

**ARTICLE VII
ADMINISTRATION**

Section 701 Enforcement This ordinance shall be enforced by the Zoning Enforcement Officer, who shall be appointed by the Town Supervisor with the approval of the Town Board. In case of a vacancy of the office of Zoning Enforcement Officer, the Town Supervisor shall be acting Zoning Enforcement Officer. No building permit or certificate of occupancy shall be issued except where all the provisions of this ordinance have been complied with.

Section 702 Permits

702.1 Building Permit No structure, building or dwelling unit shall be constructed, structurally altered, enlarged or moved where such construction, alteration, or enlargement is in excess of \$100.00 and is not of general maintenance unless a building permit for such action has been issued by the Building Inspector.

702.2 Use Permit A use permit shall be required for any of the following:

- A.** Establishment of a professional office or other home occupation in a dwelling as permitted by this ordinance
- B.** Change in the nonconforming use of building or land
- C.** Occupancy of any vacant land or any purpose except the raising of crops
- D.** Excavation, removal and filling of land
- E.** Signs

702.3 Certificate of Occupancy No structure shall be occupied for which a building permit or special permit is needed until a certificate of occupancy permit has been issued by the Building Inspector. The Building Inspector shall not issue a certificate of occupancy unless the premises comply with the building permit or special permit, subdivision, and all other requirements of this ordinance and all other local, county and state regulations.

Section 703 Matter Accompanying Application for Permits Each application to the Building Inspector for a permit to erect a new building or structure or to enlarge an existing one or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all buildings, setbacks, and parking spaces, existing and proposed, the intended use or uses of the land and buildings, and plans for provision of essential services. In the case of non-residential uses or multi-family uses, the documentation shall be the same as required for site plan review. For new construction without public sewers, no building permit shall be issued unless the method of sewage disposal is approved by the Town of Peru or Clinton County Board of Health, whichever is applicable.

Any other application for a building permit, and any application for a use permit shall be accompanied by a description for the intended use or uses of the land and buildings and such further details as the Building Inspector may require for a clear understanding of the case.

Section 704 Fee The Fee for building permits shall be that amount as deemed appropriate by the Town Board of the Town.

Section 705 Zoning Board of Appeals

705.1 Creation, Appointment and Organization A Board of Appeals is hereby created in accordance with Section 267 of the Town Law, Chapter 62, Article 16. Said Board shall consist of seven members. The Town Board shall appoint a chairman and the Board of Appeals shall appoint a secretary and shall prescribe rules for the conduct of its affairs.

705.2 Powers and Duties The Board of Appeals shall have all the power and duties prescribed by law and by this ordinance, which are more particularly specified as follows:

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

B. Special Permits To issue special permits for any of the uses for which this ordinance requires the obtaining of such permits from the Board of Appeals.*

C. Variances

1. Orders, Requirements, Decisions, Interpretations, Determinations. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

2. Use Variances

a. The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

b. No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such hardship the applicant shall demonstrate to the Board of Appeals that:

(1) Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established 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 district or neighborhood

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) that the alleged hardship has not been self-created.

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

*Amended 8/23/99

3. Area Variances

a. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

b. 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 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 district; 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.

c. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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

5. Expansion on enlargement of use variances or special permitted uses Any structure or use of land which has received prior approval for a use variance or special permitted use shall not be enlarged or extended except by obtaining a permit [pursuant to the procedure set forth in this Section 705.2 and/or 3].

705.3 Procedure

A. Meetings, Minutes, Records Meetings of the Board of Appeals shall be open to the public to the extent provided in article seven 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.

B. 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 Town Clerk within five business days and shall be of public record.

C. Assistance to Board of Appeals The Board shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.

D. Hearing Appeals Unless otherwise provided by local law or ordinance, 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 administrative official charged with the enforcement of any ordinance or local law adopted pursuant to this article. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by any officer, department, board or bureau of the Town.

E. Time of Appeal Such appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of such ordinance or local law by filing with such 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 action appealed from was taken.

F. 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 ordinance or 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 certificate 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 which 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.

G. Hearing of 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 Town at least five days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

H. Time of Decision The Board of Appeals shall decide upon the appeal within sixty-two days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

I. Filing of Decision and Notice The decision of the Board of Appeals on the appeals shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

J. Notice to Park Commission or Planning Agency At least five 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 feet of the property affected by such appeal; and to the county, metropolitan or regional planning agency, as required by section 239(m) of the general municipal law.

K. Compliance with the state environmental quality review act The Board of Appeals shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.

Section 706 Violations A violation of this ordinance is an offense punishable by a minimum fine of \$50.00 and a maximum fine of \$350.00, or by imprisonment for a period not exceeding six (6) months, or by both fine and imprisonment. Each week's continued violation shall constitute a separate additional violation. Whenever a violation of this ordinance occurs, any person may file a complaint in regard hereto. All such complaints must be in writing and shall be filed with the Zoning Enforcement Officer, who shall properly record such complaint and immediately investigate and report thereon to the Town Board.