

**ARTICLE I. GENERAL PROVISIONS**

Section 100. Short Title

This law shall be known and cited as the “Village of Aurora Zoning Law.”

Section 101. Purposes

The ultimate goal of the land use program of the Village of Aurora is to protect, preserve and enhance its traditional village character. Toward this end, such regulations shall be made to promote the health, safety, and general welfare of the community; to protect and enhance existing historic areas; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of the land; to avoid concentration of population; to facilitate the adequate provision of or for transportation, water, sewage, schools, parks, open spaces, and other public requirements under and pursuant to Article 6-A, Village Law of the State of New York. The size of buildings and other structures; the percentage of lot that may be occupied; the density of population; and the use of buildings, structures and land for commerce, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.

**ARTICLE II. DEFINITIONS**

Section 200. General

A. For the purpose of this law, words and terms used herein shall be interpreted as follows:

1. Words used in the present tense include the future.
2. The singular includes the plural, the plural includes the singular.
3. The word “person” includes a corporation, unincorporated association and a partnership, as well as the individual.
4. The word “lot” includes the word “plot” or “parcel.”
5. The words “shall” and “will” are always mandatory; the word “may” is always permissive.
6. The word “used” or “occupied” as applied to any land or building shall be construed to mean “used” or “intended, arranged or designed to be used.”
7. The word “structure” includes building and the words “building” and “structure” shall be construed as if followed by the phrase “or part thereof.”
8. The word “street” includes “avenue, boulevard, court, expressway, highway, lane, and road.”
9. The term “water course” includes “channel, creek, ditch, drain, dry run, spring, stream, and swale.”
10. The word “permitted” means “allowed with a permit.”

B. All words in this law that are not defined herein shall carry the meanings that are derived from customary use of the English language. If a dispute should arise, the Zoning Officer shall be responsible for determining which specific meaning is appropriate for a word that has more than one meaning and that is not defined in this law. Any appeal of the Zoning Officer’s determination may be considered by the Zoning Board of Appeals.

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### Section 201. General Definitions (listed alphabetically)

Unless a contrary intention clearly appears, the following words, terms, and phrases shall have, for the purpose of this law, the meanings given in the following clauses. Words in **bold face** are separately defined herein.

1. Accessory Building: A subordinate **building** located on the same **lot** as a **principal building** and clearly incidental and subordinate to the principal building.
2. Accessory Structure: A combination of materials assembled, constructed or erected on the same **lot** as a **principal building** and clearly incidental and subordinate to the principal building, the use of which requires location on the ground or attachment to something having location on the ground.
3. Acre: 43,560 square feet.
4. Adjacent: close, nearby; abutting or adjoining; facing
5. Alley: A minor **right-of-way** providing secondary vehicular access to the side or rear of two or more properties.
6. Alteration: As applied to a **building** or **structure**, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
7. Area Variance: The authorization by the Zoning Board of Appeals of a dimension such as height, width, length, etc in a manner that is not allowed by the dimensional or topographical requirements of the applicable zoning regulations.
8. Bed and Breakfast: An owner-occupied residence resulting from the conversion of a one-family-dwelling, used for providing overnight accommodations and a morning meal to not more than 10 transient lodgers, and containing not more five bedrooms for such lodgers.
9. Block: An area bounded by **streets**.
10. Boarding House: An owner-occupied dwelling that provides accommodations and meals for persons who have a private room and share other areas of the house such as bathrooms, kitchen, dining room etc. and who reside in the home on more than a transient basis.
11. Buffer: See Section 504, page 28.
12. Building: Any **structure** having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or property.
13. Building Area: The total of areas of the footprint of the **principal building**, porches, decks, and all **accessory buildings** exclusive of terraces, and steps.
14. Building Coverage: The percentage of the plot or **lot** area covered by the building area..

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15. Building Height: The vertical distance from grade plane to the average height of the highest roof surface. The term grade plane shall be defined as: A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.
16. Clear Sight Triangle: An area of unobstructed vision at **street** intersections defined by lines of sight between points at a given distance from the intersection of street **right-of-way** lines.
17. Collector Streets: Those **streets** that, in addition to giving access to abutting properties, intercept **local streets** and provide routes carrying considerable volumes of traffic to community facilities and to **major streets**.
18. Completed Application: An application deemed complete by the zoning officer.
19. Conference Center: A Building of at least 6,000 square feet of floor area located on a Lot of at least 1.5 acres which provides a dedicated environment for business or training meetings, primarily for small to medium sized events having fewer than 50 attendees at any given time. Dedicated meeting rooms are separated from food service, high traffic, and common areas. Separate and dedicated interior dining facilities are to be provided to Conference Center guests.
20. Corner Lot: A parcel of land at the junction and fronting on two or more intersecting **streets**.
21. Cul-de-sac: A **local street** intersecting another street at one end and terminated at the other end by a vehicular turn around.
22. Dead End Street: See Section 1004.B.2.i.4, page 59.
23. Dedication: The deliberate giving of land by its owner for any general and public **uses**, reserving to the owner no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.
24. Demolition: The destruction or razing of a **building** or **structure** or a substantial part thereof.
25. Dock: Any wharf, **structure**, hoist, or fixed platform located on the shore and extending into and out of the water built on floats, columns, open timbers, piles, or similar open-work supports.
26. Driveway: A private vehicular access way to a **street**.
27. Dwelling: A **building** designed or used exclusively for the living quarters of one or more **families**.
28. Dwelling Unit: Any room or group of rooms located within a residential **building** and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating by one **family**.
29. Easement: A **right-of-way** granted for limited **use** of private land for a public or quasi-public purpose.

30. Factory Manufactured Home: A **structure** so defined by Chapter D or other applicable sections of the New York State Uniform Fire Prevention and Building Code, as of the date of this enactment or hereafter amended.

31. Family: Persons related by blood, marriage, or adoption, or a maximum of three unrelated individuals, living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

32. Final Plan: A complete and exact **subdivision** plan, prepared for official recording as required by statute, to define property rights and proposed **streets** and other improvements, to be recorded in the County Clerk's Office.

33. Fireworks -- Pursuant to § 270.00 of the New York State Penal Law, shall include any blank cartridge, blank cartridge pistol or toy cannon in which explosives are used, firecrackers, torpedoes, skyrockets, roman candles, the type of balloons which require fire underneath to propel the same, bombs, sparklers or other combustible or explosive of like construction or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides or lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect of combustion, explosion, deflagration or detonation or other device containing any explosive substance. The provisions of this definition, however, shall not be deemed to include flares of the type used by railroads or warning lights commonly known as "red flares" or marine distress signals of a type approved by the United States Coast Guard or toy pistols, toy canes, toy guns or other devices in which paper caps containing 0.25 grains or less of explosive compound are used, provided that they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps which contain less than 0.20 grains of explosive mixture, the sale and use of which shall be permitted at all times.

34. Flood Hazard Zone: See Section 302.D, page 9.

35. Floor Area: The sum of the gross horizontal area of the several floors of **building**, excluding cellar, basement, and unfinished attic floor areas not devoted to residential use or accessed by the public in a non-residential structure. Floor area does not include unenclosed porches or **accessory structures**.

36. Frontage: See **Lot Frontage**, below.

37. Front Yard: An open space between a **building** and a **street line** and extending the entire length of the street line. In the case of a **corner lot**, the **yards** extending along all **streets** are front yards. In the case of a **lot** other than a corner lot that fronts on more than one street, the yards extending along all streets are front yards.

38. Home Occupation: Work that is undertaken in a **dwelling** for gain and that is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. See Section 901.B.2, p. 42.

39. Interior Lot or Through Lot: A **lot**, not on a corner, abutting two (2) parallel, or approximately parallel, **streets**.

40. Interior walk: A **right-of-way** for pedestrian **use** extending from a **street** into a **block** or across a block to another street.
41. Junk: Old, dilapidated, scrap or abandoned metal, paper, building material and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, and parts thereof; used machinery, scrap iron, steel, other ferrous and nonferrous metals, tools, implements or portions thereof, plastic, cordage, or other waste that has been abandoned from its original **use** and may be used again in its present or in a new form.
42. Junkyard: A parcel of land on which **junk**, as defined above, is collected, stored, salvaged, or sold in an open area.
43. Landmark: A historically or aesthetically significant **building**, topographic feature or site; see Section 705, page 33.
44. Local Streets: Those **streets** used primarily to provide access to abutting property.
45. Lot: A **tract** or parcel of land intended for transfer or ownership, **use** or improvement; or a parcel of land occupied or capable of being occupied by one **building** and the **accessory structures** or uses customarily incident to it, including such open spaces as are required by this law.
46. Lot Area: The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street **right-of-way**.
47. Lot Depth: The mean distance from the **street line** of the **lot** to its opposite rear line measured in the general direction of the side lines of the lot.
48. Lot Frontage: A **lot line** that is coincident with the **right-of-way** line of a **public street** or which is measured twenty-five (25) feet from the center line of a **private street**.
49. Lot Line: Any boundary line of a **lot**.
50. Lot, Reverse Frontage: A **lot** extending between a **major street** and a **local street** with vehicular access solely from the latter.
51. Lot Width: The width of a **lot** between side **lot lines** at the front of the lot.
52. Major Streets: Those serving large volumes of local and through traffic.
53. Multi-Family Dwelling: A **building** or portion thereof containing three or more **dwelling units**.
54. Nonconforming Structure or Lot: A **structure** or **lot** that does not conform to a dimensional regulation prescribed by this law for the zone in which it is located or to regulations for off-street **parking**, off-street loading, or **accessory buildings**, but which structure or lot was in existence at the effective date of this law and was lawful at the time it was established.
55. Nonconforming Use: A **use** of a **building** or **lot** that does not conform to a use regulation prescribed by this law for the zone in which it is located, but that was in existence at the effective date of this law and was lawful at the time the use was established.
56. One-Family Dwelling: A detached **building** designed for or occupied exclusively by one **family**.

57. Parking: See Section 407.
58. Parking Space: An off-street area.
59. Pavement: That portion of a **street** or **alley** intended for vehicular **use**.
60. Plat: A **subdivision** map or plan showing **lots, blocks** or sites with or without **streets**.
61. Preliminary Plan: A tentative **subdivision** plan, in lesser detail than a **final plan**, showing approximate proposed **streets** and **lot** layout as a basis for consideration prior to preparation of a final plan.
62. Principal Building: A **building** in which is conducted or is intended to be conducted the principal **use** of the **lot** on which it is located.
63. Principal Use: The main or primary **use** of a **building, structure, or lot**.
64. Private Sewer: A septic tank disposal system generally providing for disposal of effluent for one (1) **building** or a group of buildings on a single **lot**.
65. Private Street: A **street** owned and maintained by private persons.
66. Public Sewer: A municipally owned sewer system in which sewage is collected from **buildings** and piped to an approved sewage disposal plant.
67. Public Street: A **street** dedicated to public **use** and maintained by public funds.
68. Public Utility: See Section 405. P10, page 17.
69. Pyrotechnics: Controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume .
70. Rational Plan of Development: A map of future or further development of an entire **tract** or parcel of land, including **streets**, when only a portion of the tract or parcel undergoes **subdivision**. See Section 1001.B, page 47.
71. Rear Yard: A **yard** between a **building** and a rear **lot line** and extending the entire length of the rear lot line.
72. Registered Vehicle: A licensed, insured and inspected vehicle.
73. Reserve Strip: A **right-of-way**, a minimum of sixty (60) feet wide, to provide future access from a **street** to undeveloped land. See Section 1004.B.2.j, page 59.
74. Reverse Frontage Lot: A **lot** extending between a **major street** and a **local street** with vehicular access solely from the latter.
75. Right-of-Way: Land reserved for **use** as a **street, alley, interior walk**, or other passageway.

76. Roomer, Boarder, or Lodger: A non-transient person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or for board and lodging. A person occupying such accommodations for less than a week shall be as a guest of a commercial lodging establishment (inn, hotel, or bed and breakfast).

77. Secondary Streets: See **Alley, Cul-de-sac, Local Street, Collector Street**. (See Section 1004.B, page 57.)

78. SEQRA: New York State Environmental Quality Review Act.

79. Set-back or building line: The line within a property defining the required minimum distance between any **building** and either the property line, the adjacent **right-of-way**, or the **buffer**. Front setbacks shall be measured from the **street line**.

80. Side Yard: A **yard** between a **building** and a side **lot line**, extending from the **front yard** to the **rear yard**. In the case of a **lot** having no **street frontage** or a lot of odd shape, a yard that is not a front yard or a rear yard shall be considered a side yard.

81. Sight distance: The maximum extent of unobstructed vision (in a horizontal or vertical plane) along a **street** from a vehicle located at any given point on the street, as determined by standards established by New York State Department of Transportation.

82. Signs: See Section 406, page 18.

83. Site Plan: A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this zoning ordinance, that shows the arrangement, layout and design of the proposed **use** of a single parcel of land as shown on said plan.

84. Sketch Plan: An informal plan, not necessarily to scale, indicating salient existing features of a **tract** or parcel of land and its surroundings and the general layout of the proposed **use** or **subdivision**.

85. Story: That portion of a **building** enclosed between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it.

86. Street: A strip of land, including the entire **right-of-way**, intended for **use** as a means of vehicular and pedestrian circulation. Streets are classified as **major, secondary, collector, local, private, and public**. See Section 1004.B, page 57.

87. Street Line: The edge of the paved area of a **street**.

88. Structure: A combination of materials assembled, constructed or erected, including **buildings**, requiring location on the ground or attachment to something having location on the ground. (See also **accessory structure**.) Regardless of this definition, the following shall not be considered a structure: driveways; retaining walls; fences; and parking lots accommodating fewer than four vehicles. See Section 201-85 for exclusion of driveways from the definition of a structure.

89. Subdivider: The owner, or authorized agent of the owner, of a **subdivision**.

90. Subdivision: The division of any parcel of land into two or more **lots**, plots, sites or other divisions of land for immediate or future sale or for **building** development with or without **streets** or highways.

91. Through Lot: See **Interior Lot**.

92. Tract: A parcel of land, usually larger than a building **lot**.

93. Travel Trailer: A vehicular portable **structure** built on a chassis designed as a temporary dwelling for travel, recreation, and other short term uses, having a body width not exceeding eight (8) feet and a body length not exceeding forty (40) feet.

94. Two-family Dwelling: A **building** designed for or occupied exclusively by two **families** living independently of each other.

95. Use: Any activity, occupation, business or operation carried on, or intended to be carried on, in a **building** or other **structure** or on a **tract** of land.

96. Use Change: See Sections 405. P5, P9, pp. 15 & 17; 605, p. 30; 606, p. 30; 803.C, p. 38.

97. Use Variance: The authorization by the Zoning Board of Appeals for the **use** of land in a manner or for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.

98. Yard: An open space unobstructed from the ground upward (excluding trees and shrubbery) on the same **lot** with a **building**, extending along a **lot line** or **street line** and inward to the building. The size of a required yard shall be measured as the shortest distance between the building and a lot line or street line.

99. Zoning Officer: Enforcer and Administrator of this Village Zoning Law.

### **ARTICLE III. ZONES**

#### Section 300. Establishment of Zones

The Village of Aurora is hereby divided into the following land use zones:

AR (Agricultural/Residential): Land for agricultural and/or residential purposes. Agriculture includes farming, pasturing, agriculture, horticulture, floriculture, and viticulture, and the necessary accessory uses for packing, treating, or storing the product, provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural use. Residential includes one- and two-family and multi-family residential use on a lot of minimum size of 15,000 square feet.

R (Residential): Land for dwellings; home occupations may be granted through Special Use Permits, see Section 901.

C (Commercial): Land for enterprises carried on for profit by the owner, lessee, or licensee.

I (Institutional): Land for institutions such as non-profit schools, research centers, libraries and conference centers, dedicated to educational, charitable, fraternal, or similar purposes. Institutions such as reform schools, prisons, and hospitals are excluded.



FH (Flood Hazard): Any land area susceptible to being inundated by water from a body of water, stream, lake, etc.

## **SECTIONS 301-SECTION 402**

### Section 301: Zoning Map

Said zones are bounded as shown on a map entitled “Zoning Map of the Village of Aurora,” adopted June 30, 1993, amended 30 October, 2002, and certified by the Village Clerk, that accompanies and that, with all explanatory matter thereon, is hereby made a part of this law.

See Appendix #5 for Zoning Map.

### Section 302: Interpretation of Zone Boundaries

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

- A. Where zone boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B. Where zone boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where zone boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such zone boundaries shall be construed at being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- D. For Flood Hazard Zone, refer to the Flood Hazard Zone defined by Local Law #2, 2007 Flood Damage Prevention; and FEMA maps adopted in conjunction with said Local Law #2 of 2007.

## **ARTICLE IV: USE REGULATIONS**

### Section 400. Applicability of Regulations

Except as provided by law or in this law, no building, structure, or land shall be used or occupied except for the purpose permitted in the zones so indicated, as set forth in Section 404 of this law.

### Section 401. Table of Regulations

Regulations for land uses or activities permitted in the various zones, those having special conditions attached to them, and those for which a Special Use Permit is required, are set forth in Section 404. Regulations for lot size, building height, and similar density requirements are set forth in Section 500. Both said schedules are hereby adopted and made part of this law.

### Section 402. Regulated Activities

In all zones, excavation, grading, earth filling or earth removal are regulated activities and require a Special Use Permit. See Article IX.

**Sections 403-404**

**Section 403. Uses Subject to Other Regulations**

In addition to the regulations set forth in this law, all uses permitted shall be subject to the New York State Uniform Fire Prevention and Building Code, New York State Environmental Quality Review Act (SEQRA), the Flood Damage Prevention Local Law, New York State Multiple Dwelling Law, and all other relevant regulations of the Village, County and State.

**Section 404. Table of Uses**

The following Table of Uses indicates the zone(s) in which uses require a permit (P) or are not permitted (NP). **P (permitted) means subject to a permit.** P and SP (Special Use Permit) indicate that the procedures of Articles VIII and IX apply. Requirements for evaluating Special Use Permit proposals shall be those set forth in Article IX.

P# indicates that special conditions apply. These are enumerated in Section 405.

Table 1

**TABLE OF USES\***

USE OR ACTIVITY	AR ZONE	R ZONE	C ZONE	I ZONE	FH ZONE
1. Accessory structures & buildings	P 1	P 1	P 1	P 1	P **
2. Agricultural structures and large-scale tilling of the soil	P	NP	NP	P	NP
3. Bed & breakfast	SP 2	SP 2	SP 2	NP	NP
4. Boat docks	P 1	NP	NP	NP	P 1
5. Botanical gardens, arboreta, nature conservatories	P	P	P	P	P
6. Cemeteries	P	NP	NP	P	NP
7. Child care facilities, including pre-school	P	P	P	P	NP
8. Clear-cutting woodlands	P	P	NP	P	NP
9. Colleges, universities, & other institutions of higher learning	NP	NP	NP	P	NP
10. Cultural facilities including libraries, galleries, museums, concert halls, theaters & the like	P85/6	P	P	P	NP

11. Conference Centers	NP	SP P3	NP	SP	NP
12. Demolition	P	P	P	P	P
13. Dinner-cruises	NP	P	P	NP	P**
14. Dormitories	NP	P	NP	P	NP
15. Emergency dwellings	P 4	P4	P 4	P 4	P4
16. Excavation, grading, earth filling or earth removal, over twenty-five (25) cubic yards	P	P	P	P	P
17. Garden produce stands	P	P	P	NP	NP
18. Gas stations/convenience store	P	NP	NP	NP	NP
19. Golf courses	P	NP	NP	P	NP
20. Health care institutions	NP	P	P	P	NP
21. Home occupations	SP, P2	SP	SP	SP	NP
22. Inns and hotels	P	P	P	P***	NP

23. Junkyards	NP	NP	NP	NP	NP
24. Mixed-use building combining permitted residential and commercial uses	P	P	P	NP	NP
25. Multi-family dwelling on a separate lot	P 6	P6	P 6	P 7	NP
26. Nursing homes	NP	P	P	P	NP
27. One-family dwelling on a separate lot	P	P	P	P 7	NP
28. Parking	P 8	P8	P 8	P 8	P
29. Parks, public playgrounds, wildlife areas, open space, commons & greens	P	P	P	P	P
30. Personal service establishments such as barber & beauty shops, tanning salons, tailor shops	P	P	P	P	NP
31. Places of worship	P	P	P	P	NP
32. Ponds	P 9	P9	P 9	P 9	P9
33. Professional offices for lawyers, doctors, counselors, private instructors, massage therapists, and the like	P	P	P	NP	NP
34. Public utilities	P 10	P10	P 10	P 10	P 10

35. Recreational facilities indoors, including health clubs, swimming clubs, community centers, and similar facilities	P	P	P	P	NP
36. Recreational facilities outdoors, including ball fields, children's playgrounds, hiking / biking trails, sitting & picnic areas	P	P	P	P	P

37. Restaurants & coffee shops, except drive-throughs	P	P	P	P***	NP
38. Retail shops limited to the sale of the following: antiques; art; art & craft supplies; books; clothing; decorative accessories; flowers & plants; foods; handicrafts; hardware; jewelry; video rental shops; and similar shops	P	P	P 8	P***	NP
39. Rooming or boarding houses	P2	P2	P2	NP	NP
40. School (commercial), operated as a profit-making business intended to sell training to the general public	NP	P	P	P	NP
41. School (non-commercial), public or private, principally intended to educate youth	P	P	P	P	NP
42. Signs	P 11	P11	P 11	P 11	P 11
43. Student housing	P	P	NP	P	NP
44. Studios for artists, crafters, media artists, composers, writers, and the like	P	P	P	P	NP
45. Supplemental dwelling	P	P	NP	NP	NP
46. Swimming pools	P 1	P 1	P 1	P 1	P 1
47. Telecommunication equipment	P	P	P	P	NP
48. Two-family dwelling	P	P	P	P 7	NP
49. Undertaking & funeral parlors	P	P	P	NP	NP

\* Site plan review and approval are required for all uses.

\*\* Subject to Flood Damage Prevention Law.

\*\*\* Must be relevant to the Institutional purpose.

### **SECTION 405-405.A.3**

#### **Section 405. Special Conditions**

The Zoning Officer shall issue no permit for any land use or activity listed in Table 1 as having special conditions applicable (P#) until satisfied that the applicable regulations set forth in this Article IV have been complied with or that a variance to such regulations has been duly granted by the Zoning Board of Appeals.

The Zoning Officer shall issue a permit for the following uses only when satisfied that applicable special conditions, as set forth in this Section 405, have been complied with, in addition to all other requirements of this law.

P1: Accessory Structures (See also Article V.)

#### **A. Structures**

1. All accessory structures shall require a Certificate of Appropriateness (see Section 706).
2. Accessory structures attached to the principal building, except for fences (see #4 below), shall comply in all respects with the requirements of this law applicable to the principal building. See Article V.
3. Accessory structures that are not attached to a principal structure may be erected in accordance with the following restrictions:
  - a. No unattached accessory structure shall be located nearer than ten (10) feet to the side or rear lot lines or thirty (30) feet to the front lot line.
  - b. Structures and buildings up to and including 80 square feet, including gazebos, do not require a Site Plan Review, but shall require a Certificate of Appropriateness.
  - c. No unattached accessory structure shall be located nearer to the principal structure than ten (10) feet.
  - d. The height of an unattached accessory structure shall not exceed sixteen (16) feet, except in the Flood Hazard Zone, where the height shall not exceed eight (8) feet, from the peak of the structure to the highest point on the ground on the side nearest the street.
  - e. The total area of the unattached accessory structure shall not exceed twenty percent (20%) of the floor area of the principal structure, except in the Flood Hazard Zone, where floor area shall not exceed sixty-four (64) square feet.
  - f. An unattached accessory structure shall not be a building, structure, or other assemblage of materials designed for, or customarily used as, a principal structure allowed under this law; nor shall an unattached accessory structure be a vehicle or a container primarily intended for commercial storage or transportation of goods, animals, or people.

**SECTION 405.A4-B.P2**

4. Fences are not accessory structures. Natural barriers such as hedges and evergreens and the like may be considered the functional equivalent of a fence in the discretion of the Code Enforcement Officer.
5. A single private outdoor swimming pool per principal building is permitted as an accessory use provided that such swimming pool is for the private use of the residents of the dwelling or for their guests and provided that the edge of the pool is not located closer than twenty (20) feet to any property line and does not occupy more than ten percent (10%) of the lot area and that a five (5) foot high fence shall completely surround the area of the swimming pool with a self-closing and locking gate. Decks to above ground pools must have retractable steps.
6. Docks on ponds are permitted. As accessory structures on the lake shore, they are subject to DEC and Army Corps of Engineer regulations as well as to the following conditions:
  - a. Rear setback requirements to the extent that they prohibit the placement of a dock in the water shall be waived. Side setbacks of ten (10) feet shall apply.
  - b. Only one dock shall be permitted for each lot with less than fifty (50) feet of frontage on the water. Additional docks per lot shall be permitted for each fifty (50) feet of frontage in excess of fifty (50) feet, in which case the docks shall be 100 feet apart.
  - c. Docks shall not exceed eight (8) feet in width.
  - d. No dock shall interfere with access to other docks.
  - e. Livery services, motorized equipment rentals, and commercial sales are not permitted, except that dinner cruise enterprises may be allowed in the Commercial Zone only with a Special Use Permit.
  - f. There shall be no sale of marine fuels.
  - g. Sewer and water lines shall not be extended to accessory structures in the Flood Hazard Zone. Sanitary pumping facilities require a Special Use Permit.
7. Lampposts may not exceed ten (10) feet in height. Side, rear, and front setbacks may be waived upon the issuance of a Certificate of Appropriateness.

P 2: A. Bed and breakfast establishments are allowed as set forth in Section 901.B.2.

B. Home occupations are allowed as set forth in Section 901. B.2.

C. Rooming and Boarding Houses are allowed as set forth in Section 901.B.2.

P3: **Conference Centers**

- a. The Conference Center facility is an adaptive re-use project rather than primarily new construction.

- b. Small outdoor gatherings to be provided are only intermittent and do not involve the playing of music or amplified sound(s).
- c. The Conference Center facility is not located on any Lot having access to, or frontage on, Cayuga Lake.
- d. The Conference Center facility is located on a Lot of 1.5 acres or greater.
- e. The Conference Center facility is at least 6,000 square feet in size
- f. The limit on attendees is not applicable in the Institutional Zone

P 4: Emergency dwellings

In the event that a dwelling is rendered uninhabitable by fire, flood, or by a similar natural or manmade disaster, the Zoning Board of Appeals may authorize the placement of an emergency dwelling upon the lot where said damaged dwelling is located. An emergency dwelling shall be a safe and healthful dwelling unit that meets all applicable building, fire, health or other codes. The ZBA may waive such terms of this law so as to allow the placement and use of such a structure upon the same lot as the damaged dwelling, for occupancy during the period that the damaged dwelling is being repaired or replaced. Such emergency dwelling shall be removed within ten (10) days of the issuance of the Certificate of Occupancy for the repaired or replaced dwelling.

An emergency dwelling shall meet the following specific standards:

1. It is permitted only to meet a documented emergency need.
2. The maximum length of time such an emergency dwelling may be on a lot is one (1) year. An extension of one (1) year making a total period of time of two (2) years from the initial permit may be granted by the ZBA in cases of documented hardship. The hardship must result from circumstances beyond the control of the applicant that prevent the applicant from complying with the requirements of this Section. An extension may be granted only once.
3. An emergency dwelling must have running water and must be connected to a totally enclosed septic system or public sewer.
4. No variance to the requirements of this Section, except as outlined in (2) above, may be granted.

P 5: Junkyards: Minimum lot size for junkyards shall be ten (10) acres, front setback one hundred (100) feet from the road, side and rear setbacks fifty (50) feet. The area shall be screened by a double row of plantings and/or a solid wooden fence. The posting of a five million dollar (\$5,000,000) performance bond shall be required.

P 6: Multi-family dwellings shall not be located upon a lot with less than 1.5 times the required lot size for a one- or two- family dwelling in the zone in which it is located. There must be sufficient usable land area to meet all applicable parking requirements as set forth in this law, see Section 407. Conversion from a one- or a two-family to a multi-family dwelling shall require a Special Use Permit, site plan review, and public hearing.

P 7: One- and two-family dwellings and multi-family dwellings are only permitted in the Institutional Zone only when such dwellings are related to the principal institutional use and comply with subdivision regulations.

P 8: Parking is a permitted use subject to the regulations and standards set forth in Section 407 of this law.

P 9: Ponds shall have a designed spillway to divert overflow from adjacent properties and must meet Natural Resource Conservation Service pond standards.

P 10: Public Utilities

“Public utility” is defined herein to mean a private business, often a monopoly, that provides services essential to the public interest so as to enjoy certain privileges, such as eminent domain, and be subject to such governmental regulation as fixing of rates and standards of service.

A. The operation by public utility firms or governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, communication systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith shall be allowed as reasonably necessary, but only after consultation with the Village Superintendent.

B. Structures, the principal purpose of which is to facilitate the delivery of essential services, may be permitted in any zone upon issuance of a Certificate of Appropriateness.

1. “Tower” means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

2. “Alternative tower structure” means man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

3. “Antenna” means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

C. Private organizations or individuals offering the public services such as telecommunications and others similar to A and B above shall be subject to a Special Use Permit.

D. Work shall proceed only after consultation with the Village Superintendent to determine location of water, sewer, and drainage lines.

P 11: Signs are permitted subject to the regulations and standards set forth in Section 406 of this law.

### **SECTION 406-406.A.2.b.2**

Section 406. Signs



All new signs except temporary signs (see 406.A.2.b.7; F) and changes of size, location or illumination of existing signs require a Zoning Permit and a Certificate of Appropriateness (see 706).

## **SECTION 406.A.2.b.2**

### A. Definitions

1. As used in this Section, “sign” shall have the following meaning:
  - a. Any device freestanding or attached to or within a window of a building or a structure or painted or represented on a structure that shall display or include any lettering, wording, three-dimensional model, or representation, drawing, picture, banner flag, insignia, logo, marking or representation used as or that is in the nature of an announcement, direction, advertisement, or identification.
  - b. “Sign” does not include the flag or insignia of any nation or any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, unless displayed for commercial promotion.
  - c. “Sign” does not include windsocks, holiday banners or similar decorations unless displayed for commercial promotion.
  - d. House numbers are not signs.
2. Signs are classified by location, structure, and purpose or function.
  - a. Location
    - 1) Off-premises Sign: Any sign or other device that directs attention to a person, business, profession, home occupation and the like, whose products or activities are not sold or conducted on the same lot.
    - 2) On-Premises Sign: Any sign or other device that directs attention to a person, business, profession, home occupation, and the like, whose products are sold or activities are conducted on the same lot. A “For Sale” or “For Rent” sign relating to the lot on which it is displayed shall be deemed an “on-premises” sign.
  - b. Structure
    - 1) Attached sign: A sign attached to a building so that the body of the sign is parallel to the building.
    - 2) Framework: The framework or base intended to support a sign or signs, but not including the sign, sign frame, or background. “Frameworks” whose separate nature and purpose as support for signage is apparent shall not be counted as part of the sign area permitted by this Section, but any “framework” or portion thereof that, by shape, material, color or other means, that serves as a sign box, frame, or background or that serves to identify the premises, its proprietors or owners or the products, services or activities provided on the premises shall be considered part of the sign area as defined above.

- 3) Freestanding Sign: A sign mounted on a framework set in the ground, independent of a building.
- 4) Portable Sign: Any sign not permanently affixed to a building or mounted in the ground. For the purposes of this Section, portable signs are not considered temporary signs (see #7 below).
- 5) Projecting Sign: A sign affixed to a building so that the body of the sign is at right angles to the building.
- 6) Representational Sign: Any three-dimensional sign built so as to physically represent or call to mind the object, service or product advertised.
- 7) Temporary Sign: Any sign fabricated of paper, plywood, fabric, window paint, or other light, impermanent material, and intended to be displayed for a limited number of days.
- 8) Window Sign: A sign permanently affixed to or painted on a window surface or in front of or behind a window in such a manner that the window acts as its frame or background.

c. Purpose or Function

- 1) Commercial Sign: A sign that directs attention to a business, commodity, service or entertainment conducted, sold or offered on or off the premises.
- 2) Directional Sign: A sign that directs traffic into and out of premises.
- 3) Governmental Signs: Official traffic signs, historical markers, and other signs erected by Federal, State, County, Town or Village agencies.
- 4) Historic Sign: An existing exterior sign erected prior to 1950 that may or may not refer to an occupant, business, service or product currently or previously existing or offered on the premises on which the sign is located or within the Village. Historic signs shall not be limited to sites designated as local landmarks. Historic signs are distinguished by one (1) or more of the following characteristics: design, decorative character, age; relationship to persons, places, activities or products of the village; or use of early advertising techniques or sign technology, including materials, techniques and devices no longer in common use for signage, such as but not limited to painting directly on building surfaces and exposed neon tubing. The term shall include reproductions of original signs.
- 5) Informational Sign or Directory: A sign that gives the names of occupants of a multi-use or multi-occupancy building or informs the public of the location or times of activities or events on the premises.
- 6) Highway Historical Marker: A metal sign conforming to the standard state design, indicating and/or explaining a historic site.

B. Sign Area

1. The area within the shortest straight lines that can be drawn around the outside perimeter of a sign, including all lettering, wording, and accompanying designs and symbols, decorations and lights, together with the background, whether open or enclosed, on which they are displayed, but excluding the supports if they are not used for advertising purposes.
2. If the sign consists of individual letters or symbols attached to or painted on a window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
3. In computing square foot areas of double-face signs, each side shall be considered a separate sign.

### C. General Regulations

The following requirements shall apply to all signs unless noted otherwise.

1. All signs must comply with all the regulations contained in this Section.
2. All on-premises signs over six (6) square feet in area, and all off-premises signs except governmental signs regardless of size, shall require the issuance of a Zoning Permit before erection or replacement.
3. No sign shall have flashing, animated, or intermittent illumination, nor shall any sign have visible moving or movable parts, except projecting signs, which may swing depending on their construction.
4. No new sign shall be painted directly on the exterior surface of a building (see Section 406.A.2.c.4 above).
5. An attached sign shall be in scale and proportion to the building and its façade and shall not obscure, damage or destroy the building's characteristic architectural features.
6. An attached sign shall not be placed more than twelve (12) inches from the wall to which it is attached.
7. Signs not exceeding two (2) square feet in area may be placed under a canopy if the sign follows all additional sign requirements.
8. No freestanding sign shall be located within ten (10) feet of any side property line.
9. Tops of signs shall not exceed twenty (20) feet from the highest point on the ground under the sign.
10. The lowest point of projecting signs shall be at least eight (8) feet above the ground and shall not extend more than six (6) feet beyond the building surface.
11. Portable signs shall not exceed six (6) square feet in area, measured on one surface.
12. Portable signs shall not obstruct a sidewalk and shall be displayed only during business hours.
13. Off-premises advertising signs must obtain a by special permit.

## D. Signs Allowed in All Zones

### 1. On-Premises Signs

- a. Governmental signs.
- b. Signs displaying the name and address of the occupant of a dwelling, provided that the sign area not exceed two (2) square feet. Not more than one (1) such sign shall be erected for each dwelling unit, unless such property fronts on more than one street, in which case one (1) such sign may be erected on each frontage. Such signs may be non-illuminated or indirectly illuminated.
- c. Temporary signs subject to the provisions of paragraph F below.
- d. "For Sale," "For Rent," real estate signs, and signs of similar nature concerning the premises upon which the sign is located, not exceeding six (6) square feet per side. Such signs shall be removed within two (2) weeks after the sale, lease or rental of the property.
- e. Memorial signs or tablets, and historic signs.
- f. Flags or banners promoting businesses shall be displayed only during business hours.
- g. Signs identifying firms or workmen engaged upon temporary labor, repairs, construction, etc. shall be removed upon completion of the work.

### 2. Off-Premises Signs

- a. Governmental signs.
- b. Temporary signs subject to the provisions of paragraph F below.
- c. Signs directing members of audiences to service clubs, churches or other non-profit organizations, subject to the following requirements:
  - (1) The sign shall indicate only the name of the organization and the direction to the facility.
  - (2) Not more than two (2) signs shall be erected at each intersection leading to the facility.
  - (3) Signs shall not exceed four (4) square feet in area.
- d. Temporary signs directing patrons, members or audiences to exhibits, shows or events, subject to the requirements of paragraph F below.
- e. Cross-highway banners must have appropriate permits from the NY State Department of Transportation.

## E. Signs Allowed for Commercial Purposes

1. Single-Occupancy Commercial Buildings

- a. One (1) freestanding sign and one (1) attached sign; OR two (2) attached signs.
- b. Window signs may be exhibited in any window or glass-paneled or glass door, provided their area does not exceed thirty percent (30%) of the window's, panel's or door's area.
- c. Fabric awnings on metal frame with firm's name.
- d. One portable sign.

2. Multiple-Occupancy Commercial Buildings

- a. One (1) freestanding informational or directory sign shall be allowed for the building as a whole, not to exceed two (2) square feet per business.
- b. Window signs may be exhibited in any window or any glass paneled or glass door, provided their area does not exceed thirty percent (30%) of the window's, panel's or door's area.
- c. Fabric awnings on metal frame with individual firms' names.
- d. Individual firms not fronting on the main façade may have one attached sign of not more than two (2) square feet on the main façade.
- e. Portable signs as provided in the General Regulations (see paragraph C above), of not more than one (1) per firm.

F. Temporary Signs

- 1. Temporary signs announcing a drive, exhibit, show, or event sponsored by a political, educational, charitable, philanthropic, civic, professional, religious or similar organization may be erected without a Certificate of Appropriateness, provided that:
  - a. Such signs shall not exceed twenty-four (24) square feet in area;
  - b. Signs shall not be displayed earlier than two (2) weeks before the event to which they relate;
  - c. Such signs shall be removed within forty-eight (48) hours after the event.
- 2. Garage or yard sale signs not exceeding four (4) square feet in area may be erected without a Certificate of Appropriateness and displayed for a period not exceeding seven (7) days.
- 3. All temporary signs must supply the name and address of the sponsoring person or organization and the name of a person responsible for their removal. Failure to remove such signs within the term prescribed may result in a fine.
- 4. Such signs are not to be placed in such a position as to obstruct or impair vision or traffic, or in any manner create a hazard.

5. In the case of off-premises signs, the written consent of the property owner or occupant must be obtained and included with the Application for Zoning Permit.

G. Application Procedure

Applications for all signs except temporary signs (see paragraph F above) shall be made in writing upon the Application for Zoning Permit and the Application for a Certificate of Appropriateness, available from the Village Clerk. The following information is required:

1. The name, address and telephone number of the applicant and of the owner of the property if they are not the same person.
2. A scale plan showing the location of the building, structure or land upon which the sign is to be erected.
3. Indication on said plan of the placement of the proposed sign, specifically, its position in relation to adjacent buildings, structures, and property lines.
4. A scale drawing of the sign, including the framework, and showing its visual message or text, graphic design, lettering, symbols, etc., and a description of the materials.
5. An account of the method of illumination, if any, with the position of the light or other extraneous devices, and a copy of the electrical permit related to the electrical connections (see paragraph C.3 above).
6. If the applicant is not the owner of the property on which the sign is to be erected, the owner's written consent for the erection of the sign must be included.

H. Issuance of Permit, Nullification and Installation Record

1. Upon the filing of a completed Application for Zoning Permit and Application for a Certificate of Appropriateness, the Zoning Officer and the Community Preservation Panel shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected.
  - a. If it is determined the sign is in compliance with all the requirements of this Section, the CPP shall issue the Certificate of Appropriateness, and the Zoning Officer shall then, within five
  - b. (5) business days issue a permit for the erection of the proposed sign. The issuance of a permit shall not excuse the applicant from conforming to the other laws and ordinances of the Village.
  - c. The Village Clerk shall within the same five (5) business days inform the applicant in writing of the issuance of the Certificate of Appropriateness and the permit.
2. Permits are issued with a one (1) year life, renewable for an additional year. If work has not commenced within one hundred eighty (180) days after the issuance of a renewed permit, that permit shall automatically expire and a new permit shall be required.
3. Upon completion or installation of the approved sign, the applicant shall provide a photograph of said sign installation, that shall be kept in the original application file in the Village Clerk's office as part of the public record.

I. Variances, Review and Appeal

Any person aggrieved by a decision of the Zoning Officer relative to the provisions of this Section may appeal such decision, in writing, to the Zoning Board of Appeals, within thirty (30) days after the adverse decision.

J. Enforcement

In case of a violation of this Section, the Village of Aurora and its officers may, in addition to any other remedies specifically conferred by law or ordinance, institute any appropriate proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this Section.

K. Non-conforming Signs

All non-conforming signs, except Historic Signs, as of the effective date of this Law shall be brought into conformity within three (3) months.

L. Violations

The erection of new signs or changes of size, illumination or location of existing signs without a Certificate of Appropriateness is subject to enforcement and punishment consistent with Sections 1201 and 1202.

Section 407. Off-street Parking

Except as otherwise provided for particular uses, the following general parking standards shall be applicable to the uses indicated.

- A. Handicap Parking shall be provided as per New York State Code, according to building size and number of employees.
- B. One (1) off-street parking space shall be provided for each dwelling unit except as set forth in paragraph C of this Section. No parking is permitted in the front yard. (See Section 500.C.)
- C. Although no specific number of parking spaces shall be required for dormitories or housing projects for the elderly, a parking plan for such projects shall be prepared and approved in accordance with paragraph H of this Section. In this Section, "housing projects for the elderly" means a residential development designed, approved and intended to operate in accordance with the regulation of State or Federal agencies for the purpose of providing housing specifically for older persons.
- D. Commercial buildings require four (4) parking spaces per one thousand (1000) square feet of gross floor area plus one (1) space for each employee per shift.
- E. Inns, hotels and bed & breakfasts require one (1) off-street parking space for each rental room, plus one (1) additional space for each employee per shift.
- F. Driveways and parking areas for nonresidential uses shall include, within property lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto the street or non-parking property. Depth and width shall be sufficient to provide satisfactory space for off-street parking and unloading.

- G. Unregistered motor vehicles. Only one may be stored outside a building. Any others shall be stored inside a building (a structure with a roof, see Section 201).
- H. As an alternative to the requirements of paragraphs C-F, parking places for any use subject to Special Use Permit or site plan approval by the Planning Board may be proposed. Such plans shall demonstrate that sufficient parking spaces are being provided to accommodate the expected number of vehicles the proposed use will generate during its operating hours. It shall be the applicant's responsibility to provide authoritative documentation to support the proposed alternatives. Approval of an alternative, if given, of an alternative shall be made a condition of the Special Use Permit or site plan approval.

#### Section 408 Fireworks Display

##### Manufacture; sale; permits for display

- A. The manufacture of fireworks is prohibited within the Village of Aurora.
- B. Permits. Except as hereinafter provided, it shall be unlawful for any person to store, to offer for sale, to expose for sale, to sell at retail or to use or explode any fireworks, provided that the Code Enforcement Officer/Fire Inspector or his/her designee shall have the power to grant permits for supervised displays of fireworks by the Village of Aurora, fair associations, amusement parks, property owners and organizations.
  - (1) Pursuant to § 405.00 of the New York State Penal Law, the application for such permit shall set forth:
    - (a) The name of the body, person, or entity sponsoring the display and the names of the persons actually to be in charge of the firing display.
    - (b) The date and time of day at which the display is to be held or alternate date and time in case of inclement weather.
    - (c) The exact location planned for the display.
    - (d) The age, experience and physical characteristics of the persons who are to do the actual discharging of the fireworks (a minimum of two shall be required). Both operators shall supply a photocopy of their licenses to deal in explosives, issued by the New York State Department of Labor.
    - (e) The number and kind and size of fireworks to be discharged, as well as frequency and duration of firing.
    - (f) The manner and place of storage of such fireworks prior to the display.
    - (g) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all the buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.
    - (h) The application shall be signed by the sponsor and the operator.
    - (i) Such other information as the Village of Aurora Code Enforcement Officer/Fire Inspector may deem necessary to protect persons or property.
  - (2) The permit shall contain provisions that the actual point at which the fireworks are to be fired shall be at least 200 feet from the nearest permanent building or public highway or roadway or other means of travel, and at least 50 feet from the nearest aboveground telephone or telegraph line, tree, electrical substation, or other overhead obstruction; that



the audience at such display shall be restrained behind lines at least 150 feet from the point at which the fireworks are discharged, and only persons in active charge of the display shall be allowed inside these lines; that no permit shall be granted for any display of fireworks where the discharge, failure to fire, faulty firing or fallout of any fireworks or other objects would endanger persons, buildings, structures, forests or brush; that no fireworks discharge be within a half (1/2) mile from any livestock operation; that no shells shall be over 2 inches or include aerial salutes to limit height and protect the safety of the environment; that all fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearly as possible in a vertical direction, unless such fireworks are to be fired from the shore of a lake or other large body of water, when they may be directed in such manner that the falling residue from the deflagration will fall into such lake or body of water; that any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining; that no fireworks display shall be held during any wind storm in which the wind reaches a velocity of more than 30 miles per hour; that all the persons in actual charge of firing the fireworks shall be over the age of 18 years, competent and physically fit for the task; that there shall be at least two such operators constantly on duty during the discharge; and that at least two soda acid or other approved-type fire extinguishers of at least two and one-half (2 1/2) gallons' capacity each shall be kept at as widely separated points as possible within the actual area of the display.

- C. Application for permits shall be made at least 15 days in advance of the date of the display. After such privilege shall have been granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that one-time display purpose only. No permit granted hereunder shall be transferable.
- D. The fee for permits issued under this section shall be in accordance with the Village of Aurora fee schedule as determined and revised by the Board of Trustees from time to time.

### Investigation

Upon receipt of a complete application and payment of the fee aforesaid, the Fire Chief or his/her designee shall do an investigation of the site and surroundings of the proposed display for the purpose of determining whether issuance of the permit will be consistent with and adequately preserve the public health, safety and welfare. Failure of the Fire Chief to approve the application shall prohibit the intended display within the Village of Aurora and shall constitute sufficient cause for any other state or municipal agency having jurisdiction to deny any other required permit.

### Denial of permit

The Village of Aurora reserves the right to deny a permit to any person, persons, entity, or body failing to sufficiently provide them with the aforesaid information or documents, or whose application is determined by the Code Enforcement Officer/Fire Chief to be insufficient to properly safeguard the safety, health, welfare and well-being of all persons, property or within the area.

### Other involved permitting agencies

All displays of fireworks or other pyrotechnics shall be operated and conducted in accordance with the New York State Uniform Fire Prevention and Building Code, New York Penal Law and all other applicable New York State and County of Cayuga requirements. Nothing contained herein shall be construed or interpreted to supersede such laws of the rules, regulations or permitting process of any state or other agency having jurisdiction over said display(s).

### Insurance required

- A. No permit authorizing the display of fireworks shall be granted unless the applicant hereto furnishes evidence of commercial general liability insurance with an occurrence limit of not less than Two Million Dollars (\$2,000,000.00) and coverage for medical payments in the event of injury of not less than Five Thousand Dollars (\$5,000.00) per person and a general aggregate limit of not less than Four Million Dollars (\$4,000,000.00).
- B. No permit authorizing the display of fireworks shall be granted unless the Village of Aurora is a named insured under the required commercial general liability insurance, and such policy shall be non-cancelable without 10 days' prior written notice to the Village of Aurora. Said policy shall be prepaid, and a copy of the policy and evidence of the payment shall be attached to the permit application.

### Indoor displays prohibited

Notwithstanding the foregoing, any indoor pyrotechnic displays are strictly prohibited.

### Penalties for offenses

- A. Any person or persons, associations or corporations committing an offense against this chapter or any section or provision thereof shall be subject to the penalties imposed by §§ 270.00 and 405.05 of the Penal Law, including the provisions relating to the seizure of fireworks contained in § 405.05.
- B. Notwithstanding a conviction for an offense against any provisions, a person or entity committing an offense under this chapter shall be subject to revocation of any permit herein granted without reimbursement of fees paid thereof
- C. In addition to any fine or imprisonment imposed for a conviction of an offense to this chapter, each such offense may be subject to a civil penalty not to exceed \$250, to be recovered in an action or proceeding in a court of competent jurisdiction, or by imprisonment not exceeding 15 days, or both. No person who has been convicted of violating this section may apply for a permit for a period of five years from the date of conviction.

### Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order of judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of the local law or in its application to the person, individual,

firm or corporation or circumstance, directly involved in the controversy in which judgment or order shall be rendered.

## **SECTIONS 500-501.A**

### **ARTICLE V. DIMENSIONAL REQUIREMENTS**

#### **Section 500. Area Specifications**

The regulations for each zone pertaining to minimum lot size, minimum lot width, maximum building coverage, minimum setbacks, and maximum height shall be as specified in this Article, subject to the further provisions of this law.

- A. All structures shall meet the minimum standards set forth in Section 503.
- B. Habitable Floor Area
  - 1. One-and two-family dwellings shall have no less than one thousand two hundred (1,200) square feet of habitable floor area per dwelling unit.
  - 2. Habitable floor area shall be determined by the total of the area of rooms occupied by one or more persons for living, eating, and/or sleeping but not including attached or built-in garages, open porches or terraces, unfinished rooms below grade, heater or furnace rooms, and unfinished attics. On the first floor it shall be construed to mean all finished floor area having a clear headroom of seven and one half (7 ½) feet or over, including stairwells; on the second floor all finished or unfinished floor area having a clear headroom of seven and one half (7 ½) feet or over for a minimum horizontal measurement of six (6) feet, with side walls not less than five and one half (5 ½) feet in height.
- C. Multi-family Dwellings
  - 1. No dwelling unit in a multiple-family building shall have less than seven hundred twenty (720) square feet of habitable floor area.
  - 2. Maximum coverage including parking shall not exceed forty percent (40%) of the lot. See Section 407.
  - 3. Parking areas shall be considered as part of the maximum building coverage and shall be calculated at one half (1/2) of their area.
  - 4. One (1) off-street parking space shall be provided for each dwelling unit except as set forth in Section 407. C, or as allowed by the Planning Board under Section 407. H.
- D. The provisions of Section 503 shall not prevent the construction of a one-family dwelling, provided the setback requirements are observed, on any lot that was lawful when created and that prior to the effective date of this law was in separate ownership duly recorded by plan or deed.

#### **Section 501. Traffic Visibility Across Corners (Clear Sight Triangle)**

- A. On any corner lot, no wall, fence, utility pole or other structure shall be erected or altered, and no hedge, tree, shrub, or other growth shall be maintained that may cause danger to traffic

on a public street by obscuring the view. Visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line twenty-five (25) feet from the intersection of said street lines.

- B. Where a private driveway or access way intersects a public street, visual obstructions shall be limited to a height of no more than two (2) feet above street level within the triangular area bounded by the street line, the edge of the private access way, and a straight line drawn between points on both the street line and the edge of the access way ten (10) feet from the intersection of said lines.

Section 502. Building Height Regulations

Maximum height regulations shall not apply to farm buildings, church spires, chimneys, or other structures built above the roof and not devoted to human occupancy. Maximum height for all structures in all zones shall be thirty-five (35) feet, except in the Institutional Zone where the maximum height for all structures shall be fifty (50) feet.

Section 503. Dimensional Table

Table 2

DIMENSIONAL TABLE

ZONE	MINIMUM LOT SIZE	MINIMUM WIDTH	FRONT SETBACK	SIDE SETBACK	REAR SETBACK	MAXIMUM BUILDING COVERAGE
AR	15,000 SQ FT	100 FT	30 FT	25 FT	30 FT	30 %
R	8,000 SQ FT	100 FT	30 FT	10 FT	10 FT	30 %
C	5,000 SQ FT *	50 FT	Average of adjacent principal structures	10 FT	10 FT	35%
I	2 ACRES**	100 FT	50 FT	50 FT	50 FT	25 %
FH ***				10 FT	10 FT	

\* Mixed use: residential/commercial buildings shall have an additional lot area of two hundred (200) square feet per bedroom. Retail shops with more than two hundred (200) square feet of floor area and restaurants with more than four hundred fifty (450) square feet of dining area must have a lot area sufficient to meet off-street parking requirements (see Section 407), or must provide such required parking within five hundred (500) feet of the lot upon which they are located.

\*\* One acre = 43,560 sq. ft.

\*\*\* Only accessory structures are permitted. (See Article IV.)

Section 504. Buffers

In order to prevent conflicts between potentially incompatible uses and to retain the appearance of a neighborhood where different zones meet, a buffer and screening will be required of the developer or

property owner initiating the change. The Planning Board shall review and approve the buffer and screening proposal.

- A. A buffer as used in this Section refers to a strip of land along a property line established to protect one type of land use from another. Normally, the area is landscaped.
- B. Screening as used in this Section refers to fences, berms, trees, or shrubs that provide a visual barrier between the two zones.
- C. A buffer that adjoins a differently zoned parcel shall be established in addition to the required setback for buildings. The buffer shall be at least the width of the required setback (see Section 503). Screening may be accomplished by retaining the natural vegetation or by means of a landscape plan approved by the Planning Board.
- D. A performance bond shall be posted to insure proper maintenance of the buffer in the event of abandonment. Dollar amount shall be determined by the Planning Board.
- E. Design standards for control of run-off and drainage in the buffer shall be in accordance with the guidelines found in "Reducing the Impacts of Storm Water Run-off From New Development," New York State Department of Environmental Conservation, Bureau of Water Quality Management, April 1992.

## **SECTIONS 600-603.B**

### **ARTICLE VI. NONCONFORMITIES**

#### **Section 600. Definitions**

- A. Nonconforming Use: A use of a building or lot that does not conform to a use regulation prescribed by this law for the zone in which it is located, but that was in existence at the effective date of this law and was lawful at the time the use was established.
- B. Nonconforming Structure or Lot: A structure or lot that does not conform to a dimensional regulation prescribed by this law for the zone in which it is located or to regulations for off-street parking, off-street loading, or accessory buildings, but which structure or lot was in existence at the effective date of this law and was lawful at the time it was established.

#### **Section 601. Continuation (Grandfather Clause)**

The lawful use of any structure or land, or the lawful dimension of a structure or lot existing at the effective time of this law may be continued although such use does not conform with the provisions of this law except as otherwise provided in this law.

#### **Section 602. Alteration or Extension**

Any nonconforming use shall not be altered, extended, or enlarged, except in accordance with the following provisions:

- A. Such alteration or extension shall be permitted only upon the same lot in existence at the date the use became nonconforming.
- B. Any increase in area or volume required for the nonconforming use shall not exceed an aggregate of more than twenty-five percent (25%) of the original extent of the nonconformity.
- C. A structure that does not conform to the regulations of this law may be altered, reconstructed or enlarged, provided that no nonconformities be increased beyond their extent on the date that the structure became nonconforming. If the use of structure also falls under subsections 1 and 2 of this Section, any change shall be subject to the provisions of those subsections.

Section 603. Restoration

A legal nonconforming structure that is damaged or destroyed by fire or other cause beyond the control of the owner may be restored or replaced, provided that:

- A. A permit for said restoration or replacement is issued by the Zoning Officer within one (1) year of the damage to or destruction of said structure; AND
- B. Work for which the permit is issued is begun within six (6) months of the issuance of said permit; AND
- C. The restoration or replacement, in so far as possible, corrects the nonconformity, is no larger than the pre-existing nonconforming structure, and is in the same location except in correction of a nonconformity.

Section 604. Continuation and Abandonment

- A. A non-conforming use runs with the land, that is, it remains with the property when the ownership changes.
- B. Whenever a nonconforming use has been discontinued for a period of one (1) year, it shall be deemed abandoned. Such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this law.

Section 605. Changes

- A. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.
- B. A nonconforming use may be changed to another nonconforming use only under the following conditions:
  - 1. Such change shall be permitted only by Special Use Permit and site plan review (see Article IX), AND
  - 2. The applicant shall show that the original nonconforming use cannot reasonably be changed to a use permitted in the zone where such nonconforming use is located, AND
  - 3. The applicant shall show that the proposed change will be less objectionable in external effects than the existing nonconforming use with respect to:

- a. traffic generation and congestion, including truck, passenger car and pedestrian traffic;
- b. noise, smoke, dust, noxious matter, heat, glare, vibration;
- c. storage and waste disposal;
- d. appearance.

#### Section 606. Displacement

No nonconforming use shall be expanded to displace completely a conforming use.

#### Section 607. Zone Changes

Whenever the boundaries of a zone shall be changed so as to transfer an area from one zone to another zone of a different classification, any nonconforming uses or structures existing therein shall be subject to the foregoing provisions.

### **SECTIONS 700-703.A**

## **ARTICLE VII. COMMUNITY PRESERVATION**

#### Section 700. Purpose

The purpose of this Article is to promote the cultural, economic and general welfare, and the education of the public through the protection, enhancement, perpetuation and preservation of the Village of Aurora, New York. The Village Board of Trustees declares it a public purpose to ensure that the distinctive character of this Village shall not be injuriously affected, that the value to the community of the Village as a whole shall not be impaired, and that the Village's built environment shall be maintained and preserved to promote its use for the pleasure, welfare and education of the citizens of the Village of Aurora, New York, and others.

#### Section 701. Authorization

Section 96-a of the General Municipal Law of the State of New York authorizes a Board of Trustees to provide by regulations, special conditions and restrictions for the preservation, restoration and maintenance of the historical, architectural, archaeological and cultural environment having special character or special historic or aesthetic interest or value, and provides that such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance or both of neighboring private property within public view.

#### Section 702. Scope, Exceptions

- A. This Article shall apply to all buildings, structures, outbuildings, walls, permanent fencing, steps, topographical features, earthworks, Landmark Trees, paving and signs. No changes in any exterior architectural feature, including but not limited to construction, reconstruction, alteration, renovation, restoration, removal, or demolition, shall be made except as hereinafter provided. "Historic and/or cultural property" means any building, structure, zone, area, site or object, including underground and underwater sites, with significance in the history, architecture, archaeology or culture of the Village.
- B. Nothing in this Article shall be construed as preventing the ordinary maintenance and repair of any exterior architectural feature in the Village that does not involve a change in design or the outward

appearance thereof. For purposes of this Law, painting a previously painted structure or feature, whether in the same or different color, will be considered ordinary maintenance, excepting for change of paint color for Village Landmarks. Nothing in this Article shall be construed as preventing the construction, reconstruction, alteration or demolition of any exterior architectural feature that the Zoning Officer shall certify is required by public safety because of dangerous or unsafe conditions.

#### Section 703. Definitions

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

- A. Built Environment: The sum total of human constructions, including buildings, outbuildings, walls, fences, steps, earthworks, paving and signs.
- B. Certificate of Appropriateness: A certificate issued by the Community Preservation Panel authorizing a change to any exterior architectural feature within the Village, subject to other applicable permit requirements.
- C. Demolition: The destruction or razing of a building or a substantial part thereof.
- D. Exterior Architectural Feature: The architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to view from a public way, which includes Cayuga Lake.
- E. Village Landmark: Places, sites, buildings, structures, trees and other objects determined, as provided in this Article, to be of or possess educational, cultural, economic or historic value deserving special acknowledgment, if so designated by the Village Board of Trustees, as provided herein (see Section 705).

#### Section 704. Community Preservation Panel

- A. A Community Preservation Panel shall be established as follows:
  - 1. The Panel shall be composed of five (5) members appointed by the Mayor and approved by the Village Board of Trustees. All such members shall have demonstrated interest, competence and/or a knowledge of history, architecture, or historic preservation and planning. To the extent available within the Village, such interest and competence shall be in the fields of architecture, history, real estate, law or historic preservation.
  - 2. The Mayor, with the approval of the Village Board of Trustees, shall designate a member of said panel to act as Chair thereof, or on failure so to do, the panel shall elect a chair from its own membership at the start of each official Village year.
  - 3. Members' terms shall be for a period of five (5) years, with one (1) term expiring each year.
  - 4. The Panel shall meet monthly, but other meetings may be held at any time on the call of the Chair, on the written request of any two members of the Panel, or on the call of the Mayor.
  - 5. A quorum at any meeting shall consist of three (3) members.
  - 6. Minutes of each meeting and public hearing shall be filed with the Village Clerk and become part of the public record.



B. The duties of the Community Preservation Panel shall be:

1. to preserve the desirable character of the Village with regard to its community environment, built and natural, and to prevent construction, reconstruction, alteration or demolition out of harmony with existing buildings, and thus to protect the beauty of the Village, promote safety and safeguard public health, minimize the danger of fire, and prevent the deterioration of property.
2. to issue Certificates of Appropriateness authorizing changes to any exterior architectural feature within the Village, pursuant to this Article and subject to other applicable permit requirements. The procedure for issuing or denying a Certificate of Appropriateness is specified in Section 707.

C. In addition to the aforementioned duties, the Community Preservation Panel shall be empowered:

1. to conduct a survey of all places, sites, buildings, structures and other objects within the Village of Aurora for the purpose of determining which, in the opinion of the Community Preservation Panel, should be designated as Village Landmarks, in accordance with the procedure specified in Section 705;
2. to formulate recommendations concerning the preparation of Village maps, brochures and plaques or historical markers for selected historic and/or architectural sites, buildings and Village Landmarks;
3. to cooperate with and advise the Village Board of Trustees and the Planning Board in matters involving historic and/or architectural sites and buildings; and,
4. and, with the approval of the Village Board of Trustees, to retain or employ professional consultants or other such personnel as may be necessary to assist the Panel in carrying out its duties; the fees for any such consultation shall be charged to the applicant.

D. Because of the irreversible nature of demolitions and the potential loss to the community of significant historic structures the following shall apply to all applications for demolition:

1. The full waiting period of twenty (20) business days (see Section 707) shall apply.
2. Notice of the Community Preservation Panel's consideration of the proposed demolition shall be posted at the site and elsewhere in the Village not less than two (2) weeks before the meeting at which the required Certificate of Appropriateness is to be considered. Such notice shall include the date, time and place of the meeting.
3. Whenever possible, the Community Preservation Panel and the Planning Board shall hold joint public hearings for demolition.
4. The decision of the Community Preservation Panel shall be based on present condition of the structure, pertinent historical significance of the structure, the relationship of the affected parcel to its surrounding parcels, economic viability of use alternate to demolition, future plans for the property, public comment and other local factors.

Section 705. Designation of Village Landmarks

- A. The Community Preservation Panel shall conduct an initial survey of the Village of Aurora for the purpose of determining which places, sites, buildings, structures, trees and other objects, in the opinion of the Panel, may be designated as Village Landmarks. Such Landmarks may be so designated if they:
  - 1. possess special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the Village, the region, the State or the nation; or
  - 2. are identified with historic personages; or
  - 3. embody the distinguishing characteristics of an architectural style; or
  - 4. represent an established and familiar visual feature of the Village.
- B. Upon completion of the initial survey described above, the Community Preservation Panel shall deliver a written report to the Village Board of Trustees recommending the designation of certain places, sites, buildings, structures, trees and/or other objects as Village Landmarks.
- C. Upon receipt of the written report of the Community Preservation Panel, the Village Board shall schedule a public hearing thereof and inform in writing the owner of the property thus nominated.
- D. If after the aforesaid public hearing, the Village Board desires to designate a particular place, site, building, structure, tree and/or other object as a Village Landmark, the Board of Trustees shall designate the same as a Village Landmark by enacting a Local Law to accomplish such purpose.
- E. Upon the effective date of such Local Law, the Village Clerk shall make appropriate notations and references to the location of the designated Village Landmark(s) on the Zoning Map.
- F. The Community Preservation Panel shall from time to time consider additions to the list upon written request, and its recommendations shall be forwarded to the Village Board of Trustees. The procedure for additions to the list of Village Landmarks shall follow the procedure outlined above.
- G. The Village Clerk shall maintain a Register of Village Landmarks, such Register to become Appendix #3 of this Zoning Ordinance.

Section 706. Certificate of Appropriateness required; Application

- A. Notwithstanding any inconsistent ordinance, Local Law, code, rule or regulation concerning the issuance of building or demolition permits, no change in any exterior architectural feature in the Village shall be commenced without a Certificate of Appropriateness from the Community Preservation Panel, nor shall any building or demolition permits for such change be issued without such a Certificate of Appropriateness having first been issued. The Certificate of Appropriateness required by this Article shall be in addition to, and not in lieu of, any building permit that may be required by any ordinance, Local Law, code, rule or regulation of the Village of Aurora, New York.
- B. Application for a Certificate of Appropriateness shall be made to the Community Preservation Panel, in writing, upon forms prescribed by the Community Preservation Panel and available in the Village Clerk's office, and shall contain the following, where appropriate:

1. the name, address and telephone number of the applicant, and of the owner if the applicant is not the owner;
2. signed, written permission of the owner if the applicant is not the owner;
3. the location of the building, structure or land the exterior architectural features of which are proposed to be changed;
4. plans and elevations of the proposed change;
5. perspective drawing(s) of the proposed change;
6. samples of materials to be used;
7. samples of paint to be used in cases of exterior color change for Village Landmarks.
8. Where a proposed change includes signs or lettering, the following additional material shall be supplied:
  - a. a scale drawing showing kind of lettering;
  - b. all dimensions and colors;
  - c. a description of materials to be used and method of illumination, if any; and
  - d. a plan showing location on building or property.
  - e. For additional information on signs, see Section 406.

C. Prior to application, consultations with the Community Preservation Panel are encouraged.

D. The Community Preservation Panel will normally consider applications for a Certificate of Appropriateness only when such application is received in the Village Clerk's office ten business days before the next regular meeting and only if it has been reviewed by the Zoning Officer, usually the week before the Panel meets.. All applications must provide adequate information. Incomplete applications and applications failing to describe proposed work in detail sufficient for an adequate review may be subject to postponement or denial.

#### Section 707. Issuance of Certificate of Appropriateness; Considerations

- A. Within sixty-two (62) days after a completed application is accepted by the Zoning Officer, the Planning Board and/or the Community Preservation Panel, and all necessary public hearings have been held, or within such further time as the applicant may in writing allow, the Community Preservation Panel shall determine:
1. whether the proposed construction, reconstruction, renovation or alteration, or demolition of the exterior architectural feature involved will be appropriate to the preservation of the Village for the purposes of this Article; and
  2. whether, notwithstanding that the proposed construction, etc. may be inappropriate owing to conditions affecting the structure involved, but not affecting the Village generally, failure to issue a Certificate of Appropriateness will impose a substantial hardship to the applicant and whether such a Certificate may be issued without substantial detriment to the public welfare and without substantial deviation from the intent and purposes of this Article.

B. As guidelines when considering proposed changes, the Panel has adopted from the Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (1983) the following principles:

1. The distinguishing original qualities or character of a building, structure, or site and its environment should not be destroyed, and therefore the removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
2. Changes that may have taken place in the course of time to a building, structure, or site and its environment are evidence of its history and development. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
3. Whenever possible, deteriorated architectural features should be repaired rather than replaced. In the event replacement is necessary, the composition, design, color, texture and other visual qualities of the new material should match as closely as possible the material being replaced.
4. Repair or replacement of missing architectural features should be substantiated by historic, physical, or pictorial evidence, rather than based on conjectural designs or the availability of different architectural elements from other buildings or structures.
5. New additions or alterations to structures should, whenever possible, be done in such a manner that if such additions or alterations were removed in the future, the essential form and integrity of the structure would be unimpaired.
6. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site should be treated with sensitivity.
7. The surface cleaning of a structure shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials should not be undertaken.
8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
9. Alterations that seek to create an appearance earlier than (or older than) that of the original structure shall be discouraged.
10. Every reasonable effort should be made to use a property for its originally intended purpose, or in the event when that is not possible, to provide a compatible use that requires minimal alteration of the building, structure, or site and its environment.

C. In addition to any other pertinent factors, the Panel shall consider the following:

1. the historical and architectural value and significance, architectural style, general design, arrangement, and appearance of the exterior architectural feature involved, and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood;

2. compatibility of the appearance of the proposed change with the predominant scale and size of the neighborhood;
  3. no significant change to the spacing or distance between the building or structure and its neighboring buildings or structures;
  4. the relationship to local, state or national history, of the building, structure or site for which a change is proposed.
- D. The Chair of the Community Preservation Panel shall within five (5) business days inform the applicant in writing of the decision, including a copy of the Certificate of Appropriateness application, and file a copy with the Village Clerk.
- E. In denying a Certificate of Appropriateness, the Community Preservation Panel shall state in writing on the Certificate of Appropriateness application the reasons for such denial.
- F. If the Community Preservation Panel does not respond to the applicant within sixty-two (62) business days, the applicant may proceed with the submitted plan.

#### Section 708. Trees

- A. Trees designated as Notable Trees must meet one or more of the criteria outlined in Section 705.A and be designated through the regular procedure outlined in 705.B-F.
- B. A Certificate of Appropriateness shall be required for the removal of a Notable Tree, but no Certificate of Appropriateness shall be required for the removal of other trees.
- C. For the culling of wood lots, see Section 802, page 38.
- D. For clear-cutting woodlands, see Section 404 #9, page 11.

#### Section 709. Enforcement

All work performed pursuant to a Certificate of Appropriateness issued under this Article shall conform to any requirements included therein and is subject to periodic inspection by the Zoning Officer to determine compliance or noncompliance. See also Article XII.

### **Article VIII. PERMITS**

#### Section 800. Applicability of Regulations

Permits and Special Use Permits (Section 901) shall be required for a variety of uses and activities. The Zoning Officer shall issue all Permits with the signature of the designated Village Trustee. The Zoning Officer shall forward Special Use Permit applications to the Planning Board for approval as required for those uses listed in Section 404.

### **SECTIONS 801 -805**

#### Section 801. Application

Permits shall be applied for on an Application for Zoning Permit available in the Village Clerk's office.

#### Section 802. Uses and Activities NOT Requiring Zoning Permits

Constructing completely detached accessory buildings more than ten (10) feet from a lot line, less than one hundred eighty (180) square feet in area, and no more than ten (10) feet in height; however, all such structures shall obtain a Certificate of Appropriateness (see Section 706).

Painting and general maintenance work that does not require a building permit (for Village Landmark buildings, see Section 706.B.6, page 34);

Culling of wood lots and removal of trees (for Landmark Trees, see Section 708, page 36);

Small-scale tilling of soil and landscaping;

Constructing terraces, steps, fences, driveways or other similar features that do not require a building permit;

Routine maintenance and emergency repairs.

All such activities shall conform to the requirements of this Local Law and shall not interfere with or restrict access to public utility lines. Activities not requiring a Zoning Permit may require a building permit under the NYS Uniform Building Code.

#### Section 803. Uses and Activities Requiring Permits

Any exterior construction, erection, enlargement, alteration, removal, improvement or conversion of any building or structure;

Removal of healthy, mature Landmark Trees (see Section 708, page 36).

Special Use Permits are required for excavation, grading, earth filling and removal of over twenty-five (25) cubic yards (one large dump truck); demolition; changes in the nature of the use or occupancy of any lot, building or structure.

A single permit can cover more than one of the uses listed above, provided the proposed uses occur on a single lot and are included on the application. Each lot requires a separate application.

#### Section 804. Life of Permits

Permits and Special Use Permits shall be issued with a one (1) year life, renewable for an additional year; however, if work is not commenced within one hundred eighty (180) days after issuance of the permit or Special Use Permit, the permit or Special Use Permit shall automatically expire and a new permit or Special Use Permit shall be required before such work or change in use commences. Permits and Special Use Permits are not assignable.

#### Section 805. Application Requirements for Permits

All applications for permits shall be made in writing by the owner, tenant with written permission of owner, vendee under contract of sale, or authorized agent on an Application for Zoning Permit, available in the Village Clerk's Office and shall be filed with the Zoning Officer. The NYS Building and Fire Codes may require additional permits. The application shall include:

1. a statement as to the proposed use of the building or land;
2. site layout drawn to the scale of ten (10) feet to the inch, showing the location, dimensions, and height of proposed buildings, structures, or uses, and any existing buildings and their uses in relation to the property and street lines;
3. the number, location, and design of parking spaces and loading spaces, if applicable;
4. the size, dimensions, location, and methods of illumination for signs, if applicable;
5. any additional plans and information reasonably necessary for the Zoning Officer to ascertain whether the proposed use, change in use, erection, alteration, or addition complies with the provisions of this Local Law.

If said building or alteration exceeds one thousand five hundred (1,500) square feet or if the cost of the construction will exceed twenty thousand dollars (\$20,000), the plans for such construction or alteration shall contain an architect's seal.

#### Section 806. Issuance of Permits

Permits shall be granted or refused within fifteen (15) days after the written application has been filed with the Zoning Officer, except as provided for elsewhere in this law (see Section 707.A, F Certificate of Appropriateness (62 days); Section 904 Special Use Permits (62 days) and Site Plan Review (62 days); Section 1001.E.6 and 7 Subdivision Final Plans (30 days). Upon completion of the activity authorized by any permit, the holder of such permit shall notify the Zoning Officer of such completion.

All applications with accompanying plans and documents shall be filed in the Village Clerk's office at least ten days prior to any meeting at which same shall be considered and shall become and be preserved as a public record, subject to the disposition of the Village.

#### Section 807. Fees

The applicant shall at the time of making application, pay to the Village Clerk a fee in accordance with a fee schedule adopted by resolution of the Trustees upon the enactment of this Local Law or as such schedule may be amended by resolution of the Trustees.

#### Section 808. Flood Control Review Procedures

All building permit applications shall comply with Village of Aurora Local Law # 2 of 2007: Flood Damage Prevention.

### **SECTIONS 900-901.B.1**

#### **ARTICLE IX. SPECIAL USE PERMITS, SITE PLAN REVIEW AND APPROVAL**

The Planning Board shall grant Special Use Permits and Site Plan Approval. The uses requiring a Special Use Permit are listed in Section 404. Site Plan Review and Approval are required for all uses listed in Section 404.

#### Section 900. Applications

Applications for Special Use Permits or Site Plan Approval shall be made on an Application for Zoning Permit with all information required therein. To be successful, the proposed use shall comply with the general and specific requirements for approval as detailed in Sections 901 and 902.

#### Section 901. Special Use Permit Criteria

Special Use Permits require a public hearing (see Section 904 B) except for excavation, grading, earth filling or removal. Special Use Permits shall be granted upon demonstration that the proposed use is compatible with the neighborhood where it will be established.

##### A. General criteria for compatibility

1. The general appearance will coincide with the predominant scale and physical character of the neighborhood.
2. Noise, smoke, dust, noxious matter, heat, glare, or vibration emanating from the proposed use will not exceed that customarily associated with the neighborhood.
3. Storage and waste material will be screened from general public view.
4. The proposed use will not generate traffic beyond capacity of the road serving the site or contribute to traffic congestion or pose a hazard to pedestrians.
5. Any accessory use shall be subject to the off-street parking requirements of Section 407 and to the sign requirements of Section 406.
6. Receipt of a Certificate of Appropriateness, if required.

##### B. Criteria for Specific Residential Uses

###### 1. Home Occupation

Home occupation as understood in this Local Law is work undertaken in a dwelling for gain and that is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Among the uses that shall not be considered a home occupation are animal hospitals, antique shops, cafes, commercial stables and kennels, funeral parlors, gift shops, restaurants, tanning studios, and teashops. One (1) home occupation is permitted per principal building, subject to the following regulations:

- a. The principal building shall be a dwelling. In exceptional cases, an accessory structure may qualify for use for the home occupation and shall be subject to the same regulations.
- b. The home occupation shall be carried on only by members of the immediate family residing in the dwelling, plus not more than one (1) additional employee.
- c. The home occupation shall require no repetitive servicing by delivery vehicles for supplies and materials.
- d. External structural alterations not customary to a residential building shall not be allowed.



- e. Signs or displays for the home occupation shall follow the specifications set forth in Section 406.
- f. The floor area devoted to the home occupation shall not be more than twenty-five percent (25%) of the ground floor area of the dwelling. For Bed & Breakfasts, see #3 below.
- g. No exterior storage of materials related to the home occupation shall be allowed.
- h. The workplace shall conform to OSHA standards for venting if applicable, and to DEC standards for disposal and storage of hazardous materials. Disposal of medical waste shall conform to the standards set by the NYS Department of Health.
- i. No articles or services shall be sold or offered for sale except such as are directly related to the home occupation.

## 2. Bed and Breakfast, Rooming or Boarding Houses

- a. Such facilities may be established and operated only as home occupations. All regulations of home occupations for gain (paragraph 2 above) shall apply, with the exception of the area regulation in 2.f above.
- b. In addition to the parking requirements in Section 407 of this law, one additional off-street parking space shall be provided for each room made available to the public.

### Section 902. General Site Plan Criteria

The following general criteria shall be considered in the Planning Board's review of site plans:

- A. receipt of a Certificate of Appropriateness, if required;
- B. location, arrangement, size, design and general compatibility of buildings, lighting and signs to the site;
- C. adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls;
- D. location, arrangement, appearance and sufficiency of off-street parking and loading;
- E. adequacy and arrangement of pedestrian traffic access and circulation, including walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience;
- F. adequacy of storm water and drainage facilities;
- G. adequacy of water supply and sewage disposal facilities;
- H. adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation;
- I. adequacy of fire lanes and other emergency zones, and the provision of fire hydrants;

- J. special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding or erosion.

Section 903. Site Plan Review and Approval

- A. Site Plan Review and Approval shall be required for all uses including one- and two-family dwellings. The Application for Zoning Permit is available in the Village Clerk's Office; Site Plan Review shall begin when a completed application is received by the Planning Board.
- B. Sketch Plan Conference: A sketch plan conference between the Planning Board and the applicant is intended to enable the applicant to inform the Planning Board of the proposal, and to enable the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns (especially those related to the specific regulations contained in this law), and to determine if more detailed information from the Site Plan Checklist shall be required.
- C. Site Plan Checklist: In addition to the information on the completed Application for Zoning Permit, the Planning Board may determine that further information drawn from the following checklist is relevant and necessary before the Site Plan Review can be completed. If a sketch plan conference is held, the Planning Board shall designate which items from the checklist shall be required. If the applicant chooses not to have a sketch plan conference, the time between the request for Site Plan Review and the final decision may be lengthened because the Planning Board may still require information from the checklist.
  - 1. Drawings and maps: All drawings and maps shall include a title, the name and address of the applicant, the name of the person who prepared such drawing or map if it is not the applicant, and date. Drawings and maps may include:
    - a. measured drawing with a scale of ten (10) feet to the inch, showing north arrow, locations and dimensions of existing and proposed principal and accessory buildings, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features, anticipated changes in the existing topography and natural features, and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
    - b. map of the area plotted to scale that clearly shows the location of the site with the boundaries of the property, nearby streets, rights-of-way, properties, easements and other pertinent features;
    - c. existing water courses;
    - d. grading and drainage plan, showing existing and proposed contours;
    - e. location, design, type of construction, proposed uses, and exterior dimensions of all buildings;
    - f. location, design and type of construction of all parking and truck loading areas showing access and egress;
    - g. location, design and type of construction and materials of pedestrian access;

- h. location of outdoor storage, if any;
  - i. location, design and construction materials of all existing proposed site improvements including drains, culverts, retaining walls and fences;
  - j. location, design and construction materials of sewage disposal, and description of the method of such disposal;
  - k. location, design and construction materials of securing public water, and description of the method of securing it;
  - l. location of fire and other emergency zones, including the location of fire hydrants;
  - m. location, design and construction of materials of all energy distribution facilities, including electrical, gas and solar energy;
  - n. location and design of existing and proposed outdoor lighting facilities;
  - o. location and proposed design of all buffer areas, including existing vegetative cover;
  - p. location, size, design and type of construction of all proposed signs;
  - q. identification of the location and amount of building area proposed for retail sales or similar commercial activity;
  - r. general landscaping plan and planting schedule, existing and proposed;
  - s. a topographic map with five (5) foot contours and adequate detail to show site topography.
2. Other documents:
- a. identification of any State or County permits required for the project's execution;
  - b. record of application for and approval status of all necessary permits from State and County officials;
  - c. an estimated project construction schedule;
  - d. State Environmental Quality Review (SEQRA) forms;
  - e. construction management plan;
  - f. other elements or documents integral to the proposed change, improvement or development as considered necessary by the Planning Board.

Section 904. Planning Board Action

- A. Site Plan Review. Public hearing and decision on site plans. In the event a public hearing is required by local law adopted by the village board of trustees, the Planning Board shall conduct a public hearing within sixty-two (62) days from the day that it receives a completed application on any matter referred to it under this section. The Planning Board shall mail notice of said hearing to the applicant

at least ten (10) days before such hearing, and shall give public notice of said hearing in a newspaper of general circulation in the village at least five (5) days prior to the date thereof and shall make a decision on the application within sixty-two (62) days after such hearing, or sixty-two (62) days after the application is deemed complete if no hearing has been held. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and such board. The decision of the Planning Board shall be filed in the office of the village clerk within five (5) business days after such decision is rendered and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

- B. Special Use Permits. Public hearing and decision on special use permits. The Planning Board shall conduct a public hearing within sixty-two (62) days from the day that it receives a completed application on any matter referred to it under this section. Public notice of said hearing shall be printed in a newspaper of general circulation in the village at least five (5) days prior to the date thereof. The Planning Board shall decide upon the application within sixty-two (62) days after the hearing. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the Planning Board on the application after the holding of the public hearing shall be filed in the office of the village clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.
- C. If the Planning Board approves Special Use Permit or Site Plan, it shall endorse its approval on a copy of the final site plan or permit and shall forward a copy to the applicant, zoning officer, and file same with the Village Clerk.
- D. Upon disapproval of a Special Use Permit or Site Plan, the Planning Board shall so inform the Zoning Officer who shall deny the permit and notify the applicant in writing of the decision and the reasons for disapproval. Such disapproval shall be filed with the Village Clerk.
- E. Reimbursable Costs. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a Special Use Permit or proposed Site Plan shall be charged to the applicant, not to exceed a level set out in the Fee Schedule adopted pursuant to Section 807 of this law.
- F. Performance Bond. The Zoning Officer shall issue no Certificate of Occupancy or other permits until all improvements and utilities shown on the site plan are installed, or a sufficient performance bond has been posted for improvements not yet completed. The sufficiency of such performance bond shall be determined by the Trustees after consultations with the Planning Board, Zoning Officer, Village attorney and other appropriate parties.
- G. Inspection of Improvements. The Zoning Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.
- H. Integration of Procedures. Whenever the particular circumstances of proposed change, improvement or development require compliance with either a Special Use Permit in this zoning law or other requirements of the Village, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this section with the procedural and submission requirements for such other compliance.

## **ARTICLE X. SUBDIVISION REGULATIONS**

## Section 1000. Introduction

- A. Title. These regulations shall be known and may be cited as “The Subdivision Regulations of the Village of Aurora, New York.”
- B. Policy. It is declared to be the policy of the Village Planning Board to consider land subdivision as part of a plan for the orderly, efficient and economic development of the Village while retaining its traditional character. All proposed subdivision of land lying within the village shall be submitted to the Planning Board for consideration, recommendation and approval. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health, or peril from fire, flood or other menace. Proposed streets, of such width, grade and location as to accommodate the free flow of prospective traffic, afford adequate light and air, and facilitate fire protection, shall compose a convenient system conforming to the official Zoning Map of the Village of Aurora, and shall be properly related to the proposals shown in the Master Plan of the Village, as it may be adopted. In appropriate situations, park areas, of suitable location, size and character for playground and other recreational purposes shall be shown on the subdivision plan. To these ends, these regulations are hereby adopted.

## Section 1001. General Procedures

- A. Application. Application for subdivision shall begin with the completed Application for Zoning Permit, available in the Village Clerk’s office.
- B. Rational Plan of Development. The Planning Board may require from the subdivider or developer a Rational Plan, to verify that the proposed subdivision is in keeping with the Master Plan of Development. The Rational Plan is important when a large lot is being subdivided, especially if only a portion of the original is being sold. The Rational Plan shall show current boundary lines with the names of owners of all adjacent properties, as well as proposed lot lines, approximate acreage per lot in the subdivision, proposed streets, open or park area according to the total acreage of the subdivision (see Section 1003.1.1 and 2.a), and the like. The Planning Board may make suggestions and/or requirements for the proposed Rational Plan in order to have it conform to the Master Plan of Development. Such suggestions and/or requirements shall be discussed and agreed upon at either the Sketch Plan Conference (see C below) or when the Preliminary Plan is first discussed with the applicant. The subdivider or developer is bound to the approved Rational Plan or a subsequently agreed-upon version of it as subdivision progresses.
- C. Sketch Plan Conference. The subdivider shall prepare a sketch plan for informal discussion with the Planning Board prior to submitting the Preliminary Plan for consideration. This plan and conference shall be for the purpose of establishing, in advance, the extent to which the proposed subdivision
- D. conforms to the dimensional requirements of this Local Law (Section 503) and with the design standards of these regulations (Section 1004).
- E. Preliminary Plan. Submission Requirements and Procedure.
1. Compliance with Requirements. Preliminary plan and supporting data shall comply with the provisions of Section 1003 of these regulations.
  2. Number and Disposition of copies. The subdivider shall submit five (5) copies of the preliminary plan, which shall be transmitted by the Chair to the following officials:

- a. Village Planning Board, two (2) copies;
  - b. Village Board of Trustees and Village Clerk, one (1) copy;
  - c. Zoning Officer, one (1) copy;
  - d. Fire Chief, whose opinion shall be submitted to the Planning Board within ten (10) days, one (1) copy.
3. Time for submission. Preliminary plans for dividing one lot into two, when no new streets are involved, and supporting data will be considered at the Board's next regularly scheduled meeting. However, for subdivision of one lot into more than two lots, the plans should be received at least fifteen (15) calendar days in advance of said meeting. The official date of submission shall be the date of the regularly scheduled meeting at which they are first considered.
  4. Action by the Planning Board. At the first consideration of a plan, the Board may schedule the public hearing, provided the supporting data comply with all of the requirements for final plans (Section 1004). Otherwise, within forty-five (45) days after the meeting at which the preliminary plan is considered, the Board shall notify the subdivider of the changes and modifications, if any, that must be incorporated into the final plan before the plan can be approved.
  5. Conditional Approval. Board approval of the preliminary plan, subject to conditions, revisions and modifications as stipulated by the Board, shall constitute Conditional Board Approval of the subdivision as to the character and density of the development and the general layout and approximate dimensions of streets, lots and other proposed features.
  6. Fees. A fee of two hundred dollars (\$200.00) to defray the cost of subdivision review shall be paid to the Village of Aurora upon submission of the preliminary plan. However, should the proposed plan divide one lot into and involve no new streets, the fee shall be seventy-five dollars (\$75). Any costs incurred in the review process, including outside professionals' fees, shall be paid by the applicant.

F. Final plans: Submission Requirements and Procedure

1. Compliance with Requirements. Final plans and supporting data shall comply with the provisions of Section 1003.B of these regulations. Failure to do so shall mean the Planning Board cannot act on the proposal.
2. Conformity to Preliminary Plan. The final plan shall conform in all important respects to the preliminary plan as previously reviewed by the Board and shall incorporate all modifications and revisions specified by the Board in its conditional approval of the preliminary plan. Otherwise, the plan shall be considered as a new preliminary plan.
3. Number and Disposition of copies. The subdivider shall submit five (5) copies of the final plan with supporting data, which the Planning Board Chair shall transmit to the following officials:
  - a. Village Planning Board, two (2) copies;
  - b. Village Board of Trustees and Village Clerk, one (1) copy;

- c. Zoning Officer, one (1) copy;
  - d. Fire Chief, one (1) copy.
4. Time for submission. A final plan with supporting data shall be submitted to the Board for final approval within one (1) year after Board action on the preliminary plan; an extension of up to six (6) months may be granted by the Board upon written request. Otherwise, the plan submitted shall be considered a new preliminary plan.
  5. Official Submission Date. The official submission date shall be the date of the next regularly scheduled Village Planning Board meeting following receipt of the plan, if received in the Village Clerk's Office at least ten (10) business days prior to said Planning Board meeting. The final plan shall be complete and with all supporting data required by the Board in its action on the preliminary plan.
  6. Public Hearing. The Planning Board must hold a public hearing within thirty (30) calendar days of the official submission date. Public notice of the hearing shall be advertised in a newspaper of general circulation in the Village, and at least ten (10) calendar days before the hearing, the property to be subdivided shall be posted with a clearly visible two foot by three-foot (2 ft x 3 ft) sign.
  7. Decision and Notification. Within thirty (30) calendar days after the public hearing, the Planning Board must approve or otherwise act on the plan and shall notify the subdivider in writing of its decision within ten (10) business days of the decision.
  8. Recordation after Approval. Within sixty-two (62) calendar days after final approval, the subdivider must file four (4) copies of the final plan with county offices. Three (3) shall be deposited in the Office of the County Clerk; they shall be clear and legible, two (2) on paper and one (1) on cloth or mylar, in accordance with the requirements of said office. One (1) copy shall be deposited with the County Taxation and Assessment Office. The Zoning Officer shall issue no permit until the subdivider presents proof that these final plan copies have been duly filed with the County Clerk and the County Taxation and Assessment Office. If the final plan is not recorded within such period, the Board's approval shall expire and become null and void.

**SECTION 1002-1002.B.1.c**

Section 1002. Required Improvements

A. Streets and Sidewalks

1. Minimum improvements and construction standards required of all subdivision streets shall be as set forth in this Section. Where not set forth, they shall be in accordance with the prevailing standards of the New York State Department of Transportation regulations. Alternate improvement standards may be permitted if the Village Board recommends them and the New York State Department of Transportation staff deems them equal or superior in performance characteristics to the specified improvements. Additional or higher type improvements may be required in specific cases where the Planning Board believes it necessary to create conditions essential to the health, safety, and general welfare of the citizens of the Village.

2. Streets (and alleys where provided) shall be graded, surfaced and improved to the grades, profiles and cross-sections approved by the New York State Department of Transportation or the Village Consulting Engineer.
3. Design standards and required improvements may be examined at the Village Clerk's Office.
4. Nothing in these regulations or in the approval of a subdivision by the Planning Board shall be construed to obligate the Village to bear the expense of the installation of off-site improvements unless approved by the Village Board of Trustees.
5. Every street shown on a subdivision plan that has obtained Planning Board approval and has been recorded (within sixty-two (62) days of such approval) in the Office of the County Clerk shall be deemed to be a private street until such time as it has been formally offered for dedication to the Village and formally accepted as a public street by resolution of the Village Board of Trustees. No public utility or improvement shall be constructed on any private street, unless by resolution.
6. Sidewalks shall be provided on both sides of all streets, shall be at least five (5) feet wide and be located within the Village right-of-way and have a five (5) foot minimum setback from the curb. Sidewalks shall be of concrete and be built to Village Department of Public Works standards.

#### B. Monuments and Markers

1. Monuments shall be set at the intersection of all lines forming angles in the boundary of the subdivision. Monuments may be of the following types:
  - a. cut stone five inches by five inches by three feet (5" x 5" x 3') long, with a drill hole in the center;
  - b. concrete five inches by five inches by three feet (5" x 5" x 3') long with a one-half inch (1/2") round brass pin in the center; or
  - c. non-corrosive metal rod one inch (1") in diameter, three feet (3') deep, with a brass cap and a one-half (1/2") deep round hole in the center.
2. Monuments shall be placed by the subdivider so that the score or marked point shall coincide exactly with the intersection of the lines to be marked and shall be set so that the top of the monument is level with the surface of surrounding ground.
3. Markers shall be set at the beginning and ending of all curves along street property lines, at all points where lot lines intersect curves, either front or rear; at all angles in property lines of lots, at all corner lots. Markers shall consist of a steel bar at least twenty-four inches (24") long and not less than three-quarters inch (3/4") in diameter. Markers shall be set so that the top is level with the surface of the surrounding ground.

C. Public water supply. The subdivider shall provide the subdivision with a complete and adequate water distribution system, including a curb stop for each lot and appropriately spaced fire hydrants.

#### D. Sanitary system

1. When the public sanitary sewer system is, in the opinion of the Board, as advised by the Village Consulting Engineer, reasonably accessible, the subdivider shall install sanitary sewers so as to



serve adequately all lots with connections to the public system. Storm water shall be excluded from sanitary sewers.

2. Where lots cannot be served by the extension of an existing public sanitary sewer, the subdivider shall obtain approval of lot sizes as provided in Section 503. In addition, individual septic tanks and disposal fields, and/or neighborhood disposal systems, shall require approval by the County Department of Health.
- E. Storm sewers. Storm sewers shall be installed when in the opinion of the Board, as advised by the Village Consulting Engineer, or Cayuga County Soil and Water Conservation District, or State or County Department of Transportation staff, they are deemed necessary to provide adequate drainage for the subdivision. New York State Department of Environmental Conservation standards shall prevail. See Section 1003.
- F. Utilities. All utilities including electricity must be underground except those not allowed by Underwriters Code and/or the utility company.
- G. Street Lighting. In providing for street lighting, the subdivider shall present a lighting map that indicates the locations and kinds of fixtures, with their specifications, to be approved by the Community Preservation Panel and the Planning Board. All electrical services shall be underground.

#### Section 1003. Plan Requirements

##### A. Preliminary plan

1. The preliminary plan shall be at a scale of not more than one hundred (100) feet to the inch and shall include:
  - a. Proposed subdivision name or identifying title.
  - b. North point, scale and date.
  - c. Name of the owner of the property, and name of the owner's agent if applicable.
  - d. Name and seal of the registered engineer, surveyor or architect responsible for the plan.
  - e. Tract boundaries with bearings and distances.
  - f. Contours at vertical intervals of five (5) feet or, in the case of relative level tracts, at such lesser interval as may be necessary for satisfactory study and planning of the tract.
  - g. Data to which contour elevations refer. Where reasonably practicable, data shall refer to known, established elevations.
  - h. All existing watercourses, tree masses and other significant natural features.
  - i. All existing streets on or adjacent to the tract, including name, right-of-way width and pavement width.

- j. All existing property lines, easements and rights-of-way, and the purpose for which the easements or rights-of-way have been established.
  - k. All existing buildings, dimensions and setbacks.
  - l. Location and width of all proposed streets, alleys, rights-of-way and easements; proposed lot lines with approximate dimensions; playgrounds, public buildings, public areas and parcels of land proposed to be dedicated or reserved for public use. Proposed streets shall be named by the Mayor and Village Board.
  - m. Location and width of all proposed sidewalks.
  - n. Wherever practicable, the preliminary plan shall show the names of owners of all abutting unplotted land and the names of all abutting subdivisions.
  - o. A landscape architect or the developer shall prepare a landscape plan which includes at least three trees of one and one-half to two and one-half inch (1 ½" - 2 ½") diameter and a height of six (6) feet per lot. In addition, at least one native deciduous hardwood street tree per fifty (50) feet of frontage shall be provided. Each tree shall be identified in a planting plan and diagram.
2. Accompanying Documents. The preliminary plan shall include thereon or be accompanied by:
- a. Sketch of street layout. Where the preliminary plan covers only a part of the subdivider's entire holdings, a sketch shall be submitted of the prospective street layout for the remainder of the parcel on the Rational Plan (see Section 1001.B).
  - b. Proposed deed restrictions. Copies of proposed deed restriction, if any, shall be attached to the preliminary plan.
  - c. Affidavit. The surveyor or engineer shall submit affidavit that the survey presented is a true and correct transit boundary and topographic survey conducted on the site by that surveyor or engineer.
  - d. Preliminary grading plan. The developer shall submit a preliminary grading plan of the site with the preliminary plan submission.
  - e. Public land. The Planning Board shall require the plan to show land for parks, playgrounds, and/or open space of at least one-half (½) acre per ten (10) lots. Where the land area shown on said plan for such public sites exceeds the amount required, such additional land shall be reserved for a period of one (1) year to permit said land to be acquired by the appropriate public body.

## B. Final Plan

- 1. The final plan shall be clear and legible on sheets no smaller than eight and a half by eleven (8.5x11) inches and no larger than thirty-four by forty-four (34x44) inches overall. If larger than twenty by forty (20x40) inches, it must be accompanied by a key diagram showing the location(s) of mapped sections. The final plan shall include the following:

- a. Subdivision name or identifying title.
  - b. A box or space next to the subdivision title for the Planning Board to affix its approval or denial.
  - c. North point, scale, date.
  - d. Name of the record owner and subdivider.
  - e. Name and seal of the registered professional engineer, architect or surveyor responsible for the plan.
  - f. Boundaries of the tract.
  - g. Street lines, lot lines, rights-of-way, easements, and areas dedicated or proposed to be dedicated to public use.
  - h. Sufficient data to readily determine the location, bearing and length of every street, lot, and boundary line and to reproduce such lines on the ground.
  - i. The length of all straight lines, radii, lengths of curves and tangent bearings for each street.
  - j. All dimensions and angles or bearings of the lines of each lot and each area proposed to be dedicated to public use.
  - k. The proposed building setback line for each street.
  - l. Location and width of private driveways emanating from corner lots.
  - m. All dimensions shall be shown in feet and in hundredths of a foot.
  - n. Lot numbers.
  - o. Names of streets within and adjacent to the subdivision. (Proposed streets shall be named by the Mayor and the Village Trustees, see Section 1003.A.1.1.)
  - p. Permanent reference monuments shall be shown and shall be specified by the Village Consulting Engineer.
  - q. Names of any adjoining subdivisions shall be shown.
  - r. Names of the owners of any unplotted adjacent land shall be shown.
  - s. Description of streets and other public property to be dedicated to the Village.
2. Accompanying documents. The final plan shall include thereon or be accompanied by:
    - a. An affidavit that the subdivider of the land proposed to be subdivided is the owner or his agent.

- b. Certification by the Village Consulting Engineer that the installation of water, sewer and street facilities is both practical and feasible.
- c. Certification by the State Department of Health and/or County Department of Health when individual sewage disposal or water systems are to be installed as required by Section 1002.C.D.
- d. Certification by the Village Consulting Engineer that the subdivider has met the requirements of Section 1004.C.
- e. Protective covenants, if any, in form for recording.
- f. The subdivider shall tender offers of dedication in a form certified as satisfactory by the Village's attorney of all land included in streets, parks and water systems not specifically reserved. Approval of the plan by the Planning Board shall not constitute an acceptance by the Village of the dedication of any street, park or other open public areas. (See h, below.)
- g. Bonds. The Developer shall post bond to cover the cost of public improvements.
- h. Liability Insurance. The developer shall present a Certificate of Liability Insurance to protect the municipality with coverage of at least two million dollars (\$2,000,000.00). The insurance shall be of such duration until the project is completed and the public improvements are accepted by the municipality. A copy of the insurance policy shall remain at all times at the Village Clerk's Office.
- i. Title Insurance. The developer must provide evidence of title insurance in the amount of not less than the cost of lands to be dedicated as shown and approved on the final plan.

#### Section 1004. Design Standards

The design standards listed below shall be incorporated in all proposed plans.

- A. Land requirements. Land shall be suited to the purposes for which it is to be subdivided. Areas characterized by steep (10% and over) slopes, rock formations, gullies, all wetlands, and other features, shall not be subdivided into residential lots. In general, the Planning Board shall take the following factors into consideration prior to the approval of any subdivision plan:
  - 1. Safeguards against flooding. Subdivisions laid out on land subject to periodic flooding shall not be approved unless adequate safeguards against such hazards are provided by the plan. The following criteria shall be followed in making this decision:
    - a. All such proposed developments are consistent with the need to minimize flood damage.
    - b. Adequate drainage is provided so as to reduce exposure to flood hazards.

- c. Adequate drainage is provided so as not to increase the exposure of adjacent lands to flood hazards.
- d. All public utilities and facilities are located, elevated and constructed so as to minimize or eliminate flood damage, these utilities and facilities to include sewer, gas, electrical and water systems. All utilities are to be placed underground except those not allowed by Underwriter Code and/or the utility company.
- e. Drainage. A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part.
  - 1. Drainage plan. The subdivider shall also show by the use of arrows how the subdivider proposes to surface drain each lot. The subdivider shall submit topographic maps showing the areas to be drained with calculations prepared by a registered professional engineer in determining the proposed storm water collection system.
  - 2. Drainage Requirements (Grading). No final grading or sidewalk or pavement construction or installation of utilities shall be permitted in any proposed road until the final plan has been approved or conditionally approved. The subdivider shall grade each subdivision in the following order to establish road, block, and lot grades in their proper relation to each other and to the topography.
- 2. Road Grading Plan. A grading plan shall be prepared for the roads along with road improvement details. The grading of the roadway shall extend the full width of the right-of-way. Planting strips shall be graded at a gradient of not less than two percent (2%) or more than three percent (3%) upward from the curb to the sidewalk where sidewalks are required. For sidewalk requirements, see Section 1002.A.6.
- 3. Block grading shall be as follows:
  - a. A ridge along rear lot lines shall drain into the roads;
  - b. Parts of all lots shall drain to the front or rear lot lines.
- 4. Lot grading. Lots shall be graded so that water drains away from each building at a minimum grade of two percent (2%). Surface drainage swales shall have a minimum grade of one-half percent (0.5%) and shall be designed so that surface water will drain into a road gutter, storm sewer, drain inlet or natural drainage way. The minimum grades of driveways shall be four-tenths percent (0.4 %) and a maximum of eight percent (8%).
  - a. Top soil. If grading results in the stripping of top soil, the top soil shall not be removed from the site or used as spoil and shall be uniformly spread over lots as grading is finished. Top soil shall be of sufficient depth to support vegetation.
  - b. Trees. As many trees of a given size as can be utilized in the final development plan shall be retained.

5. Drainage System Requirements. The design criteria for the drainage systems as approved by the Planning Board shall be based on the New York State Department of Transportation standards. The following minimum design frequencies are to be used unless otherwise specified:

Roadway Ditches	5 years
Storm Sewers	5 years
Culvert under Roadways	25 years
Water Courses	10 years

- a. Off-Road Drainage System. The design of the off-road drainage system shall include the watershed affecting the allotment and shall be extended to a water course or ditch adequate to receive the storm drainage.
  1. Existing creeks or ditches constructed by the subdivider that exceed the above limit shall be constructed so that the roadway provides access for maintenance equipment to all sections of the ditch. The ditch easement shall be wide enough to contain said ditch slopes and roadway with ample clearance for the operation of maintenance equipment. Open ditches will have a side slope ratio of 2:1 and a minimum two (2) foot bottom width.
  2. No open ditch shall be constructed within one hundred (100) feet of the rear of a dwelling, as measured from the dwelling to the edge of the ditch easement.
  3. Any storm drainage courses carried alongside lot lines shall be enclosed with approved pipe.
- b. Drainage Easement. Easements for drainage purposes shall be a minimum of twelve (12) feet in width. Where the watercourse is large, easement widths shall be increased as determined by the Village Consulting Engineer. Easements shall be shown on the plan and deeds and shall cover all existing or reconstructed watercourses. The subdivider shall pay any cost incurred.
- c. Protection of Drainage Systems. The subdivider shall adequately protect all ditches (roadways and water courses) to the satisfaction of the Planning Board or its agent as follows:
  1. Enclosing the water course with pipe;
  2. Sodding or paving with brick, concrete, half tile or broken concrete slabs or stone;
  3. All adjoining land where the vegetation has been injured or destroyed, or where the land is in need of protection to prevent erosion deposits in the drainage facilities, and/or unsightly conditions shall be restored and protected as directed by the Planning Board or its agent;
  4. In all cases, any drainage facility within the subdivision shall be in a stable condition, free from either erosion or sedimentation and/or other debris;
  5. All drainage drawings should be reviewed by the Soil & Water Conservation District or by the Village Consulting Engineer at the discretion of the Planning Board.

B. Street System

## 1. Physical Specifications

- a. Widths of Rights-of-Way. When not indicated on the Master Plan or Official Map, the classification of public streets shall be determined by the Village Planning Board. At a minimum, streets shall have the following widths:

Major Streets: sixty (60) foot minimum right-of-way; twenty-four (24) foot minimum driving surface

All other streets: sixty (60) foot minimum right-of-way; twenty-four (24) foot minimum driving surface.

- b. Sidewalks. See Section 1002.A.6.
- c. Construction Standards and Acceptance of Roadway: All roadways shall be properly graded and have a minimum of 8-12 inches of Bank Run Gravel, overlaid with 4-6 inches of Item #4 or equivalent, overlaid with a 2-2 1/2-inch Binder or properly Oiled and Stoned. This multi-media roadbed shall be maintained by the developer for a full year of weather to assure the construction is sound and does not experience problems associated with undercutting of the road, drainage washout, or frost heave. Upon agreement with the Village Board, and after correction of any problems that develop, the developer will apply a final 1-1 1/2-inch Topping to the roadway. At completion of the topping, the Village may accept ownership to the roadway.
- d. Grades: Grades of all streets shall conform in general to the terrain, and not be less than one-half percent (0.5%) for all streets, nor more than six percent (6%) for major, collector or local
- e. streets, nor ten percent (10%) for local streets in residential zones, but in no case more than three percent (3%) within fifty (50) feet of any intersection.

## 2. Layout

- a. Location of major streets. The location of all major streets in the proposed subdivision shall conform in general alignment to the traffic plan, adopted by the Village Planning Board.
- b. Protection of existing streets. The proposed street layout shall provide for the continuation or projection of existing streets in the surrounding area unless the Board deems such extension undesirable for specific reasons of topography or design.
- c. Relation to topography. Streets shall be logically related to the topography to produce usable lots and reasonable grades.
- d. Local streets. Local streets shall be laid out to discourage through traffic, but provision for street connections into them from adjacent areas will generally be required.
- e. Access to property required. Proposed streets shall be extended to provide access to adjoining property where appropriate.
- f. Provision for street rights-of-way. Adequate street rights-of-way shall be provided as necessary where lots in the proposal are large enough to permit further subdivision, or if a portion of the tract is not subdivided. See Rational Plan of Development, Section 1001.B.

- g. Provision for access streets, service alleys, reverse frontage lots, etc. Where a subdivision abuts or contains an existing or proposed major traffic street, the Board may require marginal access streets, rear service alleys, reverse frontage lots or such other treatment, in order to provide protection for abutting properties, reduction in the number of intersections with the major street, and separation of local and through traffic.
- h. New half-width or partial-width streets.
  - 1. New half-width or partial-width streets will not be permitted, except where essential to reasonable subdivision or a tract in conformance with the other requirements and standards contained herein and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.
  - 2. Wherever a tract to be subdivided borders an existing half- or partial-width street, the other part of the street shall be plotted within such tract.
- i. Cul-de-sacs and dead-end streets.
  - 1. Cul-de-sacs, permanently designed as such, shall not exceed five hundred (500) feet in length, and shall furnish access to not more than twelve (12) dwellings.
  - 2. Cul-de-sacs shall be provided at the closed end with a paved turnaround having a minimum radius to the outer pavement edge or curb line of forty (40) feet.
  - 3. Unless future extension is clearly impractical or undesirable, a turnaround right-of-way of the same width as the street shall be carried to the property line in such a way as to permit future extension of the street into the adjoining tract.
  - 4. Dead-end streets shall be allowed only as stubs to permit future street extension into adjoining tracts, and should not be longer than five hundred (500) feet.
- j. Reserve strips. New reserve strips, including those controlling access to streets, shall be avoided.
- k. Street intersections.
  - 1. Angle of intersection. Streets shall be laid out to intersect as nearly as possible at right angles.
  - 2. Multiple intersections. Multiple intersections involving junction of more than two streets shall be prohibited.
  - 3. Size of clear sight triangles. Clear sight triangles of twenty-five (25) feet measured along street lot lines from their point of junction shall be provided at all intersections, and no building shall be permitted within such sight triangles.
  - 4. Distance between intersections. To the fullest extent possible, intersections with major traffic streets or Route 90 shall be located no less than six hundred (600) feet apart, measured from center line to center line.



5. Streets entering opposite sides of another street. Streets entering opposite sides of another street shall be laid out directly opposite one another.
6. Curb radii. Curbs shall be required on all streets. Minimum curb radii at street intersections shall be twenty-five (25) feet or such greater radius as is suited to the specific intersection.
7. Inadequate right-of-way width. Where a subdivision abuts or contains an existing street or inadequate right-of-way width, additional right-of-way width will be required.
8. Leveling area required. Where the grade of any street at the approach to an intersection exceeds eight percent (8%), a leveling area shall be provided having not greater than four percent (4%) grades for a distance of twenty-five (25) feet measured from the nearest right-of-way line of the intersecting street.

#### C. Lots and lot sizes

1. Compliance with zoning ordinance. Lot sizes and dimensions shall not be less than those specified in Section 503.
2. Tests of adequacy of lots. Where either or both water supply and sanitary sewage disposal are provided by individual on-lot facilities, and evidence indicates that the requirements of the Zoning Ordinance are not adequate, the Board may require tests, in accordance with the rules and regulations of the State Department of Health, undertaken at the expense of the developer, to determine the adequacy of the proposed lot size and existing grade and soil conditions. In all such cases where the tests indicate a larger lot size to be necessary, the Board may employ the services
3. of a registered and qualified independent sanitary engineer to design a system to prevent unsanitary conditions and hazards to the public health. In such cases, the cost of retaining the services of a qualified engineer shall be borne by the developer.
4. Review to prevent health hazards in commercial subdivisions. Where commercial subdivisions are proposed to be served by either or both on-lot sanitary sewage disposal and water supply facilities, the lot area and dimensions required to prevent health hazards shall be subject to individual review and determination by the Planning Board, New York State Department of Health and/or County Department of Health.
5. Frontage. All lots shall front upon a public street.
6. Angle or side lot lines to street lines. Side lot lines shall be substantially at right angles or radial to street lines.
7. Remnants of land, disposition. If remnants of land exist after subdividing, they shall be incorporated in existing or proposed lots, or dedicated to public use if acceptable to the Village.
8. Through lots. Through lots shall provide vehicular access to secondary streets.

9. Parcels for non-residential use: depth, width. Depth and width of parcels laid out or reserved for non-residential use shall be sufficient to provide satisfactory space for off-street parking and unloading as required in Section 407.B-G.

#### D. Easements

1. Dimensions. Easements with a minimum width of twenty (20) feet plus the width of any required pipe or other improvement shall be provided as necessary for utilities.
2. Location. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.
3. Effect of water course in subdivision. Where a subdivision is traversed by a water course, there shall be provided a drainage easement or right-of-way conforming substantially with the line of such water course and be of such width as will be adequate to preserve natural drainage.

#### E. Blocks

1. Dimensions generally. The length, width and shape of blocks shall be determined with due regard to the following:
  - a. Provision of adequate sites for buildings of the type proposed;
  - b. Zoning requirements;
  - c. Topography;
  - d. Requirements for safe and convenient vehicular and pedestrian circulation.
2. Length. Blocks shall have a minimum length of five hundred fifty (550) feet and a maximum length of nine hundred (900) feet. In the design of blocks longer than eight hundred (800) feet, special consideration shall be given to the requirements of satisfactory fire protection.
3. Depth of residential blocks. Residential blocks shall be of sufficient depth to accommodate two (2) tiers or lots, except where reverse frontage lots are used.
4. Pedestrian interior walks: purpose, dimension. Pedestrian interior walks may be required to assist circulation or provide access to community facilities. Such walks shall have a width of not more than ten (10) feet and a paved walk of not less than five (5) feet. See Section 1002.A.6.

#### F. Storm drainage

1. Storm Water Management. "Reducing the Impacts of Stormwater Run-off from New Development," NYSDEC, Bureau of Water Quality Management, April 1992, as amended, shall prevail.
2. Erosion and Sediment Control. "Erosion and Sediment Control Guidelines," NYSDEC, April 1991, as amended, shall prevail.

#### Section 1005. Modifications

- A. Large scale developments. The standards and requirements of these regulations may be modified by the Planning Board in the case of plans for complete communities or neighborhood units or other large scale developments that, in the judgment of the Board, achieve substantially the objectives of the regulations contained herein and that are further protected by such covenants or other legal provisions as will assure conformity to and achievement of the plan.
- B. Reconsideration. Any subdivider aggrieved by a finding, decision or recommendation of the Planning Board may request and receive opportunity to appear before the Board, present additional relevant information, and request reconsideration of the original finding, decision or recommendation.
- C. Application procedure.
  - 1. Applications for modification shall be submitted in writing by the subdivider at the time the final plan is filed with the Board. The application shall state fully the grounds and all the facts relied upon by the applicant.
  - 2. Applications for reconsideration shall be submitted in writing by the subdivider not less than ten (10) calendar days in advance of the meeting at which reconsideration is desired.
- D. Recording a modification. In granting a modification , the Board shall record its actions and the grounds for granting the modification in its minutes. A statement showing the date that such modification was granted shall be affixed to the final plan.

**ARTICLE XI. ADMINISTRATION**

Section 1100. Zoning Officer

A. Duties and Powers

The provisions of this Local Law shall be administered and enforced by the Zoning Officer who shall be appointed by the Mayor, with the approval of the Board of Trustees. The Zoning Officer shall:

- 1. Receive and examine all applications for permits required by this law, and refer applications first to the Planning Board or Community Preservation Panel for review and recommendation when appropriate. Following refusal of a permit, receive applications for variances and for appeals from alleged error of the Zoning Officer and forward these applications to the Zoning Board of Appeals for action thereon.
- 2. Issue permits only when there is compliance with the provisions of this Local Law and with other Local Laws, provided, however, the issuance of a permit shall not be deemed a waiver of the requirements of any other ordinance or law.
- 3. Direct applications as appropriate to the Planning Board, Community Preservation Panel, and Zoning Board of Appeals for their action. Notify appropriate parties of the decision(s) of the various boards and maintain a record of all such decisions. The normal order of procedure, when approvals by more than one board are required, shall be approval by either the Community Preservation Panel or the Planning Board, then the Zoning Board of Appeals if a variance is required, then back to the Planning Board for final approval.

4. Conduct periodic inspections and surveys to determine the compliance or non-compliance with terms of this Local Law.
5. Issue Stop, Cease, and Desist orders, and order, in writing, correction of all conditions found to be in violation of the provisions of this Local Law. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Zoning Officer to be violating the terms of this Local Law. It shall be unlawful for any person to violate such order lawfully issued by the Zoning Officer, and any person violating any such order shall be guilty of a violation of this Local Law.
6. Investigate all complaints and take immediate action as necessary to enforce the provisions of this Local Law.
7. Institute, in the name of the Village, with the approval of the Village Trustees, or when directed by them, any appropriate action or proceedings to prevent the unlawful construction, erection, reconstruction, alteration, conversion, maintenance, or use; or to restrain, correct, or abate such
8. violation, so as to prevent the occupancy of, or use of, any building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises, in violation of this Local Law.
9. Revoke by order, a permit issued under a mistake of fact or contrary to the law or the provisions of this Local Law.
10. Maintain a map showing the current zoning classification of all land.
11. Present to the Village Board, the Planning Board, the Community Preservation Panel, or the Zoning Board of Appeals, such facts, records, or reports that they may request to assist them in the making of decisions.

#### Section 1101. Planning Board

The Planning Board of the Village of Aurora shall receive and consider applications for Special Use Permits, Site Plan approvals, and subdivision plans as provided in Articles IX and X of this Local Law. It shall devise and maintain a Master Plan for the development of the Village, as per Consolidated Laws of New York-Village Law, §7-722, and make recommendations pertaining to this Local Law to the Village Board of Trustees. Generally, the Planning Board shall be the agency that conducts environmental reviews related to land use matters.

#### Section 1102. Community Preservation Panel

The Community Preservation Panel of the Village of Aurora is charged with preserving the character of the Village as provided in Article VII of this Local Law.

#### Section 1103. Zoning Board of Appeals

##### A. Powers and Duties

The Zoning Board of Appeals shall interpret and apply the provisions of this Local Law on all matters assigned to it herein, hear appeals from adverse decisions, and grant variances.

#### B. Procedures

The Board shall be governed by procedures established in the Consolidated Laws of New York - Village Law §7-712 as follows:

1. Meetings, minutes, records. Meetings of the Board of Appeals shall be open to the public to the extent provided in Article Seven (7) of the Public Officers Law. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
2. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Village Clerk within five (5) business days and shall be a public record.
3. Assistance to the Board of Appeals. The Board shall have the authority to call upon any department, agency or employee of the Village for such assistance as shall be deemed necessary and as shall be authorized by the Village Board of Trustees. Such department, agency or employee may be reimbursed for any expenses incurred as a result for such assistance.
4. Notice to park commission or planning agency. At least five (5) days before such hearing, the Board of Appeals shall mail notices thereof to the parties, to the regional state park commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal, and to the county, metropolitan or regional planning agency as required by Section Two Hundred Thirty-nine m (239m) of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of section Two Hundred Thirty-nine m (239m) of the General Municipal Law.
5. Compliance with New York State Environmental Quality Review Act. The Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article Eight (8) of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Section Six Hundred Seventeen (617) of the New York Codes, Rules and Regulations.

#### C. Fees

Appeals and applications made under this law before the Zoning Board of Appeals shall be accompanied by a payment to the Village in accordance with a Fee Schedule adopted by resolution of the Trustees upon enactment of this Local Law, or as such schedule may be amended by resolution of the Trustees. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party.

#### D. Appeals

1. Hearing appeals. The jurisdiction of the Board of Appeals shall be appellate only, and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Zoning Officer or other administrative official charged with the enforcement of this or any local law. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any such order, requirement,

decision, interpretation or determination of any such administrative official, or to grant a use variance or area variance.

2. Who May Appeal. Appeals to the Zoning Board of Appeals may be taken by any person or official aggrieved or affected by any decision including any order to stop, cease, and desist issued by the Zoning Officer in enforcing the provisions of this Local Law.
3. Time of Appeal. Such appeal shall be taken within sixty-two (62) days after the filing of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of such local law by filing with the administrative official and with the Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the actions appealed from was taken.
4. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such local law, from whom the appeal is taken, certifies to the Board of Appeals, after the Notice of Appeal shall have been filed with the administrative official, that by reason of facts stated in the Notice of Appeal, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order that may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
5. Hearing an appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Village at least five (5) days prior to the date thereof. Upon the hearing, any party may appear in person, or by agent or attorney.
6. Time of decision. The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual written consent of the applicant and the Board.
7. Filing of decision and notice. The decision of the Board of Appeals on the appeal shall be filed in the office of the Village Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
8. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.
9. Appeal to Supreme Court for Review. Appeals from decisions of this Board may be made to the State Supreme Court under Article 78 of the New York State Civil Practice Laws and Rules.

#### E. Requirements for Notice of Appeal

1. Any appeal made to the Zoning Board of Appeals shall be in writing on standard forms prescribed by the Board.
2. All appeals shall cite to the specific provisions of this Local Law at issue.
3. All appeals shall set forth the names and addresses of all adjoining owners, including those across roads from the subject property.
4. Appeals from alleged error of the Zoning Officer shall specify the alleged error, the Section(s) of this Local Law to which it pertains, and the interpretation thereof that is claimed.
5. Appeals for variance from the strict application of this Local Law shall include the permit application denied by the Zoning Officer together with a statement of claim, and any supporting documents relative to the requirements listed in Section 804.

#### F. Variances

The Board may grant, in specific cases, upon appeal, such variances from the terms of this Local Law as will not be contrary to public interest and the spirit of this Local Law. In each case the applicant shall have the burden of proof in establishing the right to a variance. In reaching its decisions the Zoning Board of Appeals shall be guided by the following standards:

1. Area Variances. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Officer charged with the enforcement of this Local Law, to grant Area Variances from the area or dimensional requirements of this Local Law (see Article V).
  - a. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
    1. whether an undesirable change will be produced in the character of the neighborhood or whether a detriment to nearby properties will be created by the granting of the area variance;
    2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    3. whether the requested area variance is substantial;
    4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zone; and
    5. whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

- b. Extent of variance permitted. The Zoning Board of Appeals, in the granting of Area Variances, shall grant the MINIMUM variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community (see New York State Village Law 7-712).
- 2. Use Variances. On appeal from the decision or determination of the Zoning Officer, the Zoning Board of shall have the power to grant use variances, authorizing the use of land for a purpose is prohibited by the terms of this Local Law.
  - a. The Board of Appeals shall grant no Use Variance without the applicant showing that applicable zoning regulations and restrictions have caused unnecessary hardship.
  - b. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular zone where the property is located:
    - 1. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
    - 2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the zone or neighborhood;
    - 3. the requested use variance, if granted, will not alter the essential character of the neighborhood; and
    - 4. the alleged hardship has not been self-created.
  - c. Extent of variance granted. The Board of Appeals, in the granting of Use Variances, shall grant the MINIMUM variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- 3. Imposition of Conditions. The Zoning Board of Appeals shall, in the granting of both Use and Area Variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Local Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**ARTICLE XII. AMENDMENTS, REMEDIES, PENALTIES, SEVERABILITY CLAUSE, REPEALER, AND EFFECTIVE DATE**

Section 1200. Amendments

The Village Board of Trustees may from time to time on its own motion, or on recommendation of the Planning Board, Zoning Board of Appeals, or Community Preservation Panel, amend, supplement, or repeal the regulations and provisions of this Local Law after public notice and hearing. All such proposed amendments or changes shall be referred to the Planning Board by the Trustees for a report thereon before the public hearing.



### Section 1201. Enforcement and Remedies

Enforcement of the provisions of this law shall be in accordance with the Consolidated Laws of New York-Village Law §7-714 as:

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used or any land is divided into lots, blocks or sites in violation of this act, or of any Local Law or other regulation made under authority conferred thereby, the proper local authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. All issues in any action or proceeding for any of the purposes herein stated shall have preference over all other civil actions and proceedings.

### Section 1202. Fines and Penalties

- A. For any and every violation of this Local Law, the owner, general agent, contractor, lessee, or tenant of any building or part of a building or premises where such violations have been committed or shall exist; and the general agent, architect, builder, contractor, or any other person who knowingly commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be liable on conviction thereof to a fine or penalty not exceeding one hundred dollars (\$100) or by imprisonment for a period not exceeding fifteen (15) days or by both such fine or imprisonment. Each one (1) week continued violation shall constitute a separate additional violation.
- B. Failure to comply with any of the provisions of this Article shall, after due notice, be deemed a violation, and the violator shall be liable to a fine of not more than two hundred fifty dollars (\$250) or imprisonment of not more than fifteen (15) days, or both, and each day such violation continues shall constitute a separate violation.
- C. Whenever a violation of this Local Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer who shall properly record such complaint and immediately investigate and report thereon to the Trustees.

### Section 1203. Severability

It is hereby declared to be the legislative intent that:

- A. Should the courts declare any provision of this Local Law to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions that are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Local Law shall continue to be separately and fully effective.
- B. Should the courts find the application of any provision or provisions of this Local Law to any lot, building or other structure, or tract of land, to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the

controversy, and the application of any such provision to other persons, property, or situations shall not be affected.

- C. Should any of these regulations changed herein conflict or be inconsistent with any provision of new Local Laws, the provision of the new Local Laws shall apply.

Section 1204. Repealer

Local Law #1-2018 To Regulate Land Use and Provide for Historic Preservation is hereby repealed.

Section 1205. Effective Date

This law shall become effective immediately upon filing with the Secretary of State.

**APPENDIX #1: ZONING MAP**

**APPENDIX #2: RECORD OF NON-CONFORMING USES**

Non-conforming uses:

Zabriskie's horses  
Shakelton's Funeral Home  
Shoe Factory (light industry until 3/93)  
Shakelton's Hardware  
Mack's Branch Store  
Gift Shop at Paine's Creek  
Fargo  
Jane Morgan's Little House  
Antique Shop  
French House  
Whitney Animal Labs  
All the houses at Paine's Creek  
Churches  
Library  
Masonic Lodge

**APPENDIX #3: VILLAGE LANDMARKS**

Section 1. Local Law No.4 of the Year 2017: To Amend Local Law #2 of 1998 designates the following properties as Village Landmarks in the Village of Aurora. This list can and will be periodically updated, with the date of new inclusions being indicated.

**1998**

*Building Name*

Aurora Free Library - 370 Main St, Tax Map #182.13-1-21

Aurora Inn - 391 Main St, Tax Map #181.16-1-11

Aurora Office Building (The Fargo) - 384 Main St, Tax Map #181.16-1-10

Cayuga Lake National Bank - 397 Main St, Tax Map #181.16-1-6  
Christopher Morgan House - 311 Main St, Tax Map #181.16-1-28  
The Presbyterian Manse (Parsonage) – 359 Main St, Tax Map #181.16-1-20  
Masonic Temple – 325 Main St, Tax Map #181.16-1-30  
Oak Glen Cemetery – Cherry Ave, Tax Map #182.13-1-25.11  
Patrick Tavern – 302 Main St, 182.17-1-30  
St. Patrick's Roman Catholic Church – 303 Main St, Tax Map #182.17-1-1  
Taylor House - 396 Main St, Tax Map #181.16-1-7  
United Ministry (Presbyterian) Church – 337 Main St 181.16-1-24  
E.B. Morgan House (Wells College Guest House) – 431 Main St, Tax Map #181.12-1-10

Section 2. The following properties located on the campus of Wells College 170 Main Street are designated landmarks:

- Glen Park
- Louis Jefferson Long Library
- Macmillan Hall
- Main Building
- Pettibone House

Section 3. 2017 updates

## **2017**

### **Special Sites**

Avery-Arms House - 358 Main St, Tax Map #182.13-1-23.1  
Barn at Phelps-Swan House - 21 Cherry Ave, Tax Map #182.13-1-5.1  
Benjamin Ledyard House – 334 Main St, Tax Map #182.13-1-27.11  
Chonodote Site - northeast of 456 Main St; original site of Peachtown  
Chimney Corner - 348 Main St, Tax Map #182.13-1-24.113  
Cooper-Cromwell House - 237 Main St, Tax Map #182.17-1-12  
Franklin-Richmond Tavern – 488 Main St, Tax Map #181.12-1-29  
Marriott-Gifford House – 78 Court St Tax Map #182.09-1-16  
Site of Roswell Franklin’s cabin (next to green barn at 461 Main St, Tax Map #181.12-1-6)  
Stack House, “Paul Jones” – 326 Main St, Tax Map #182.13-1-31

### **200+ Years Old**

Leddra Wood House – 425 Main St, Tax Map #181.12-1-11.2  
Seth Phelps House-378 Main St (181.16-1-9.12)

Jedediah Morgan House – 280 Main St, Tax Map #182.17-1-22

Peter Fort House – 268 Main St, Tax Map #182.17-1-19 (Historian update to include fence, 11/19/2019)

Richmond House – 19 Wells Road, Tax Map #182.17-1-50

### **Selected Trees**

Oak on Franklin Hill (curve on north end of Aurora)

Council Tree (Chonodote Site)

Harris-Thompson Ginkoes (418 Main St, 425 Main St, 453 Main St)

Sycamore at 358 Main St

Black Walnut at 311 Main St

### **Section 4. Effective Date**

This local law shall take effect immediately upon filing with the Secretary of State.