

TOWN OF FLORENCE ZONING LAW

Adopted by the Town of Florence Town Board
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Local Law No. 3 of 2025

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ARTICLE 1. INTRODUCTION

Section 110. Enacting Clause

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Florence hereby adopts and enacts the following law.

Section 120. Title

This law shall be known as "The Town of Florence Zoning Law."

Section 130. Purpose

This Zoning Law has been enacted: to provide for orderly growth in accordance with a comprehensive plan; to protect and enhance the physical and visual environment of the town; to protect and promote the health, safety, comfort, aesthetics and general welfare of the Town of Florence and its citizens; to protect the environment; to protect surface and groundwater resources; to sustain the viability of farmland; to prevent overcrowding of land and to avoid undue concentration of population; to secure safety from fire, flood and other dangers; to facilitate the adequate provision of transportation, water, sewerage and other public requirements; to make provision for, so far as conditions permit, the accommodation of solar energy systems and equipment and to ensure access to necessary sunlight.

This zoning law has been made with reasonable consideration, among other things, as to the character of each zone and its peculiar suitability for particular uses, and with a view to conserving the environment and the value of buildings and encouraging the most appropriate use of land throughout the Town of Florence.

Section 140. Applicability

This law, and any amendment thereto, shall apply on its effective date to all uses which have not been substantially commenced, and structures which have not been substantially constructed, regardless of the status of permits or certificates of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

Section 150. Rural Development Code

This law shall replace and supersede Part I, III, V, and VI of the Town of Florence Rural Development Code, Local Law No. 2 of 1977, as subsequently amended.

ARTICLE 2. DEFINITIONS

Section 210. General

Except where specifically defined herein, all words used in this law carry their customary meanings. Words in the present tense include the future, words in the singular include the plural and the plural the singular, and the word "shall" is intended to be mandatory.

Section 220. Specific Definitions

Accessory Apartment: An second dwelling unit located on the same lot as a principal single-family dwelling, located either within the principal dwelling or within an accessory building, which is subordinate the principal dwelling in terms of size, location, and appearance. Such a dwelling is an accessory use to the principal dwelling.

Accessory Building: A building which is an accessory structure.

Accessory Structure: A structure incidental and subordinate to the principal structure and located on the same lot with such principal structure. Where an accessory structure is attached to the principal structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

Accessory Use: A use incidental and subordinate to the principal use and located on the same lot with such principal use.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, aquaculture and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of normal agricultural activities.

Agricultural Structure: A structure used for agricultural purposes.

Alteration: Any increase in ground coverage or height of a structure.

ANSI: American National Standards Institute.

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 range from 10 hertz to 300,000 megahertz.

Apartment, Accessory: See Accessory Apartment.

Battery Energy Storage System: One or more devices, assembled together, capable of storing energy, in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a small or large battery energy storage system as follows:

- a. Tier 1 - Small battery energy storage systems have an aggregate energy capacity less than or equal to 600 kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.
- b. Tier 2 - Large battery energy storage systems have an aggregate capacity of greater than 600 kWh or are comprised of more than one energy storage system technology in a room or enclosed area.

Battery Energy Storage Management System: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

Battery(ies): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

Building: Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

Building, Accessory: See Accessory Building.

Campground: Land on which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes and approved by state, county and local law. A “camping unit” shall be considered any tent, lean-to, cabin or similar structure, or recreational camping vehicle, excluding mobile homes, established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

Cell: The basic electrochemical unit, characterized by an anode and a cathode used to receive, store, and deliver electrical energy.

Certificate of Compliance: A certification by the zoning officer that a lot, structure, or use of land has been developed in conformity with an approved zoning permit and/or complies with the provisions of this law, and may be occupied and used for the purposes specified in such zoning permit and/or certificate of compliance.

Commissioning: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

County: Oneida County.

Day Care Home, Family: Any use defined as a Family Day Care Home in Section 390 of Social Services Law.

Day Care Home, Group: Any use defined as a Group Day Care Home in Section 390 of Social Services Law.

Decommissioning: A systematic process for the removal of the battery energy storage system from the property and the restoration of the property at abandonment or closure of the system including financial responsibility of its removal.

Dedicated-Use Building: A building that is built for the primary intention of housing battery energy storage system equipment and is classified as Group F-1 occupancy as defined in the International Building Code, all in compliance with the following:

- a. The building's only use is battery energy storage, energy generation and other electrical grid-related operations.
- b. No other occupancy types are permitted in the building.
- c. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, repair the battery energy storage systems and other energy systems.
- d. Administrative and support personnel are permitted in areas within the buildings that do not contain a battery energy storage system, provided the following:
 1. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
 2. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

Dwelling: A building or portion thereof which is used exclusively for residential purposes, including one-family, two-family, and multi-family dwellings, but not including hotels, motels, boarding houses, and bed and breakfast inns.

Dwelling, Multi-family: A building or a portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

Dwelling, One-family: A detached building designed to be used as living quarters by one family.

Dwelling, Two-family: A building containing only two dwelling units, and occupied by only two families.

Dwelling Unit: A complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one family.

Energy Code: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

Enforcement Officer: Any person appointed by the Town Board to enforce the provisions of this law.

Environmental Assessment Form (EAF): A form used to determine whether a project would have significant environmental impacts. Either a short or long EAF will be completed.

Environmental Impact Statement (EIS): A document prepared pursuant to the State Environmental Quality Review Act subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

Essential Facilities: The operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers; electrical or gas transmission facilities and substations; water treatment, storage and transmission facilities; pumping stations; and similar facilities.

Excavation, Major: Any area of land used for the purpose of extracting stone, sand, gravel or soil for sale, as a commercial operation.

Factory Manufactured Home: Also known as a Modular Home. Under New York State law, a Factory Manufactured home has no size restrictions, is not built on a chassis and cannot be regulated differently than a site-built or "stick built" home.

Family: One or more persons living, sleeping, and cooking or eating in the same premises as a single housekeeping unit.

Fire Code: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law as currently in effect and as hereafter amended from time to time.

Floating Zone: A zone which has not been placed on the zoning map, but for which regulations have been prepared and included in this law in anticipation of future need.

Gas, Oil, or Solution Drilling or Mining: The process of exploration and drilling through wells or subsurface excavations for oil or natural gas, and extraction, production, transportation, purchase, processing and/or storage of oil or natural gas, including but not limited to the following:

1. A new well and the surrounding site, built and operated to produce oil or gas, including auxiliary equipment required for production;
2. Any equipment involved in re-working of an existing well;
3. A water or fluid injection station(s) including associated facilities;
4. A storage or construction staging yard associated with an oil or gas facility;
5. Gas pipes, water lines, or other gathering systems and components including but not limited to drip station, vent station, chemical injection station, valve boxes.

Heavy Industry: A use characteristically employing some of, but not limited to, the following: smokestacks, tanks, distillation or reaction columns, chemical processing or storage equipment, scrubbing towers, waste-treatment or storage lagoons, injection or gathering equipment, reserve pits, derricks or rigs whether temporary or permanent. Heavy industry has the potential for environmental pollution when malfunction or human error occurs. Examples of heavy industry include but are not limited to: chemical manufacturing, oil refineries, natural gas processing plants and compressor stations, petroleum and coal processing, coal mining, water mining, steel manufacturing. Generic examples of uses not included in the definition of “Heavy Industry” are such uses as milk processing, dairy farms, woodworking, lumber and cabinet shops, auto repair shops, wineries and micro-breweries, warehouses, equipment repair and maintenance, offices and communications buildings, parking lots and water wells serving otherwise allowed uses. Agriculture and surface gravel and sand mining facilities shall not be considered heavy industry.

Height: The vertical distance of building measured from the mean of the highest and lowest exposed part of the foundation to the highest point of the roof.

Home Business: A nonresidential activity conducted within a dwelling unit or in a building or structure accessory to a dwelling unit: and is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and conforms to the following criteria:

1. no more than one nonresident is employed;
2. total floor area devoted to the business does not exceed 400 square feet;
3. no more than three customers, clients or delivery people are present on the site at one time.

Intersection: The general area where two or more roadways join or cross. Minor approaches to roadways such as private driveways are also defined as an intersection.

Junk: Includes all definitions using the word “Junk”.

Junk Appliance: Any household appliance, including but not limited to, any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment abandoned, junked, discarded, or wholly or partially dismantled.

Junk Mobile Home: The term “junk mobile home” shall mean any enclosed dwelling built upon a chassis, motor vehicle, or trailer used or designed to be used for either permanent or temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which is no longer suitable for human habitation.

Junk Vehicle: The term “junk vehicle” shall mean any motor vehicle, whether automobile, bus, truck, tractor, motor home, motorcycle, mini-bicycle, or snowmobile, or any other motorized vehicle, which meets all of the following conditions:

- 1) it is unlicensed or unregistered;
- 2) it is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled;
- 3) it is not in any condition for legal use upon the public highway.

With respect to any motor vehicle not required to be registered or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than twelve months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle.

Junk Yard: A lot, land or structure used for the collection, sale, storage or deposit of materials including but not limited to wastepaper, rags, scrap metal, discarded appliances, discarded material, or an uninhabitable mobile home, or for the collection, dismantling or salvation of machinery or vehicles, or for the sale of the parts thereof.

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

Lot Area: The total horizontal area included within the lot lines of a lot. No part of the area within a public right-of-way shall be included in the computation of lot area.

Lot Frontage: The distance between the boundaries of a lot measured at their points of intersection with the road line.

Lot Line: A line of record bounding a lot which divides one lot from another lot or from a public or private road.

Lot of Record: A lot for which a valid conveyance has been recorded in the Office of the County Clerk prior to the effective date of the Town of Florence Subdivision Law; or is either part of a subdivision plat approved by the planning board and filed in the county clerk's office, or was exempt from the Town of Florence Subdivision Law at the time of recording with the county clerk.

Lot Width: The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the zone in which it is situated.

Manufactured Home: Under New York State law the definition of a Manufactured Home is: A structure, transportable in one or more sections, which is 8 feet or more in width and 40 feet or more in length, and that was built on or after June 15, 1976, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein and bears a H.U.D. seal. The term "manufactured home" shall not include any self-propelled recreational vehicle. This definition shall not be construed to include Factory Manufactured homes known as "modular homes" meeting the construction requirements of the NYS Uniform Fire Prevention and Building Code.

Manufactured Home, Double-Wide: A manufactured home which is manufactured in two or more sections off-site which are designed to be transported individually to the placement site and assembled there to form a complete dwelling, and placed on a permanent foundation and bearing the H.U.D. seal. This definition shall not be construed to include factory manufactured homes known as "modular homes".

Manufactured Home, Single-Wide: A manufactured home which is manufactured as a single section and is designed to be complete dwelling when transported to the placement site and bearing the H.U.D. seal. The definition of Manufactured Home shall not include tent trailers, camping trailers, or recreational vehicles.

Manufactured Home Permanent Foundation: A manufactured home permanent foundation shall consist of a full masonry perimeter wall system, the axles and tow gear completely removed from the frame, and the unit tied down.

Metes-and-Bounds: A method of describing the boundaries of land by directions and distances from a known point of reference.

Mobile Home: Under New York State law a Mobile Home is defined as a manufactured home built prior to June 15, 1976.

Mobile or Manufactured Home Park: Land on which are located, or which is maintained for use by 2 or more mobile or manufactured homes.

Modular Home: See **Factory Manufactured Home**.

Natural Gas: Any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

Nationally Recognized Testing Laboratory (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

Nonconformity: A lot of record, structure, or use of land which lawfully existed prior to the enactment of this law, or conformed to the regulations of the zone in which it was located prior to the amendment of this law; which does not conform to the regulations of the zone in which it is located following the enactment or amendment of this law.

Non-Dedicated-Use Building: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

Non-Participating Property: Any property that is not a participating property.

Non-Participating Residence: Any residence located on non-participating property.

Nonresidential Use: A use which does not contain a dwelling unit.

Occupy: The term “occupy” shall mean to reside in or use for eating and/or sleeping on an overnight basis.

Occupied Community Building: Any building in Occupancy Group A B, E, I, R as defined in the International Building Code including, but not limited to, schools, colleges, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, apartments, hotels and houses of worship.

Open Space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

Parcel: Any area of land established by plat, subdivision, or as otherwise permitted by law, regardless of whether it is defined as a “lot” or whether it is to be developed or built upon as a unit.

Participating Property: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

Parking Lot: A tract of land used for the temporary parking of motor vehicles when such use is not accessory to any other use.

Permit, Special Use: See Special Use Permit

Permit, Zoning: See Zoning Permit

Person: Any individual, corporation, governmental authority, trust, estate, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Plat: A map of a subdivided tract of land showing the boundaries and location of individual properties and roads.

Planning Board: The Town of Florence Planning Board.

Plot Plan: A surveyor's plat constructed from deed descriptions and actual physical building or improvement measurements.

Principal Structure: A structure through which the principal use of the lot on which it is located is conducted.

Principal Use: The primary or predominant use of any lot.

Recreational Camping Vehicle: Any enclosed motor vehicle or trailer used or designed to be used for recreational travel and temporary living and/or sleeping purposes including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers, and over-night trailers.

Residential Use: A use containing a dwelling unit.

Road: A strip of land, improved or unimproved, used for purposes of travel between two points. If the public has the right to use a road then it may also be termed a street.

Road Line: The right-of-way line of a road as dedicated by a deed or record. Where the width of the road is not established, the road line shall be considered to be 25 feet from the center line of the road pavement.

Road, Private: Any driveway, right-of-way, or vehicular access which is not intended to be used by the public.

Road, Public: Any vehicular way which is: 1) an existing state, county or town roadway; 2) shown upon a plat approved pursuant to law as a public road; 3) approved by other official action; or 4) shown as a public road on a plat duly filed in the office of the county clerk prior to the grant of plat approval authority to the planning board. A public road includes the land between the road lines, whether improved or unimproved.

Sanitary Landfill: A site for solid waste disposal.

Shall: Mandatory standards are those most essential to the achievement of overall design objectives. Mandatory standards use the word “shall”.

Sign: Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government agency, school or religious group, or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a sign.

Sign, Advertising: A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises if at all.

Sign, Directional: A sign which directs attention to the location of a commodity, service or other business sold or offered elsewhere than upon the premises where such sign is located.

Site: Any area of land to be used, developed, or built upon as a unit.

Site Plan: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography; vegetation; drainage; floodplains; wetlands; and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order for an informed decision to be made by the approving authority.

Solar Collector: A solar photovoltaic cell, panel, or array or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Energy Equipment: Solar collectors, controls, energy storage devices, heat pumps, heat exchangers/inverters, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic, and passive solar.

Solar Energy System: An electrical generating system composed of a combination of both solar panels and solar energy equipment.

Solar Energy System, Building-Integrated Photovoltaic System (BIPV): A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade, which does not alter relief of the roof. Some examples of BIPV systems include glass and other façade material, semitransparent skylight systems, roofing materials, and shading over windows.

Solar Energy System, Building-Mounted: A solar energy system that is affixed to the roof or side(s) of a building or other structure, either directly or by means of support structures or other mounting devices. Solar energy systems constructed over a parking lot are considered building-mounted solar energy systems.

Solar Energy System, Ground-Mounted (Free Standing): A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices and that is not attached or affixed to an existing structure. Each contiguous structure is considered an accessory structure within this law. Pole-mounted solar energy systems shall be considered ground-mounted solar energy systems.

Solar Energy System, Large: Any solar energy system that cumulatively on a lot meets one of the following provisions:

- a. Is intended to supply electricity principally into a utility grid for the purpose of off-site sale or consumption, or
- b. Has a total ground surface area of greater than 4,000 square feet.

Solar Energy System, Small: Any solar energy system that has an accessory use and cumulatively on a lot meets all of the following provisions:

- a. Is an accessory use or structure designed and intended to generate energy primarily for a principal use located on site.
- b. Has a total ground surface area no greater than 4,000 square feet.

Special Use: A use of land as designated in Article 4 of this law, which requires a review and approval of the planning board prior to the issuance of a special use permit by the planning board or a zoning permit by the zoning officer.

Special Use Permit: A permit for special uses which must be approved by the planning board, granting permission to the zoning officer to issue a zoning permit.

State Environmental Quality Review (SEQR): Review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law Section 8-0113), which incorporates the consideration of environmental, social, and economic factors into the planning, review, and decision-making process of state, county, and local government agencies as subsequently revised.

Street: Any highway, road, avenue, lane, or alley, which the public has a right to use and which appears on the official map or a map filed with the county clerk.

Structure: Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground.

Structure, Accessory: See Accessory Structure.

Structure, Principal: See Principal Structure.

Telecommunications Tower: A structure on which transmitting and/or receiving antenna(e) are located.

Town: The Town of Florence, New York.

Town Board: The Town of Florence Town Board.

UL: Underwriters Laboratory, an accredited standards developer in the United States.

Uniform Code: The New York State Uniform Fire Prevention and Building Code adopted pursuant to Executive Law Article 18 as currently in effect and as may be amended from time to time.

Use: The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

Use, Accessory: See Accessory Use.

Use, Principal: See Principal Use.

Use, Special: See Special Use.

Utility: A business providing public service such as gas, electric power, telephone, telegraph, water, sewer, or cable television, whether or not such business is privately owned or owned by a governmental entity.

Variance: Any departure from the strict letter of this law granted by the zoning board of appeals as it applied to a particular piece of property.

Wetland, New York State Department of Environmental Conservation (NYSDEC) Regulated: An area that is saturated by water at a frequency and duration sufficient to support a prevalence of certain vegetation that has adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. Certain activities within or adjoining a wetland that is 12.4 acres or more in size may be regulated by NYSDEC.

Yard: Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in this law. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

Yard, Front: The space within and extending the full width of the lot from the road center line to that part of the building or structure which is nearest to such road center line. If a lot adjoins two or more roads, it shall be deemed to have a front yard respectively on each.

Yard, Rear: The space within and extending the full width of the lot from the rear lot line to that part of the building or structure which is nearest to such rear lot line.

Yard, Side: The space within and extending the full distance from the front yard to the rear yard and from the side lot line to that part of the building or structure which is nearest to such side lot line.

Zoning Board of Appeals: A board appointed by the town board pursuant to Section 267 of the Town Law to hear and decide appeals of this law.

Zoning Law: Zoning Law of the Town of Florence adopted by Local Law No. 1 of 2001, as subsequently amended.

Zoning Officer: Any person appointed by the town board to enforce the provisions of this law. See also, Enforcement Officer

Zoning Permit: A permit issued by the zoning officer certifying that all plans for the use and development of land comply with the regulations of this law, and granting permission to commence development activities in conformity with the conditions of the approved permit.

ARTICLE 3. ESTABLISHMENT OF ZONES

Section 305. Types of Zones

For the purpose of this law, the Town of Florence is hereby divided into the following zones:

H	-	Hamlet
RR	-	Rural Residential
F-1	-	Forest
F-2	-	Forest

Section 310. Zoning Map

Said zones are shown, defined and bounded on the map accompanying this law entitled “Zoning Map,” dated October 8, 2001 and as subsequently amended and filed in the office of the town clerk, which map and all explanatory matter thereon is by this reference incorporated into this law.

Section 315. Interpretation of Zone Boundaries

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning map, the following rules shall apply:

1. Where the designation on the zoning map indicates a boundary approximately upon a road, the centerline of the road shall be construed to be the boundary.
2. Where the designation on the zoning map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
3. Distances shown on the zoning map are perpendicular distances from road centerlines measured to the zone boundary, which boundaries in all cases where distances are given are parallel to the road centerline.
4. In other cases the zone boundary shall be determined by the use of the scale on the zoning map.

Section 320. Metes-and-Bounds Descriptions

In the event that a metes-and-bounds description has been filed for a zone change or a variance as required by this law, such metes-and-bounds description may be used in lieu of other provisions of this section.

Section 325. Divided Lots

Where a zone boundary divides a lot of record at the time such boundary is adopted, the zone requirements of the least restrictive portion of such lot shall extend 50 feet into the more restrictive portion of the lot, provided the least restrictive portion of the lot has frontage on a road.

Section 330. Special Areas

“Special Areas” are designated on the zoning map pursuant to the provisions of the Tug Hill Reserve Act, Chapter 486 of the New York State Laws of 1992. All governmental agencies, boards, commissions, and authorities, prior to final action on a proposed development or review of a proposed development within a designated special area which would directly affect the special area and would change the basic nature of Tug Hill, shall consult with the town board about said development.

ARTICLE 4. ZONE REGULATIONS

Section 405. Allowed Uses

All uses shall comply with the requirements as indicated on the following chart:

- A = zoning permit required
- B = zoning permit and site plan review required
- C = zoning permit, site plan review, and special use permit required
- D = use not allowed in this zone

Use	H	RR	F-1	F-2
accessory apartment	A	A	A	A
accessory use	C	B	B	B
dwelling, single-family	A	A	A	A
dwelling, two-family	A	A	A	A
dwelling, multi-family	C	B	B	D
home business	C	B	B	D
nonresidential uses	C	B	B	D
essential facilities	C	C	C	C
agricultural structures	A	A	A	A

Section 410. Prohibited Uses

1. Any use of land in the town for the following uses are prohibited in all zones:
 - junkyards
 - heavy industry
 - oil, natural gas or solution mining, drilling and/or support activities
 - sanitary or hazardous waste landfills
 - water mining

2. The following uses are prohibited in Hamlet (H) zones:
 - buildings of over 10,000 square feet in floor area
 - campgrounds
 - major excavations
 - manufactured or mobile home parks
 - single wide manufactured or mobile homes

Section 415. Lot and Yard Areas and Dimensions

All lots and yards shall conform to the following standards for the zone in which it is located:

Use	H	RR	F-1 and F-2
Lot area min. (sq. ft.)	40,000	40,000	160,000
Lot Frontage min (ft.)	200	200	800
Lot width min. (ft.)	200	200	800
Front yard min. (ft.)	[See Section 420]	75	75
Side yard min. (ft.)	10	30	100
Rear yard min. (ft.)	10	20	100

Section 420. Front Yards in Hamlet Zones

Front yards in Hamlet (H) zones shall be the lesser of the front yards previously established on adjacent parcels.

ARTICLE 5. GENERAL REGULATIONS

Section 505. Dwellings per Lot

There shall be no more than one dwelling on a single lot except for the placement of a temporary residence complying with the provisions of Section 915 of this law, or upon approval of a special use permit. Such special use permit may be issued where it can be demonstrated that any future subdivision of the lot which would result in the dwellings being located on separate lots, can be accomplished in such a way that the resulting dwellings will have setbacks in accordance with this law, the resulting lots will have areas and dimensions in accordance with this law, and all sewage disposal and wastewater systems will be in accordance with the NYS Sanitary Code.

Section 510. Line of Sight for Traffic Safety

No accessory structure, fence, wall, or hedge shall be erected in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility of vehicles entering or exiting highways.

Section 515. Height of Buildings and Structures

1. No structure, other than buildings, shall exceed 35 feet in height. Agricultural structures (e.g. silos), chimneys, communication transmission towers, television and radio masts and antennae, water tanks and spires are all exempt from the above structural height limitation. Although exempted from structural height limitations, these structures should not significantly impair solar access of buildings or solar energy systems equipment and access to sunlight they need.
2. Buildings, other than agricultural buildings, exceeding 35 feet in height shall be allowed only upon approval of a special permit. Such permit shall not be approved until the applicant has demonstrated the following:
 - a. that, in the case of public buildings, there is a demonstrated public need for the proposed use, and that this need cannot be met by any means other than by exceeding the general height limitations of this law;
 - b. that the height of the building is the minimum necessary to accomplish its intended purpose;
 - c. that all practical means have been used to minimize any negative aesthetic impacts identified by the planning board;
 - d. that the building does not significantly impair solar access to buildings or solar energy systems equipment.

Section 520. Signs

1. One sign is permitted per lot, not to exceed 32 square feet per sign face.
2. No signs shall consist of lights which flash or move.
3. No sign shall be higher than the principal building to which it is accessory.
4. No sign shall project into public right-of-way.
5. Signs shall be illuminated only by internal lights or shielded lights directed onto the sign.
6. A free standing sign for a Home Business shall not exceed 8 square feet in size. A sign flush with the building shall not exceed 32 square feet.

Section 525. Parking

All uses shall provide off-road parking for all vehicles parked during typical peak use periods. Parking shall be designed to eliminate the need to back out onto the public road. All parking areas shall comply with the following:

1. One parking space per 250 square feet of floor space in a commercial establishment.
2. Two parking space for each dwelling unit.

Section 530. Manufactured Homes

1. Manufactured homes shall be used only as a dwelling, except upon issuance of a temporary zoning permit as provided for in Section 915 of this law.
2. All Manufactured homes, other than temporary homes approved pursuant to Section 915 of this law, shall be provided with the following:
 - a. anchoring;
 - b. concrete block or vinyl skirting;
 - c. pad in compliance with the NYS Uniform Fire Protection and Building Code;
 - d. factory manufactured roof pitch of 3/12 (about 14 degrees) or more, with shingle, shingle-like, or metal roof;
 - e. exterior walls of traditional site-built appearance made of clapboards, shingles, and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles, and shakes; masonry; wood board-and-batten; log appearance; or "Texture 1-11" exterior plywood.

Section 535. Accessory Apartments

1. No more than one accessory apartment shall be allowed for each single-family dwelling unit.
2. Each accessory apartment shall be a maximum of 600 square feet.

Section 540. Accessory Uses and Structures

Accessory uses and structures shall comply with all requirements for principal uses and structures as set forth in Section 405 and 415 of this law, regardless of whether or not they require a permit pursuant to this law.

Section 545. Alterations

Alterations shall comply with all requirements of this law, regardless of whether or not they require a permit pursuant to this law.

Section 550. Streams, Wetlands and Water Bodies

1. The regulations of section 550 shall apply to all land within 100 feet of the following areas:
 - a. wetlands classified pursuant to 6 NYCRR Part 664;
 - b. streams classified as "D" or higher pursuant to 6 NYCRR Chapter X, Subchapter B;
 - c. any bodies of open water.
2. The following activities are prohibited:
 - a. dumping of waste materials, junk, refuse or anything that would alter the quality of the water, or the character of the area;
 - b. construction of any principal or accessory use;
 - c. construction of a public street or public utility line;
 - d. feed lots.
3. The following activities shall require the issuance of a special permit:
 - a. any alteration of the water body such as impoundments, diversions or excavations;
 - b. alteration to any existing building.

Section 555. Mad River Special Area

The following activities are prohibited within 100 feet of Mad River Special Area:

1. construction of any principal or accessory use;
2. dumping of junk or waste;
3. construction of a public street or utility line;
4. transmission lines.

Section 560. Manufactured or Mobile Home Parks

All Manufactured or Mobile home parks shall comply with the standards of the Town of Florence Mobile Home Park Law, Local Law No. 3 of 2001, as subsequently revised.

Section 565. Telecommunication Towers

1. **Temporary Special Use Permit Required:** Telecommunications towers shall be sited only upon approval of a temporary special use permit issued for a maximum period of five years. Such permit may be issued or extended upon proof by the owner or operator that 1) the facility is in use as a transmission facility, and 2) that there is a necessity for the tower at the particular location for which application is made. Where such temporary special permit is not renewed, the tower shall be removed from the premises within 60 days.
2. **Shared Use:** Shared use of existing towers shall be preferred to the construction of new towers. Where such shared use is unavailable, location of antennae on pre-existing structures shall be sought. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction. An applicant proposing to share use of an existing tower shall be required to document intent from an existing tower owner to share use. 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 and to secure location of antennae on pre-existing structures, as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
3. **Setbacks:** Towers and antennae shall be setback from all lot lines a distance equal to the height of the tower plus 25 feet. Additional setbacks may be required to contain ice-fall or debris from tower failure on-site, and/or to preserve privacy of adjoining residential and public property. The normal setbacks for the district shall apply to all ancillary tower parts, including guy wire anchors and accessory facilities.
4. **General Aesthetics:** All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Accessory structures shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
5. **Lighting:** Towers shall not be artificially lighted except for 1) a single red aviation warning light on the top, or 2) as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree line unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
6. **Tower Design:** Whenever feasible, tower construction shall be of a “monopole” design. Guyed towers shall be preferable to free-standing structures. All towers shall be fitted with anti-climb devices. Towers shall be designed to provide co-location by at least three providers, or designed so that they can be retrofitted to accommodate at least three providers unless such co-location is not feasible as demonstrated by competent engineering or technical proof.
7. **Signs:** Signs shall not be permitted on towers except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five square feet in surface area.
8. **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. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
9. **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 roads, 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 ten feet in height within two years of planting shall be provided to effectively screen the tower base and accessory structures. 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.

10. Fencing: The base of any tower and anchors on guyed towers shall be surrounded by an opaque security fence eight feet in height. Such fence shall enclose the base of the tower as well as any and all accessory equipment and structures.
11. 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 ten 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 section.
12. Utility and System Connections: All utility connections shall be installed beneath the ground surface. Where technologically feasible, connections between telecommunications towers and the system of which they are a part shall be made by use of land line cable rather than parabolic or dish antennas. When such antenna links are technologically necessary, they shall be located, painted and otherwise situated so as to minimize visual impacts. In no case shall the diameter of such an antenna exceed six feet.
13. Financial Security for Demolition: The owner/operator shall provide a demolition bond or other security acceptable to the town for the purpose of removing the facility in case the applicant fails to do so upon the revocation, expiration or the non-renewal of the special use permit.
14. Annual Inspection: Towers shall be inspected annually on behalf of the tower owner/operator by a New York State licensed professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the enforcement officer no later than December 31 of each calendar year.
15. Annual Radiation Emission Certification: The owner/operator shall submit certification on an annual basis, signed by a New York State licensed professional engineer, verifying that such facility is in compliance with all applicable federal, state and local radio frequency radiation emission standards. Such annual certification shall be delivered to the enforcement officer during the month of December of each calendar year. This requirement shall be considered an implied condition to any site plan, special use permit and/or use variance granted for the facility.
16. Maintenance: All facilities shall be maintained in good order and repair. Routine maintenance and repair shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, except for emergency repairs which may be undertaken at any time with prior notice to the enforcement officer.

Section 570. Solar Energy Systems.

1. The Town of Florence recognizes that solar energy is a clean, readily available and renewable energy source. It further recognizes that energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated.
2. The Town of Florence has determined that comprehensive regulation regarding the development of solar energy systems are necessary to protect the interests of the Town, its residents and its businesses. This article aims to accommodate solar energy systems while balancing the potential impact on neighbors and preserving the rights of property owners to install solar energy systems.
3. This article is intended to promote the effective and efficient use of solar energy resources, set provisions for the placement, design, construction and operation of such systems to be consistent with the Town comprehensive plan, to uphold the public health, safety and welfare, and to ensure that such systems will not have a significant adverse impact on the ecological, environmental, agricultural, economic, or aesthetic qualities and character of the Town.

Section 570.1. Applicability

1. A zoning permit shall be required for installation of all solar energy systems, with the exception of:
 - a. Photovoltaic systems that are integrated directly into building materials, such as roof shingles, and that are a permanent and integral part of, and not mounted on the building or structure;

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- b. Small solar panels of less than one square yard used individually for charging of batteries and powering small equipment or devices (such as lighting); or
 - c. Photovoltaic systems that meet the requirements of the New York State Unified Solar Permit (systems with a rated DC capacity of 25 kW or less that meet other requirements).
2. All Large Scale Solar Energy Systems shall obtain special use permit approval from the Planning Board prior to the issuance of a zoning permit.

Section 570.2. Solar Design Standards

- 1. All solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and Executive Law Section 94-C, where applicable.
- 2. All on-site electrical wires associated with Solar Energy Systems shall be installed underground, except for “tie-ins” to a public utility company and public utility company utility poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to documented reasons of excessive grading, biological impacts or similar factors.
- 3. All Solar Energy Systems shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
- 4. All solar panels shall have anti-reflective coatings.
- 5. All solar collectors and related equipment shall be surfaced, designed and sited to minimize glare on adjacent properties and roadways.
- 6. All solar collectors and their associated support elements shall, at the time of installation, be designed according to generally accepted engineering practice to withstand wind pressures applied to exposed areas by wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.
- 7. All Solar Energy Systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
- 8. Solar Energy Systems and equipment shall be permitted only if they are determined by the Town of Florence not to present safety risks, including, but not limited to, weight load on structures, ingress or egress to property in the event of an emergency, traffic site lines, and wildlife habitat.

Section 570.3. Small Scale Solar Energy Systems

- 1. Building-mounted Solar Energy Systems shall incorporate the following design requirements, in addition to those listed in Section 570.2 of this law:
 - a. Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system
 - b. Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - c. Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
 - d. Solar panels shall not restrict chimney function in any way.
 - e. Solar panels shall not create unsafe structural loads on roofs or walls.

- f. Solar panels shall not be located near any flammable materials.
 - g. Signage displaying disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
2. Ground-mounted solar collectors for a Small Scale Solar Energy System are subject to the following conditions:
- a. Height and Setback. Ground-mounted solar energy systems shall not exceed a maximum height of twenty (20) feet and shall adhere to the setback requirements of the underlying district.
 - b. Small scale ground mounted solar energy systems shall not be located between the front lot line and the principal structure.

Section 570.4. Large-Scale Solar Energy Systems

1. Large-Scale Solar Energy Systems shall be subject to the following review requirements.
- a. The Planning Board may request a financial deposit from the applicant to reimburse reasonable and necessary costs incurred by project review.
 - b. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted in the application.
 - c. Plans showing the layout of the Solar Energy System shall be signed by a Professional Engineer registered in New York State.
 - d. The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are to be installed.
 - e. The application shall include a property operation and maintenance plan. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming, fence maintenance, signage, and lighting.
 - f. The site plan shall identify wildlife species that may use the parcel, including potential wildlife travel corridors, migration paths, or critical habitats.
 - g. The Planning Board may require that photo simulations included showing the proposed Large scale solar energy system in relation to the site along with elevation views and dimensions, and manufacturer’s specifications and photos of the proposed Large scale solar energy system, solar collectors, and all other components. The Planning Board may require photo simulations to be provide from specific roads or other public areas that may be impacted.
 - h. Conversion of Forest Land. To protect and maintain local forest resources, no Large-Scale Solar Energy System shall be permitted on a site that:
 - a. Contains more than one (1) acre of Mature Forest at the time the application was filed.
 - or
 - b. Previously was a Mature Forest within one-year prior to the submission of an application.
 - i. To ensure the proper removal of a Large Scale Solar Energy System as required under Section 570.5 of this law, a Decommissioning Plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of special use permit approval under this Section. The Decommissioning Plan must specify that after the Large Scale Solar Energy System can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and environmentally proper manner. The plan shall demonstrate how the removal of all infrastructure, including, but not limited to panels, foundations, above and below ground wiring, access roads, fencing, and signage and the remediation of soil and vegetation shall be conducted to

return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a Professional Engineer or Contractor. Removal of Large Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan.

- j. Sureties/Bond. The applicant may be required to provide financial sureties, as set forth, for the removal of a Large-Scale Solar Energy System. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in an amount determined by the Town Board to cover the expense of removal of the system and remediation of the landscape in the event the Town must remove the facility. The amount of the bond or security shall be 115 % of the cost of removal of the Large-Scale Solar Energy System and restoration of the property. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the State of New York to reflect inflation and any other changes after one year of project operation, and every third year thereafter. Updated amount figures will be filed with the Town Board. The bond shall apply to the company in operation of the facility at the time of decommissioning. The bond or security shall be in a form acceptable to the Town attorney, which includes, but is not limited to, an escrow account, a letter of credit, perpetual bond, or any combination thereof.

2. All Large Scale Solar Energy Systems shall incorporate the following design requirements, in addition to those listed in Section 570.2 of this law:

- a. Lot Size. Large Scale Solar Energy Systems shall be located on lots with a minimum size of 10 acres.
- b. Setbacks. Large Scale Solar Energy Systems shall comply with the following setback requirements:
 - 1. Front: one hundred (100) feet from the centerline of the road.
 - 2. Side/Rear: one hundred (100) feet from the lot line
 - 3. Neighboring residence: five hundred (500) feet from the residence
- c. Fencing and Screening. All Large Scale Solar Energy System shall be enclosed by fencing with a self-locking gate to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The fencing and the system may be required to be screened by landscaping sufficient to the planning board as needed to avoid adverse aesthetic impacts. Final approval from the planning board is required.
- d. Signage. Signage shall include and be limited to:
 - i. the manufacturer's name, equipment specific information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.
 - ii. disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- e. Lighting. Lighting shall be limited to that minimally required for safety and operational purposes and shall be reasonable shielded and downcast from abutting properties.
- f. Access. Construction of on-site access roadways shall be minimized. Roadways shall be unpaved and constructed with a pervious surface.
- g. Tree-Cutting. Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.
- h. Vegetation. Vegetation shall be maintained below solar panels. The ground within the fenced perimeter shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation. The Planning Board may allow for or require co-usage of the lands under and around installed solar panels for grazing or growing of

crops that could be grown or harvested without damaging or interfering with solar facilities. Final approval from the planning board is required.

- i. Prime Soils. To the maximum extent practicable, Large Scale Solar Energy Systems shall not be located on mineral soils groups 1-4. Mineral soils groups 1-4 are classified as highly productive soils by the New York State Department of Agriculture and Markets. Large Scale Solar Energy System components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG 1-4 within the facility area. If such location is unavoidable, systems shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets. The Planning Board at its discretion, may relax this standard if the applicant can demonstrate that meeting this standard would result in adverse impacts to an ongoing agricultural operation.
- k. Fire Department Coordination. The Owner and/or Operator shall provide a copy of the project site plans and electrical schematic to the responsible local Fire Chief. Upon request, the Owner and/or Operator shall cooperate with local emergency services in developing an emergency response plan. The Owner and/or Operator shall offer on-site safety training to all local fire departments within 6 months of operation, and a reoccurring refresher training to all local fire departments. The Owner and/or Operator shall specify a responsible person with an access phone number for public inquiries throughout the life of the installation. Emergency contact number shall be displayed on the entrance to the facilities.
- l. Notification of change in Ownership/Operator. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permits shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the Solar Electric Energy System shall notify the Town of such change in ownership or operator thirty (30) days prior to any ownership change.
- m. Insurance. The operator of the Solar Energy System shall obtain and maintain insurance, issued by an insurer authorized to do business in New York State, to the specifications and in an amount appropriate to the project. Such insurance shall name the Town of Florence as an additional insured party. The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 30 days prior notice has been provided to the Town. In
- n. In the event of a termination, cancellation, or lapse of the required insurance coverage, the special use permit to operate the energy system shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate may be restored.
- o. Indemnification. The applicant, owner and operator of the Solar Energy System shall release and hold harmless the Town of Florence and all of its officers, officials, employees, appointees, agents, and servants from and against any and all liability and responsibility for any and all accidents, injuries and/or damages of any kind to persons (including death) or property arising out of the installation, construction, operation, maintenance, repair or removal of such system. The applicant, owner and operator
- p. shall indemnify and hold harmless the Town of Florence, and all of its officers, officials, employees, agents, and servants, from any and all claims, suits, actions, damages, awards, judgements and costs of every nature, including, reasonable attorneys' fees, arising out of the installation, construction, operation, maintenance, repair or removal of such system.

Section 570.5. Abandonment and Removal

Solar Energy Systems are considered abandoned when the Code Enforcement Officer determines the site and system has not been maintained, is a safety risk, or after one year without electrical energy generation and must be removed from the property. If the Solar Energy System ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the system, mount and associated equipment and facilities

by no later than ninety (90) days after the end of the twelve (12) month period. Failure to comply with this section will result in enforcement action detailed in Section 960 of this law. If the Large Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system, restore the property and impose a lien on the property to cover costs to the municipality to the extent not covered by any surety/bond required under Section 570.4(1)(i) of this law.

Section 575. Battery Energy Storage Systems (BESS)

1. The Town of Florence recognizes that battery energy is a clean, readily available and renewable energy source. It further recognizes that energy generated from battery energy systems can be used to offset energy demand on the grid where excess power is generated.
2. The Town of Florence has determined that comprehensive regulation regarding the development of battery energy storage systems are necessary to protect the interests of the Town, its residents and its businesses. This article aims to accommodate battery energy storage systems while balancing the potential impact on neighbors and preserving the rights of property owners to install battery energy storage systems.
3. This article is intended to promote the effective and efficient use of battery energy resources, set provisions for the placement, design, construction and operation of such systems to be consistent with the Town comprehensive plan, to uphold the public health, safety and welfare, and to ensure that such systems will not have a significant adverse impact on the ecological, environmental, agricultural, economic, or aesthetic qualities and character of the Town.

Section 575.1 Applicability

- A. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in Florence after the effective date of this Local Law.
- B. Modifications to retrofits of or replacements of an existing battery energy storage system that increase the total battery energy storage systems designed discharge duration or power rating shall be subject to this Local Law.

Section 575.2 General Requirements

- A. A building permit shall be required for the installation of all battery energy storage systems issued by the Town of Florence Codes Enforcement Officer. A licensed third party electrical inspection must be conducted by an approved electrical inspection agency.
- B. Issuance of approvals by the Florence Planning Board for Tier 2 systems and shall include review pursuant to the State Environmental Quality Review Act including ECL Article 8 and its implementing regulations at 6 NYCRR Part 617.
- C. All battery energy storage systems, all dedicated use buildings, and all other buildings or structures that contain or are otherwise associated with a battery energy storage system and subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of said codes.

Section 575.3 Tier 1 Battery Energy Storage System Permitting Requirements

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, subject to the Uniform Code, construction permit guidelines, other related ordinances within the Town of Florence Zoning Ordinance and the battery energy storage system permit and shall be shown on plans submitted with the building permit application for the building containing the system, and exempt from site plan review.

1. Battery energy storage systems for one or two-family residential dwelling units shall not exceed an aggregate energy capacity of the following:
 - a) 40 kWh within utility closets and storage or utility spaces
 - b) 80kWh in attached or detached garages and detached accessory structures
 - c) 80 kWh on exterior walls
 - d) 80 kWh outdoors on the ground.
2. All outside Tier 1 Battery Energy Storage Systems shall only be installed in side or rear yards and meet the minimum lot size and standard setbacks in the zoning district for principal structures. Heights are limited to 6,5 ft for any external battery energy storage systems.

3. All outside Tier 1 Battery Energy Storage Systems shall provide a Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.
4. All outside Tier 1 Battery Energy Storage Systems shall not have an area greater than 225 square feet for a single energy storage system and all systems in the aggregate shall not occupy more than 25% of the area of the required rear or side yard. Items noted in 1-4 above are from the 2020 Residential Code of NYS Section R327 (Energy Storage Systems)
5. Signage.
The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards, the type of suppression system installed in the area of battery energy storage systems and 24-hour emergency contact information including a reach-back phone number.

As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

Section 575.4 Tier 2 Battery Energy Storage System Permitting Requirements

- A. The Planning Board may request a financial deposit from the applicant to reimburse reasonable and necessary costs incurred by the project review.
- B. If the property of the proposed project is to be leased, legal consent between all parties, specifying the uses of the land for the duration of the project, including easements and other agreement, shall be submitted in the application.
- C. Plans showing the layout of the BESS shall be signed by a professional Engineer registered in New York State.
- D. The equipment specification sheets shall be documented and submitted for significant components, mounting systems and inverters that are to be installed
- E. The application shall include a property maintenance plan. Such plan shall describe continuing maintenance and property upkeep. Such as mowing and trimming, fence maintenance, signage, and lighting.
- F. The site plan shall identify wildlife species that may use the parcel, including potential wildlife travel corridors, migration paths, or critical habitats.
- G. The Planning Board may require that photo simulations include showing the proposed tier 2 BESS in relation to the site along with elevation views and dimensions, and manufacturers specifications and photos of the proposed tier 2 BESS and all other components. The Planning Board may require photo simulation be provided from the specific roads or other public areas that may be impacted.
- H. Conversion of forest land. To protect and maintain local forest resources, no tier 2 BESS shall be permitted on a site that:
 1. Contains more than one acre of Mature Forest at the time the application was filed or previously was a Mature Forest within one year prior to the submission of an application.
- I. To ensure proper removal of a tier 2 BESS as required under section 570.5 of this law, a decommissioning plan shall be submitted as part of the application. Compliance with this plan shall be made a condition of the issuance of the special uses permit approval under this Section. The Decommissioning Plan must specify that after the tier 3 BESS can no longer be used, it shall be removed and disposed of by the applicant or any subsequent owner in a lawful and environmentally proper manner. The plan shall demonstrate how the removal of all infrastructure, including, but not limited BESS units, foundations, above and below ground wiring, access fencing, and signage and the remediation of soil and vegetation shall be conducted to retire the parcel to its original state prior to the construction. The plan shall also include an expected timeline for the execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared by a professional engineer or contractor. Removal of tier 2 BESS must be completed in accordance with the decommissioning plan.
- J. Sureties/Bonds The applicant may be required to provide financial sureties, as set forth, for the removal of a tier 2 BESS. Pursuant to the execution of the decommissioning plan, the applicant shall provide the Town with a bond in an amount determined by the Town Board to cover the expense of the removal of the system and remediation of the

landscape in the event the Town must remove the facility. The amount of the bond or security shall be 115% of the cost of the removal of the tier2 BESS and restoration of the property. The amount of the bond or security shall be updated by a qualified independent engineer licensed to practice in the state of New York to reflect inflation and any other changes after one year of the projected operation, and every third year thereafter. Updated amount figures will be filed with the Town Board. The bond or security shall be in a form acceptable to the Town attorney, which includes, but not limited to, an escrow account, a letter of credit, perpetual bond, or any combination thereof.

Section 575.5 – Design Requirements.

All Tier 2 BESS shall incorporate the following design requirements, in addition to those 570.2 of this law:

A. **Lot size.** Tier 2 BESS shall be located on lots with a minimum size of 10 acres.

B. **Setbacks.**

Tier 2 BESS shall comply with the following setback requirements:

1. Front: 100 feet from the centerline of the road.
2. Side/Rear: 100 feet from the lot line.
3. Neighboring residence: 500 feet from the residence

C. **Fencing and screening.**

All tier 2 BESS shall be enclosed by fencing no shorter than 8 feet in height, with a self-locking gate to prevent unauthorized access. Warning signs with the owners contact information shall be placed on the entrance and perimeter of the fencing. The fencing and the system may be required to be screened by landscaping sufficient to the planning board as needed to avoid adverse aesthetic impacts.

D. **Signage.** Signage shall include and be limited to:

1. The manufacturer's name, equipment specific information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area no more than eight square feet.
2. Disconnect and other emergency shutoff information, safety information shall be clearly displayed on a light reflective surface. A clearly visible sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.

E. **Lighting.**

Lighting of the battery energy storage systems shall be limited to that minimally required for safety purposes, operational purposes, said lighting to be reasonably shielded and downcast from abutting properties.

F. **Access.** Construction of on-site roadways shall be minimized. Roadways shall be unpaved and constructed with a pervious surface

G. **Vegetation and tree cutting.**

Areas within 20 feet on each side of Tier 2 battery energy storage systems shall be cleared of combustible vegetation and combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be exempt provided that they do not form a means of readily transmitting fire. Removal of existing trees larger than six inches in diameter should be minimized to the extent possible.

H. **Prime Soils.** To the maximum extent practical, Tier2 shall not be located on mineral soils groups 1-4 Mineral soils groups 1-4 are classified as highly productive soils by the New York State Department of Agriculture and Markets. Tier 2 BESS components, equipment, and associated impervious surfaces shall occupy no more than 50% of the area of MSG1-4 within the facility area. If such a location is unavoidable, systems shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets. The Planning Board may, at its discretion, relax this standard if the applicant can demonstrate that meeting this standard would result in adverse impacts to an ongoing agriculture operation.

4. Fire department Coordination. The Owner and/or Operator shall provide a copy of the project site plans and electrical schematic to the responsible local Fire Chief. Upon request the owner and/or operator shall cooperate with the local emergency services in developing an emergency response plan. The Owner and/or Operator shall offer onsite safety training to all local fire departments within 6 months of operation, and reoccurring refresher training to all local fire departments. The

Ownerand/or Operator shall specify a responsible person with an access phone number for the public inquiries throughout the life of the installation. Emergency contact number shall be displayed on the entrance to the facility.

J. Notification of change in Ownership//Operator. If the owner of the operator of the BESS changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the BESS shall notify the Town of such a change in ownership or operator thirty days prior to any ownership change.

K. Insurance. The operator of the BESS shall obtain and maintain insurance, issued by an insurer authorized to do business in New York State, to the specifications and in an amount appropriate to the project. Such insurance shall name the Town of Florence as an additional insured party. The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be canceled or terminated until at least 30 days prior notice has been provided to the Town. In the event of a termination, cancellation, or lapse of the required insurance coverage, the special use permit to operate the BESS shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate may be restored.

L. Indemnification. The applicant, owner and operator of the BESS shall release and hold harmless the Town of Florence and all its officers, officials, employees, appointees, agents and servants from and against any and all liability and responsibility for any and all accidents, injuries and/or damages of any kind to persons(including death) or property arising out of the installation, construction, operation, maintenance, repair, or removal of such system. The applicant, owner and operator shall indemnify and hold harmless the Town of Florence and all its officers, officials, employees, appointees, agents and servants from all claims, suits, actions, damages, awards, judgements and cost of every nature, including reasonable attorney's fees arising out of the installation, construction, operation, maintenance, repair or removal of such system.

Section 575.6. Abandonment and Removal

BESS are considered abandoned when the Code Enforcement Officer determines the site and system has not been maintained, is a safety risk, or after one year without electrical generation and must be removed from the property. If the BESS ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the system and associated equipment and facilities by no later than 90 days after the end of the 12-month period. Failure to comply with this section will result in enforcement action detailed in section 960 of this law. If the Tier 2 BESS is not decommissioned after being considered abandoned, the Town may remove the system, restore the property and impose a lien on the property to cover the costs to the municipality to the extent not covered by any surety/bond required under section 570.4 of this law.

Section 580. Wind Turbines and Towers.

1. The Town of Florence recognizes that wind energy is a clean, readily available and renewable energy source. It further recognizes that energy generated from wind energy systems can be used to offset energy demand on the grid where excess power is generated.

2. The Town of Florence has determined that comprehensive regulation regarding the development of wind energy storage systems are necessary to protect the interests of the Town, its residents and its businesses. This article aims to accommodate wind energy storage systems while balancing the potential impact on neighbors and preserving the rights of property owners to install wind energy storage systems.

3. This article is intended to promote the effective and efficient use of wind energy resources, set provisions for the placement, design, construction and operation of such systems to be consistent with the Town comprehensive plan, to uphold the public health, safety and welfare, and to ensure that such systems will not have a significant adverse impact on the ecological, environmental, agricultural, economic, or aesthetic qualities and character of the Town.

Section 580.1 Applicability.

A. The requirements of this Local Law shall apply to all wind energy storage systems permitted, installed, or modified in Florence after the effective date of this Local Law.

- B. Modifications to retrofits of or replacements of an existing wind energy storage system that increase the total battery energy storage systems designed discharge duration or power rating shall be subject to this Local Law.

Section 580.2. Private Wind Turbine and Tower Systems.

A. Requirements for Private Roof mounted Wind Turbines

- 1. Private Roof mounted Wind Turbines shall not require a zoning permit
- 2. All Private Roof -mounted Wind Turbine shall be no higher than ten feet from the roof surface they are mounted on.

B. Requirements for private Wind Turbine Tower

- 1. Private Wind Turbine Towers up to 35 feet in height shall not require a zoning permit.
- 2. The minimum required setback for any tower from the property lines shall be equal to 1.5 times the sum of the tower height plus the rotor radius.
- 3. Experimental, homebuilt or prototype wind turbine with a tower over 35 feet shall require site plan review. No such wind turbine shall be allowed without documentation by the applicant of their maximum probable throw distance in the event of failure and the determination of the Planning Board of the appropriate set back distance based on that documentation.

Section 580.2 Requirements for Commercial Wind Power Generating Facilities

A. Permit applications shall include:

- 1. A project visibility map, based on a digital elevation model, showing the impact of topography upon visibility of the project from the other locations to a radius of three miles from the center of the project. The scale used shall depict the three-mile radius as no smaller than 2.7 inches and the base map used shall be published topographic map showing man-made features, such as roads and buildings
- 2. No fewer than four, and no more than the number of proposed individual wind turbines plus three color photos, no smaller than 3'' by 5'', taken from locations within a three mile radius from the site and to be selected by the Planning Board, and computer enhanced to simulate the appearance of the as built facilities as they would appear from these locations.

B. The minimum required setback for any tower from property lines, overhead utility or transmission line, or other wind turbine tower, electrical substitution, meteorological towers, nonresidential structures and public roads shall be equal to 1.5 times the sum of the structure height plus the rotor radius. Where an applicant proposes to locate one or more towers on a site consisting of multiple contiguous parcels owned or leased by the applicant, the term "property lines" shall mean the exterior boundaries of the contiguous parcels, which adjoin parcels not owned or leased by the applicant. The minimum setback for any tower from any existing residential structure shall be 1,500 feet.

C. Design standards shall include the following:

- 1. The minimum distance between the ground and any part of the rotor blade system shall be 3 feet.
- 2. Wind turbine towers shall not be climbable up to 15 feet above the ground level
- 3. All access doors to wind turbine towers and electrical equipment shall be lockable
- 4. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment and wind energy facility entrances.
- 5. Towers shall be equipped with air traffic warning lights where the total height of the tower exceeds 175 feet.
- 6. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure in the tower structure, rotor blades and turbine components.

D. Performance standards shall include the following:

- 1. Individual wind turbine towers shall be located so that the level of noise produced by wind turbine operation shall not exceed 55 DBA measured at the site property line.
- 2. No individual tower facility shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.

E. Prior to issuance of any building permit, the applicant shall provide proof of a level of insurance to be determined by the town board in consultation with the Town's insurer, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.

F. Any component of a commercial wind power generating facility found to be unsafe by the Zoning Enforcement Officer shall be repaired by the owner to meet federal, state and local safety standards or be removed within six months. If any wind energy system is not operated continuous period of 12 months the Town will notify the landowner by registered mail and provide 45 days for a response. In such response, the landowner shall set forth the reasons for the operational difficulty and provide a reasonable timetable for the corrective action. If the Town deems the timetable for corrective action unreasonable they must notify the landowner and such landowner shall remove the turbine within 120 days of receipt of the notice from the Town.

ARTICLE 6. SITE PLAN REVIEWS

Section 605. Authority

The Planning Board of the Town of Florence is hereby authorized pursuant to Town Law Section 274-a to review and approve, approve with modifications, or disapprove site plans within the town as designated in accordance with the standards and procedures set forth in this law.

Section 610. Applicability

All uses listed in Article 4 of this law as requiring a site plan review shall be required to have such site plan approved by the planning board prior to the issuance of a zoning permit or a certificate of compliance by the zoning officer.

Section 615. General Review Criteria

The planning board shall require that all site plans comply with the following general review criteria:

1. that the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
2. that the site is designed so as to be in harmony with the comprehensive plan for the community;
3. that parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties;
4. that access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site as well as the town road system;
5. that the internal circulation of the site is arranged so as to minimize impacts on the town road system;
6. that the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
7. that any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
8. that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
9. that any changes to existing drainage patterns, or increased drainage due to development activity has no negative impacts on adjacent property;
10. that proposed water supply and sewage disposal facilities are adequate;
11. that development activity complies with all other standards and requirements of this law.

Section 620. Application

The zoning officer shall refer any application for a zoning permit which requires a site plan review to the planning board. A complete application packet for a site plan review shall be filed with the planning board, and the appropriate fee as determined by the fee schedule adopted by town board resolution shall be paid to the Zoning Officer in the form of a check or money order made payable to Town of Florence. Six copies of the application and site plans shall be provided which shall include the following:

1. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
2. Date, northpoint, written and graphic scale;
3. Boundaries of the site plotted to scale, including distances, bearings, and areas;

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4. Locator map showing the site in relationship to the town;
5. Location and ownership of all adjacent lands as shown on the latest tax records;
6. Location of all zone district boundaries;
7. Location, name, and existing width of adjacent roads;
8. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
9. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
10. Existing hydrologic features together with a grading and drainage plan showing existing and proposed contours at a maximum of five foot intervals;
11. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
12. Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas;
13. Provision for pedestrian access, including public and private sidewalks;
14. Location of outdoor storage;
15. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
16. Description of the method of securing water supply and disposing of sewage, and the location and design of such facilities;
17. Location and design of all energy distribution facilities, including electrical, gas, and solar energy;
18. Location, size and design of all proposed signs;
19. Location and design of outdoor lighting facilities;
20. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;
21. Erosion and sediment control plan conforming to the generally accepted standards and practices contained in applicable Federal and State regulations.
22. A statement of the nature and extent of the interest of any state employee, or officer of employee of the town in the applicant pursuant to General Municipal Law Section 809.
23. An environmental assessment form (EAF) and, where required, a draft environmental impact statement (EIS);
24. An Agricultural Data Statement if applicable.
25. Other elements integral to the proposed development as considered necessary by the planning board.

Section 625. Waiver of Submission Requirements

The planning board may waive any of the submission requirements listed in Section 620 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review. The Planning Board shall make a formal determination that the application is complete except for the SEQR and that anything not included is waived by the Board.

Section 630. Environmental Impact Review

The planning board shall be responsible for the review of Section 1 completed by the applicant and completion of Sections 2 and 3 of the environmental assessment form (EAF) for each application for site plan review. The planning board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review regulations) in cooperation with other involved agencies in the review of any site plan requiring a coordinated review. The Board shall make a determination of significance by motion or resolution. The EAF and Declaration shall be entered into the record.

Section 635. Review

Upon a determination by the Planning Board that the application for a site plan review is complete, the board shall review the site plan taking into consideration the objectives for site plan review as outlined in Section 615 above and the general standards for all uses as outlined in Article 5 of this law.

Section 640. Variance

During the course of the review, should the planning board determine that a site plan approval may not be feasible without the granting of a variance as defined by Town Law Section 267, the planning board may at any time refer the application and site plans to the zoning board of appeals for the consideration of such variance. The 62 days allowed by law for the Public Hearing or decision may be extended by mutual agreement of the applicant and the Board. The time shall resume when the applicant requests it be continued.

Section 645. Public Hearing

Unless waived, the planning board shall conduct a public hearing. Such public hearing shall be conducted within 62 days of the acceptance of the complete application for a site plan review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing. Where required, notice must be made to the Clerk of adjacent towns at least 10 days in advance of the hearing. When concluded, the Planning Board shall act by motion to close the Public Hearing.

Section 650. County Planning Board Review

At least 10 days before the hearing, the planning board shall refer all site plan review matters that fall within those areas specified under General Municipal Law Section 239-m to the Oneida County Department of Planning prior to final action by mail or electronic submission for their recommendation thereon. This includes any use that falls within 500 feet of the following: the boundary of the town; a state or county park or recreation area; the Right-of-Way of a state or county road; a state or county owned stream or drainage channel; the boundary of a farm operation located within an agricultural district as defined by Article 25-AA of the Agricultural Law; or state or county land where a public building or institution is located. If the Oneida County Department of Planning does not respond within 30 days from the time it received a full statement on the referral matter, then the planning board may act without such report.

Section 655. Waiver of Public Hearing

The planning board may waive the public hearing. Such waiver shall not be allowed in any one of the following circumstances:

1. the use requires a special use permit pursuant to this law;
2. the use is a Type I SEQR action and the use is determined by the planning board to have environmental significance;
3. the use is over 1000 square feet of floor or ground area;
4. the use is over 20 feet in height;
5. the use is within 200 feet of a DEC designated wetland area, within 200 feet of a stream with a DEC classification of C or higher, or in a FEMA designated floodplain area;
6. the use is determined by the planning board to be of a publicly controversial nature; or
7. the applicant has requested a public hearing.

Section 660. Final Action

1. Within 62 days of the close of the public hearing, or within 62 days of the acceptance of a complete application by the planning board where such hearing has been waived pursuant to Section 655 above, the planning board shall act on the site plans. The time within which the planning board must render its decision may be extended upon mutual consent of the applicant and the planning board. The action of the planning board shall be in the form of a written statement to the applicant stating whether or not the site plans are approved, approved with modifications, or disapproved. The decision of the planning board shall be filed in the office of the town clerk within five business days and a copy mailed to the applicant.
2. If the site plans are approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the application and site plans.
3. If the site plans are approved with modifications, the planning board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due to town, and upon approval of the modified application and site plans, the planning board shall endorse its approval on a copy of the application and site plans.
4. If the site plans are disapproved, the statement shall contain the reasons for such findings. In such case, the planning board may recommend further study of the application and resubmission after it has been revised or redesigned.

Section 665. Report to County Planning Department

If the matter has been referred, the planning board shall report to the Oneida County Department of Planning on its final action within 30 days of that event, including any reasons for contrary action.

ARTICLE 7. SPECIAL USE PERMITS

Section 705. Authority

The planning board of the Town of Florence is hereby authorized pursuant to Town Law Section 274-b to review and approve, approve with modifications, or disapprove special use permits within the town as designated in accordance with the standards and procedures set forth in this law.

Section 710. Applicability

All uses listed in Article 4 of this law as requiring a special use permit shall be required to have such permit approved by the planning board prior to the issuance of a zoning permit or a certificate of compliance by the zoning officer.

Section 715. Considerations

1. In considering and acting on special use permits, the planning board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of proposed developments, and the residents of the immediate surrounding area.
2. The planning board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:
 - a. *Compatibility:* That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the comprehensive plan for the community.
 - b. *Public Facilities:* That the public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, and road facilities, and any other utilities and public services are adequate for the intended level of use.
 - c. *Other Requirements:* That the proposed use complies with all requirements for site plans in Article 6 of this law and any other special requirements as may be set forth for the use in this law.

Section 720. Application and Review Procedure

All applications for special use permits shall be submitted and reviewed in compliance with the submission requirements and review procedures for site plan reviews in Article 6 of this law. A Public Hearing shall be held for all Special Use Permits as required by Town Law Section 274-b.

ARTICLE 8. NONCONFORMITIES

Section 805. Intent

The intent of this article is to recognize lots, structures and uses of land and structures which legally existed prior to the enactment or subsequent amendment of this law which would be prohibited or unreasonably restricted by the requirements herein. All rights of nonconformity shall continue regardless of the transfer of ownership of nonconforming lots, structures or uses.

Section 810. Nonconforming Lots

Any lot held under separate ownership prior to the enactment or amendment of this law, and having a width or area less than the minimum requirements set forth in this law, may be developed for any use allowed in the zone in which it is located, as designated in Article 4 of this law, provided that such lot has sufficient width and area to undertake development which will:

1. maintain the required minimum front yard;
2. maintain at least 2/3 of the required minimum side and rear yards.

Section 815. Nonconforming Structures

No structure which by the enactment or amendment of this law is made nonconforming or placed in a nonconforming situation with regard to yard sizes, height or any requirement of this law, other than the use to which it is put, shall be changed so as to increase its nonconformity. If a structure is nonconforming as to use, see Section 820 below. Any such nonconforming structure may be used for any compatible use listed for the zone in which it is located as designated in Article 4 of this law.

Section 820. Nonconforming Uses of Land or Structures

Any use of land or structures which by the enactment or amendment of this law is made nonconforming may be continued on the premises and to the extent preexisting provided that:

1. no nonconforming use shall be increased in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of such enactment or amendment;
2. no nonconforming use which has for any reason been discontinued for a period of one year or more shall be reestablished; and
3. a special use permit shall be required for any alteration or reconstruction which is on the premises of a nonconforming multi-family residential or nonresidential use.

Section 825. Nonconforming Structures Damaged or Destroyed

Any structure which is nonconforming as to use, yard sizes, height or any other requirement of this law, which is damaged or destroyed by any means, must conform to all provisions of the Zoning Law in effect at the time of repair, restoration or reconstruction

Section 830. Nonconforming Signs

Nonconforming signs shall be allowed to continue in a nonconforming manner until the advertised use is terminated, or the sign is structurally changed or replaced.

ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

Section 905. Zoning Permits Required

No land-use activity as listed below, other than those activities specifically excepted in Section 910 below, shall be carried out until a zoning permit has been issued by the zoning officer stating that the proposed building, structure, use of land, or development activity complies with the requirements of this law:

1. Erection, re-erection or movement of a building or structure;
2. Change of the exterior structural dimensions of a building or structure;
3. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
4. The resumption of any use or business stopped or closed for a period of 12 months or longer.
5. Establishment or change in dimensions of a parking area for nonresidential or multi-family residential uses;
6. Change in the contours of land of over 7,500 square feet in area which significantly change water drainage patterns.

Section 910. Zoning Permit Exceptions

A zoning permit shall not be required for:

1. Accessory structures with less than 144 square feet of ground coverage, unless over 15 feet in height (see Section 540);
2. Alterations of less than 144 square feet of ground coverage (see Section 545);
3. Fences or walls complying with Section 510 of this law;
4. Routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.);
5. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.;
6. Family day care homes and group family day care homes;
7. Agricultural uses and timber management. Except a zoning permit shall be required for agricultural structures.

Section 915. Temporary Zoning Permits

Temporary zoning permits may be issued upon approval of the planning board for a period not to exceed 12 months for temporary uses and structures incidental to a construction project. Such temporary zoning permit shall be conditioned upon agreement by the applicant to remove any nonconforming uses or structures upon expiration of the permit. The planning board may place such appropriate conditions on the use so as to protect the character of the surrounding area. A temporary zoning permit may be extended by the planning board, for such length of time as may be deemed appropriate, where the applicant has shown suitable progress toward the completion of construction.

Section 920. Application Procedure for Zoning Permits

1. Applications for zoning permits shall be submitted to the zoning officer and shall include three copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, road center lines, mean high water lines of streams, ponds and wetlands, and any other features of the lot; and such other information as may be necessary to provide for the enforcement of this law.
2. When establishing measurements to meet the required setbacks and yard sizes, the measurements shall be taken from the lot line, road center line, or nearest mean high water line to the furthestmost protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
3. The zoning officer shall take action to approve or disapprove the application within 15 days of the receipt of a completed application by the zoning officer and the payment of all fees.
4. A zoning permit shall expire one year from the date of issue if construction is not substantially started or the use has not commenced. Such permit may be renewed upon payment of all fees.

Section 925. Permit Fees

A fee as determined by town board resolution shall be paid for each application for a zoning permit, site plan approval, or special use permit. No permit shall be issued until full payment has been received by the Zoning Officer in the form of a check or money order made payable to Town of Florence.

Section 930. Certificate of Compliance

No use or structure requiring a zoning permit shall be occupied, used, or changed in use until a certificate of compliance has been issued by the zoning officer stating that the use or structure complies with the provisions of this law. All certificates of compliance shall be applied for coincidentally with the application for a zoning permit and shall be issued within five days after the use has been approved as complying with the provisions of this law.

Section 935. Unapproved Lots

No zoning permit or certificate of compliance shall be issued for any use or structure on any unapproved lot. An unapproved lot is a lot which has been filed in the office of the county clerk after the effective date of the Town of

Florence Subdivision Law and which has not been approved by the planning board and was not exempt from said regulations at the time of filing.

Section 940. Zoning Officer

This law shall be enforced by the zoning officer, who shall be appointed by the town board. The duties of the zoning officer shall be to:

1. Approve and disapprove zoning permits and certificates of compliance;
2. Scale and interpret zone boundaries on the zoning map;
3. Refer appropriate matters to the board of appeals, planning board, or town board;
4. Revoke zoning permits or certificates of compliance where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application;
5. Investigate violations, issue stop work orders and appearance tickets, and refer violations to the town justice and the town board;
6. Report at regular town board meetings the number of zoning permits and certificates of compliance issued.

Section 945. Zoning Board of Appeals

1. The zoning board of appeals shall consist of five members as set forth in Section 267 of the Town Law, or in the alternative the town board may enter into an agreement pursuant to Article 5-G of the General Municipal Law and Section 284 of the Town Law to establish a cooperative zoning board of appeals. In the event of a cooperative zoning board of appeals, membership shall be as per the contractual agreement and may otherwise vary from provisions of Section 267 of the Town Law as may be set forth in that agreement.
2. The powers of the zoning board of appeals shall be to interpret this law and to grant area variances and use variance in accordance with the standards set forth in Section 267-b of the Town Law and as may be otherwise provided by law.
3. The procedure before the zoning board of appeals shall be in accordance with Section 267-a of the Town Law except as may be specifically modified by intermunicipal agreement should the town elect to enter into a cooperative zoning board of appeals, in which event such procedures shall be strictly governed by the intermunicipal agreement.
4. This local law specifically supersedes those provisions of Section 267 of the Town Law requiring that there be three or five members of the board of appeals, that the terms be staggered, that the town board select the chairman, and the voting power of members of the zoning board of appeals in the event that the town should enter into an intermunicipal agreement pursuant to Section 284 of the Town Law and Article 5-G of the General Municipal Law in which event the intermunicipal agreement shall govern those factors.

Section 950. Planning Board

The planning board shall have the following powers and duties with respect to this law:

1. Approval or disapproval of site plans;
2. Approval or disapproval of special use permits;
3. Approval or disapproval of temporary permits.

All applications made shall be made in writing on forms prescribed by the town. Every decision of the planning board shall be made by resolution which shall contain a full record of findings in the case.

Section 955. Filing of Records

1. A copy of all zoning permits, temporary zoning permits, certificates of compliance, notices of violation, and stop work orders shall be immediately filed in the office of the town clerk, upon issuance by the zoning officer.
2. A copy of all decisions of the zoning board of appeals shall be filed in the office of the town clerk within five business days of the decision.

3. A copy of all site plan review decisions of the planning board shall be filed in the office of the town clerk within five business days of the decision.
4. A copy of all special use permit decisions of the planning board shall be filed in the office of the town clerk within five business days of the decision.
5. All such records shall be available for the inspection of the public.

Section 960. Violations and Penalties

1. Whenever a violation of this law occurs any person may file a complaint in regard thereto. All such complaints shall be in writing and shall be filed with the zoning officer who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the zoning officer shall issue a stop work order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time the zoning officer shall take action to compel compliance.
2. Pursuant to Criminal Procedure Law Section 150.20 (3), the zoning officer is hereby authorized to issue an appearance ticket to any person causing a violation of this law, and shall cause such person to appear before the town justice.
3. Pursuant to Municipal Home Rule Law Section 10 and Town Law Section 268, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation and subject to fine and/or imprisonment. Any violation of this law is 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 \$750 nor more than \$1000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
4. The town board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

ARTICLE 10. MISCELLANEOUS PROVISIONS

Section 1005. Amendments

The town board may amend the provisions of this law pursuant to Town Law Section 265 after public notice, public hearing, compliance with the State Environmental Quality Review Act regulations (6 NYCRR Part 617), and following appropriate referral to the county planning board pursuant to General Municipal Law Section 239-m.

Section 1010. Interpretation

Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 1015. Separability

Should any article, section, subsection, sentence or clause of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 1020. Effective Date

The provisions of this law shall take effect upon filing with the Secretary of State.