- (5) If approved or approved with modifications and accepted, the area of the PUD plat shall be noted on the Zoning Map maintained in the office of the Town Clerk. Such notation does not qualify a plat for recording nor authorize development or the issuance of any building permits.
- (6) Requirements. If approval, with or without modification, is granted, the Town Board shall, as part of the resolution of approval, specify the drawings, specifications and forms of performance bonds that shall accompany an application for final approval. All such material shall be generally according to the subdivision regulations final plat.
- (7) If the final PUD plat or an agreed-upon first stage of development final PUD plat is not submitted within 180 days or within a time limit extended by mutual consent, the area of the PUD plat noted on the Zoning Map may be withdrawn on resolution of the Town Board and the area revert to the prior zoning district or districts.

D. Final PUD plat.

- (1) An application for final approval may be for the entire area of the proposed PUD or an agreed-upon section of first-stage development. Said application shall be made to the Planning Board by filing with the Town Clerk and with copies to the Town Board and the County Planning Board within 180 days after approval, with or without modifications of the preliminary PUD plat, or within the time limit established by mutual consent. The application shall

include such drawings, specifications, covenants, easements, conditions and form of performance bond as were set forth by the Town Board at the time preliminary approval was granted.

- (a) In addition to the requirements set forth by the Town Board for final plat applications, the following shall be submitted:
 - [1] The final plan at a scale of 50 feet to one inch. Where more than one sheet is required to show the entire development, a key map shall be provided.
 - [2] The lines of existing and proposed streets and sidewalks immediately adjoining and within the PUD or PUD stage.
 - [3] The names of existing and proposed streets.
 - [4] Typical cross sections of the proposed streets and sidewalks.
 - [5] Profiles of proposed streets at a suitable vertical scale showing finished grades in relation to the existing ground elevation.
 - [6] Layout of proposed lots, including lot numbers and proposed numbering system for buildings.
 - [7] The location and size of any existing and proposed sewers (stormwater and/or sanitary), water mains, and pipes on the property or into which any connection is proposed.
 - [8] Provisions for water supply and sewage disposal, and evidence that such provisions have received approval of the appropriate agency.
 - [9] Location of survey monuments.
 - [10] A planting plan indicating locations, varieties, and minimum sizes of trees to be planted and of existing trees to be preserved. Existing wooded areas need not be itemized but should be generally described.
 - [11] Brief specifications or reference to Town standards for all public facilities to be constructed or installed within the PUD stage.
 - (b) Such final plat shall be submitted at least 14 days prior to the meeting date of a regularly scheduled meeting of the Planning Board, at which time said Board shall determine the sufficiency and completeness of the material.
- (2) Within 45 days of the submission of the completed final PUD plat application, the Planning Board shall conduct a public hearing. Notice of the public hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before it is held. Within 45 days of the public hearing the Planning Board, having given due consideration to the reviews by the Town Board and the County Planning Board, shall approve the final plat;

or conditionally approve with or without modifications, or disapprove; or if it is in substantial agreement with an approved Town-established PUD according to § 200-90C hereof.

- (3) In addition to the final PUD plat, a condition for final approval shall be the execution of a contract between the PUD applicant and the Town of Bolton. Said contract shall cite the responsibilities of both the Town and the applicant (and other parties, if applicable) inherent in the development of the PUD (i.e., conditions of approval, project staging, open space provisions, necessary zoning actions, public services provisions, etc.). All performance requirements for both the Town and the applicant shall be included in the contract next and attested to be all concerned parties.
- (4) If the final PUD plat is given conditional approval by the Town Board, the applicant is not entitled to file the plat with the County Clerk but shall have 180 days to meet the conditions, and the Planning Board may extend this time for up to 180 additional days. Failure to comply with these time limits or the disapproval of the final PUD plat shall result in the area of the PUD plat noted on the Zoning Map being withdrawn on resolution of the Town Board and the area revert to the prior zoning district or districts.
- (5) After compliance with all requirements and after approval of the final PUD plan by official action of the Town Board, the applicant shall, within 30 days of such official action, file the approved plat with the County Clerk; otherwise such final approval shall expire as provided by the Town Law.
- (6) Unless building permits have been issued within one calendar year following the date of filing of an approved final PUD plat with the County Clerk, such approval shall be revoked and the area so noted on the Zoning Map shall revert to the prior zoning district or districts.

§ 200-91. Preliminary and final plat approvals standards.

- A. Preliminary and final plat approvals, in addition to meeting the requirements of this section, shall also satisfy the Town Subdivision Regulations,²⁰ including the installation of streets and utilities, and all applicable standards in this chapter, including, but not limited to, Article VI, Supplemental Regulations.
- B. Any PUD plat which is a Class B Regional Project (Type II) must meet the requirements specified in § 200-31.

§ 200-92. Project staging.

- A. If the applicant wishes, or is required as a condition of the zoning approval, to stage project development and has so indicated as per regulations of this chapter, then he may or shall submit only those stages he wishes to develop for site approval in accordance with his staging plan. Upon installation of improvements in each stage

²⁰ . Editor's Note: See Ch. 150, Subdivision of Land.

the affected portion(s) of the plan shall be deemed as finally approved. Any plan requiring more than 24 months to complete shall be required to be staged; and a staging plan must be developed.

- B. At no point in the development of a residential PUD shall the ratio of nonresidential to residential acreage or the dwelling unit ratios between the several different housing types for that portion of the PUD completed and/or under construction differ from that of the PUD as a whole by more than 50% except where residential facilities are constructed prior to PUD application.

§ 200-93. Other regulations applicable to planned unit developments.

- A. For purpose of regulating development and the use of property after initial construction and occupancy, any changes shall be preceded by a variance request. Properties lying in Planned Unit Development Districts are unique and shall be so considered by the Zoning Board of Appeals and by the Planning Board when evaluating variance requests. The maintenance of the intent and function of the planned unit development shall be of primary concern.
- B. Streets, roads, alleys, walkways and parking areas within the development, whether or not dedication of them to the Town is contemplated, shall conform with all applicable Town ordinances and regulations.

§ 200-94. Financial responsibility.

No building and zoning permits shall be issued for excavation or construction within a Planned Unit Development District until improvements are installed in accordance with the same procedures as provided for in § 277 of the Town Law relating to subdivisions of land and any other such requirements as may be imposed as a condition of the Town Board zoning approval for a Planned Unit Development District.

ARTICLE XVI
Repealer

§ 200-95. Repeal of prior Zoning Ordinance.

The Ordinance entitled "Town of Bolton Zoning Ordinance" adopted as of April 1979, together with all changes and amendments thereto, is hereby repealed and declared to be of no effect.

ARTICLE XVII
Telecommunications Towers
[Added 9-2-1997; amended 12-27-2000]

§ 200-96. Enabling authority.

The Planning Board is hereby authorized to review and approve, approve with conditions, or disapprove site plans consistent with Article V of the Town of Bolton Zoning Chapter concerning the placement and operation of telecommunications towers.

§ 200-97. Definitions.

As used in this article, the following terms shall have the meanings indicated:

TELECOMMUNICATION ANTENNA — A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, and microwave communications. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

TELECOMMUNICATION TOWER — A structure on which transmitting and/or receiving antenna(e) are located.

TELECOMMUNICATION TOWER ACCESSORY FACILITY — An accessory facility serves the principle use, is subordinate in area, extent and purpose to the principle use, and is located on the same lot as the principle use. Examples of such facilities include transmission equipment and storage sheds.

§ 200-98. Purpose.

The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town, to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations, and to protect the natural features and aesthetic character of the Town of Bolton.

§ 200-99. Application of site plan review regulations.

- A. No telecommunication transmission tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after site plan review and in conformity with these regulations. No existing structure shall be modified to serve as a transmission tower unless in conformity with these regulations.
- B. These regulations shall apply to all property within the following zones: Town-wide.
- C. Exceptions to these regulations are limited to:
 - (1) New uses which are accessory to residential uses; and
 - (2) Lawful or approved uses existing prior to the effective date of these regulations.
- D. Where these regulations conflict with other laws and regulations of the Town of Bolton, the more restrictive shall apply, except for tower height restrictions which are governed by these standards.

§ 200-100. Site plan review.

- A. Site plan. In accordance with Article V of the Zoning Chapter, an applicant shall be required to submit an application for site plan review and, in addition to all other requirements set forth in Article V, the application shall include the following.

- (1) All site plan review applications shall show all existing and proposed structures and improvements, including roads, and shall include grading plans for new facilities and roads. The site plan shall also include documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antennae and justification for any land or vegetation clearing required. The area(s) where signals would be received shall be documented on a map by the applicant.
- (2) Additionally, the Planning Board shall require that the site plan application include a completed full Environmental Assessment Form (EAF) and a landscaping plan addressing other standards listed within this section with particular attention to visibility from key viewpoints within and outside of the Town as identified in the EAF.

B. Shared use.

- (1) At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on preexisting structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other preexisting structures as an alternative to a new construction.
- (2) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes, including real property acquisition or lease required to accommodate shared use.
- (3) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

C. Setbacks. Towers and antennae shall comply with all existing setbacks within the affected zone. Additional setbacks may be required by the Planning Board to contain on-site substantially all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors, and to any accessory facilities.

D. Visibility.

- (1) All towers and accessory facilities shall be sited to have no undue adverse impact upon the natural environment and visual character and resources of the surrounding neighborhood or environs and the Town of Bolton.
- (2) Towers shall not be artificially lighted except to assure human safety as

required by the Federal Aviation Administration (FAA). Towers shall be lower than the surrounding tree canopy unless it can be demonstrated to the satisfaction of the Planning Board that the technical requirements for the telecommunications system prevents the practical use of towers at that height. In such cases where towers are required to be extended above the surrounding tree canopy, they shall be required to resemble natural vegetation. Where towers are at or below the surrounding tree canopy, they shall be required to resemble natural vegetation unless they are screened from public view. The intent is to minimize the impacts upon the natural environment and visual character of the nearby area and the Town. In all cases, guyed towers shall be preferable to freestanding structures except where such freestanding structures offer capacity for future shared use. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

- (3) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
 - (4) Provision shall be made for securing access to the site at all times, and the Planning Board, in its discretion, may require that the tower, guys and accessory facilities be fenced.
- E. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of four feet off the ground) shall take place prior to approval of the special permit use. Clear-cutting of trees shall be in conformity with § 200-51 of the Zoning Chapter.
- F. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
- G. Access and parking. A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection.
- H. Removal upon abandonment. The applicant shall submit to the Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the

Zoning Administrator within 30 days of the discontinuance of use of the tower. This letter shall be filed with the Zoning Administrator prior to issuance of a building permit (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers and accessory structures, including guys, shall be removed from any site within four months of such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations shall be a violation of this chapter and shall be punishable according to Article XIII of the Zoning Chapter.

- I. Intermunicipal notification for new towers. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County 911 Services, the Board shall require that:
 - (1) An applicant who proposes a new telecommunication tower shall notify in writing the legislative body of each municipality that borders the Town of Bolton and the Director of Warren County Emergency Services. Notification shall include the exact location of the proposed tower, and a general description of the project, including, but not limited to, the height of the tower and its capacity for future shared use.
 - (2) Documentation of this notification shall be submitted to the Board at the time of application.
 - (3) An applicant who proposes a new telecommunication tower within the Adirondack Park shall be required to notify in writing the Adirondack Park Agency. Such notice shall include a copy of the application and all documents and papers in support thereof. Such notification shall be made simultaneously with the filing of the application with the Planning Board. Notification shall include the exact location of the proposed tower, and a general description of the project, including, but not limited to, the height of the tower, its capacity for future shared use and any information regarding the networking of towers being planned or extended and the ultimate area of coverage.
- J. Maintenance and/or escrow account. The Planning Board, at its sole discretion, may require the applicant and/or the owner to establish, prior to approval of any application, a maintenance and/or escrow account in an amount sufficient to cover the reasonable cost of technical review, maintenance, or removal of said tower, guys and accessory structures. The amount required shall be determined at the sole discretion of the Board, based upon the characteristics of the tower and site, and the Board shall have the authority and discretion to use all or any portion of the escrow account for maintenance or removal of the tower(s), guys, and/or accessory structures. The applicant and/or owner shall cooperate with the Board in supplying all necessary construction and maintenance data to the Board prior to approval of any application. The Planning Board, in its sole discretion, may require annual inspections of the site to ensure its structural soundness and safety and compliance with any conditions of approval. The reasonable cost of such inspections shall be borne by the applicant.

§ 200-101. Authority to impose conditions.

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to or incidental to the proposed telecommunication tower site plan. Such authority may include aspects related to aesthetics, such as construction materials, landscaping, siting and other features.

§ 200-102. Professional review fees.

In addition to all other fees required under the Zoning Chapter, the Planning Board shall require an applicant to pay the costs incurred by the Planning Board for legal and/or technical review of an application. The fees charged to an applicant shall reflect the actual costs of reasonable and necessary legal and/or technical assistance and review incurred by the Board.

ARTICLE XVIII
Regulation of Adult Entertainment Businesses
[Adopted 5-4-2004 by L.L. No. 2-2004]

§ 200-103. Purpose.

The establishment of adult entertainment businesses in the Town of Bolton can reasonably result in undesirable significant changes in the character of the Town. Therefore it is necessary that such activities be regulated in such a manner so as to preserve the character of the community while making provision for appropriate locations suitable for adult entertainment businesses within the municipality.

§ 200-104. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ADULT ENTERTAINMENT BUSINESSES

- A. **ADULT BOOKSTORE** — A person, establishment or business having more than a minimal portion of its stock-in-trade, such as recordings, books, magazines, periodicals, films, videotapes/cassettes or other reading or viewing materials for sale or viewing at the premises, in materials which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific or general sexual activities or anatomical areas; or an establishment with a section devoted to the sale or display or viewing of such materials.
- B. **ADULT MOTION-PICTURE THEATER** — A structure, either indoors or outdoors, used for showing, displaying or presenting to patrons therein or thereat materials distinguished and characterized by emphasis on depicting, describing or relating to specific or general sexual activities or specific anatomical areas.
- C. **ADULT MOTION-PICTURE ARCADE** — Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically, mechanically, or otherwise controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to any one person

at any machine at any time so displayed as to distinguish or characterize by emphasis on depicting or describing specific sexual activities or specific anatomical areas.

- D. ADULT ENTERTAINMENT CABARET — A public or private establishment which is licensed to serve food and/or alcoholic beverages and which features topless and/or bottomless dancers, strippers, male or female impersonators or similar entertainers, or employees appearing in a bottomless and/or topless manner of dress.
- E. MASSAGE ESTABLISHMENT — An establishment having a place of business where any person, firm, association, or corporation engages in, carries on, or permits to be engaged in or carried on, any of the following activities:
 - (1) Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the human body with the hands or with the aid of any mechanical or electrical device, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations.
 - (2) The term "massage establishment" shall not apply to licensed hospitals, licensed nursing homes, or clinics or persons holding an unrevoked certificate to practice under the laws of the State of New York.
- F. COMMERCIAL USE — The establishment of any adult entertainment business as defined herein shall constitute a commercial use and as such shall be limited to the RIL 3 Residential-Industrial-Low-Density Zone subject to the requirements of § 200-106 herein.

PERSON — Any natural person, firm, partnership, corporation, association, or legal representative acting individually or jointly.

SPECIFIC ANATOMICAL AREAS — Less than completely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the top of the areola, and the human male genitals in a discernible turgid state.

SPECIFIC SEXUAL ACTIVITIES

- A. Human male genitals in a state of sexual stimulation or arousal;
- B. Ultimate sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation or sodomy; and
- C. Fondling or other erotic touching of human or animal genitals, pubic regions, buttocks or female breasts.

§ 200-105. Prohibitions.

- A. No person shall cause or permit the establishment of any of the above specific adult entertainment businesses within 500 feet of any church, school, park, day-care

center, playground, another adult entertainment business, tattoo parlor or body-piercing studio.

- B. The establishment of an adult entertainment business shall include the opening of such business as new business, the relocation of such business, or the conversion of an existing business location to any of the uses described above.
- C. For the purpose of this article, measurements shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises for an adult entertainment business to the nearest property line of a property containing a residential dwelling or rooming unit, a church, school, commercial business, adult entertainment business, or to the nearest boundary of a park or playground.
- D. A violation of this article is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. In addition to fine and imprisonment, enforcement shall include all civil remedies including those provided by Town Law § 268. Each week during any portion of which any violation of the article is committed, permitted or continued, shall constitute a separate offense.
- E. If any provisions or clauses of this article or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect the other provisions or clauses or applications thereof, which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of the article are declared to be severable.

§ 200-106. Application for special use permit to operate adult entertainment business.

- A. Applicants for permission to operate an adult entertainment business shall be required to submit an application for a special use permit as a Type 1 special use in the RIL 3 Residential-Industrial-Low-Density Zone and, in conformity therewith, shall make application to the Town of Bolton Planning Board for site plan review. Such application shall, in addition to all ordinary requirements of any site plan review, also include the following:
 - (1) Name, address and telephone number of applicant.
 - (2) A survey map depicting the location of the premises for which such permit is sought, and the existing or proposed location of structures upon such premises. The survey map shall be prepared by a New York licensed land surveyor with certification to the Town of Bolton that the subject premises

satisfies the distance and location requirements specified in this article.

- (3) Name and address of the person, firm, corporation or association which will operate the adult entertainment business if the permit is granted.
 - (4) Such other information as the Town Planning Board shall request in order to have all facts before it prior to making a decision.
- B. Upon receipt of such application and any necessary supplementary information, the Town Planning Board shall set a date for a public hearing in regard to consideration of the issuance of such a permit, and a notice of such public hearing shall be published no earlier than 20 days and no later than 10 days before the date of such public hearing.
- C. In support of the public hearing, the applicant shall present to the Town Planning Board an affidavit certifying that written notice of the public hearing was provided by the applicant to all owners of real property, as shown on the latest completed assessment roll, within the footage distances specified in this article measured from the premises for which a permission is sought. Such notice must be given no earlier than 20 days and no less than 10 days before the date of such public hearing.
- D. Upon conclusion of the public hearing and consideration of all of the relevant evidence presented with respect to the application, the Town Planning Board shall determine by a majority vote:
- (1) That the application is approved; or
 - (2) That the application is approved with conditions taking into account hours and specific days of operation, the intensity of the proposed operation, visual impacts, public nuisance concerns and all things reasonable and necessary so as to promote and protect the general welfare, health, safety and well-being of the general population and the possible impacts upon adjacent or nearby property uses and values that may be effected by the location of an adult entertainment business; or
 - (3) That the application shall be denied for good cause.

§ 200-107. Signage.

An adult entertainment business shall be limited to a maximum of one nonilluminated sign not to exceed two square feet in size.

§ 200-108. Effective date.²¹

This article shall take effect 10 days after posting and publication by law and immediately as to any person personally served with a certified copy thereof.

²¹ . Editor's Note: This article's effective date is 6-15-2004.