

ZONING LAW TOWN OF PERU, NEW YORK

| | | |
|--------------------|---|-----------|
| ARTICLE I | PURPOSE AND TITLE..... | 5 |
| Section 101 | Purpose | 5 |
| Section 102 | Title | 5 |
| Section 103 | Enacting Legislation and Effective Date..... | 5 |
| Section 104 | Severability | 5 |
| ARTICLE II | ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS..... | 6 |
| Section 201 | Zoning Districts..... | 6 |
| Section 202 | Zoning Map | 6 |
| Section 203 | District Boundaries | 7 |
| Section 204 | "APA" Adirondack Park | 8 |
| Section 205 | "APA LK" Adirondack Park Lake | 8 |
| Section 206 | "COM" Commercial | 9 |
| Section 207 | "H" Hamlet..... | 10 |
| Section 208 | "IC" Industrial Commercial | 11 |
| Section 209 | "LK Com" Lake Commercial | 12 |
| Section 210 | "NC" Neighborhood Commercial | 13 |
| Section 211 | "RES" Residential | 15 |
| Section 212 | "RR" Rural Residential..... | 15 |
| Section 213 | "R" Rural | 17 |
| Section 214 | RESERVED | 19 |
| Section 215 | "HO" Historic Overlay District..... | 19 |
| Section 216 | "MHO" Manufactured Home Overlay | 20 |
| Section 217 | "PDO" Planned Development Overlay | 23 |
| Section 218 | "RWO" Reservoir Watershed Overlay..... | 25 |
| ARTICLE III | GENERAL PROVISIONS | 26 |
| Section 301 | Front Yard Setback..... | 26 |
| Section 302 | Lots in Two Zoning Districts | 26 |
| Section 303 | Dwelling On Lots | 26 |
| Section 304 | Front Yards | 26 |
| Section 305 | Projection in Yards | 26 |
| Section 306 | Location of Driveways | 26 |
| Section 307 | Height Regulations | 27 |
| Section 308 | Reduction of Lot Area | 27 |
| Section 309 | Lots | 27 |
| Section 310 | Restrictions | 27 |
| Section 311 | Structures per Lot | 28 |
| Section 312 | Off-Street Parking | 28 |

| | | |
|-------------|--|----|
| Section 313 | Off-Street Loading..... | 31 |
| Section 314 | Exterior Signs..... | 31 |
| Section 315 | General Performance Standards - Air Pollution, Noise and Fire Controls..... | 34 |
| Section 316 | Excavation, Removal and Filling of Lands | 35 |
| Section 317 | Open Burning Law | 36 |
| Section 318 | Outdoor Wood Boiler Law | 37 |
| Section 319 | Burned Buildings | 37 |
| Section 320 | Abandonment, Destruction/Demolition of Structures..... | 37 |
| Section 321 | Flood Plain Areas..... | 37 |
| Section 322 | RESERVED | 37 |
| Section 323 | Accessory Structures and Uses..... | 37 |
| Section 324 | Fences..... | 38 |
| Section 325 | Retention of Consultants | 38 |
| Section 326 | Landscaping | 39 |
| Section 327 | Lighting | 41 |
| Section 328 | Wetlands and Streams | 42 |
| Section 329 | Stormwater and Erosion Control | 43 |
| Section 330 | Utilities..... | 45 |
| Section 331 | Flag and Key-Hole Lots | 45 |
| Section 332 | Commercial Building Design Standards | 45 |
| Section 333 | Traffic Access Management..... | 49 |

ARTICLE IV SPECIAL PROCEDURES AND PROVISIONS 49

| | | |
|-------------|---|----|
| Section 401 | Site Plan Review | 49 |
| 401.1 | Intent and Purpose, Title and Enactment | 49 |
| 401.2 | Planning Board Authority to Review Site Plans..... | 51 |
| 401.3 | Procedures..... | 53 |
| 401.4 | Criteria for Review. | 63 |
| 401.5 | Guarantee of Site Improvements..... | 67 |
| 401.6 | Administration/Enforcement | 69 |
| 401.7 | Integration of procedures..... | 70 |
| 401.8 | Site Plan Review for Agricultural Structures over Feet 5,000 Square Feet in Size | 70 |
| Section 402 | RESERVED | 71 |
| Section 403 | Cluster Development | 71 |
| 403.1 | Purposes..... | 71 |
| 403.2 | General Regulations | 72 |
| 403.3 | Application Requirements | 72 |
| 403.4 | Open Space..... | 74 |
| 403.5 | Design Process for Cluster Subdivisions | 78 |
| 403.6 | Site Design Criteria | 78 |
| Section 404 | RESERVED | 80 |

| | |
|--|------------|
| Section 405 Uses Subject to Special Conditions..... | 80 |
| Section 405.1 Home Occupation..... | 80 |
| Section 405.2 Water Recreation and Water Storage | 82 |
| Section 405.3 Storage of Boats, Travel Trailers, Trucks, and Mobile Homes | 82 |
| Section 405.4 Agriculture | 82 |
| Section 405.5 Auto Service Stations | 83 |
| Section 405.6 Housing for Agricultural Employees..... | 84 |
| Section 405.7 Open Storage | 84 |
| Section 405.8 Multi-family dwellings | 84 |
| Section 405.9 Gas Stations and Gas Stations with Convenience Store.. | 87 |
| Section 405.10 Bed and Breakfast Inns | 88 |
| Section 405.11 Convenience Store | 89 |
| Section 405.12 Accessory Apartments..... | 89 |
| Section 405.13 Kennels and Veterinary Hospitals..... | 91 |
| Section 405.14 Auto Service Station | 91 |
| Section 405.15 Self Storage | 91 |
| Section 405.16 Adult Uses..... | 93 |
| Section 405.17 Senior Citizen Housing | 95 |
| Section 405.18 Wind Turbines..... | 97 |
| Section 405.19 Hobby Farms | 99 |
| Section 405.20 Junk Motor Vehicles | 100 |
| Section 405.21 Junk Yards | 100 |
| Section 405.22 Yard Sales..... | 100 |
| Section 405.23 Telecommunications Facilities..... | 100 |
| | |
| ARTICLE V NONCONFORMING USES AND STRUCTURES..... | 101 |
| Section 501 Continuance | 101 |
| Section 502 Termination..... | 101 |
| Section 503 Change to Another Nonconforming Use | 101 |
| Section 504 Maintenance..... | 101 |
| Section 505 General Requirements | 101 |
| | |
| ARTICLE VI DEFINITIONS | 103 |
| Section 601 Word Definitions | 103 |
| Section 602 Term Definitions | 103 |
| | |
| ARTICLE VII ADMINISTRATION AND ENFORCEMENT | 128 |
| Section 701 Enforcement..... | 128 |
| Section 702 Permits..... | 129 |
| Section 703 Matter Accompanying Application for Permits | 130 |
| Section 704 Fees..... | 130 |
| Section 705 Violations and Penalties..... | 130 |

| | | |
|---------------------------------------|--|------------|
| Section 706 | Inspection..... | 132 |
| Section 707 | Zoning Board of Appeals..... | 132 |
| Section 708 | Planning Board | 138 |
| ARTICLE VIII AMENDMENTS..... | | 142 |
| Section 801 | Procedure for Amendments..... | 142 |
| ARTICLE IX MISCELLANEOUS | | 144 |
| Section 901 | Interpretation, Conflict with Other Laws | 144 |
| Section 902 | Validity | 144 |
| Section 903 | Repealer | 144 |
| Appendix A..... | | 145 |
| Appendix B..... | | 147 |

ARTICLE I PURPOSE AND TITLE

The Town Board of the Town of Peru in the County of Clinton, under the authority of the Town Law of the State of New York, hereby ordains, enacts and publishes as follows:

Section 101 Purpose

This Local Law is enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Article 2, Section 10, *et. seq.* of the Consolidated Laws and Town Law Section 261, to protect and promote public health, safety, comfort, convenience, economy, aesthetics, general welfare, natural, agricultural and cultural resources, and for the following specific purposes:

- 1: Keep small town and rural atmosphere.
- 2: Preserve and enhance the Town's historical and cultural heritage.
- 3: Protect community identified open spaces and scenic views.
- 4: Enhance the visual character of the town.
- 5: Provide quality public services, infrastructure (including roads and pedestrian systems), and recreational opportunities in a cost effective manner.
- 6: Create a vibrant business climate that encourages growth in a manner that maintains the Town's environment, rural character, and quality of life.
- 7: Protect the Town's significant environmental resources (including unique plant and animal habitats, ground water quality, wetlands, or surface water).
- 8: Protect farms, farmland, and promote agricultural economic growth.
- 9: Promote quality and affordable housing conditions.
- 10: Promote the town center as the community focal point.

Section 102 Title

This law shall be known and may be cited as the "Zoning Law of the Town of Peru, New York".

Section 103 Enacting Legislation and Effective Date

This Zoning Law is enacted pursuant to the authority and power granted by Town Law Section 261 and supersedes all prior zoning ordinances adopted by the Town of Peru. This local law shall take effect immediately upon filing in the New York State's Secretary of State's Office.

Section 104 Severability

If any section or specific part or provision or standard of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment

shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent. If any zoning district boundary that may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

ARTICLE II ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS

Section 201 Zoning Districts

Any use not listed in Appendix A (Use Schedule) shall be considered to be prohibited.

The Zoning Map of the Town of Peru shows a division of the town into the following districts:

| | |
|--------|--------------------------------|
| APA | Adirondack Park District |
| APA LK | Adirondack Park Lake District |
| COM | Commercial District |
| H | Hamlet District |
| IC | Industrial Commercial District |
| LK COM | Lake Commercial |
| NC | Neighborhood Commercial |
| RES | Residential District |
| RR | Rural Residential District |
| R | Rural District |
| HO | Historic Overlay |
| MHO | Manufactured Home Overlay |
| PDO | Planned Development Overlay |
| RWO | Reservoir Watershed Overlay |

Section 202 Zoning Map

The location and boundaries of the above districts are shown on the "Zoning Map of the Town of Peru", certified by the Town Clerk as adopted by the Town Board. This map together with all maps of overlay districts, explanatory matter shown thereon and all amendments thereto, is hereby adopted and is declared to be an integral part

of this Local Law. Regardless of the existence of other printed copies of the zoning map, which from time to time may be made or published, the official zoning map shall be located in the office of the town clerk and shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures in the town.

Section 203 District Boundaries

1. District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the center lines. The abandonment of roads shall not affect the location of such district boundaries. Such boundaries shall be deemed to be automatically adjusted if a centerline or right-of-way lines of such street, highway, railroad, public utility, or watercourse is moved a maximum distance of fifty (50) feet
2. Where district boundaries are indicated as approximately following the Town boundary line, property lines, or lot lines, the district boundaries shall be construed to be coincident with such boundary, property or lot lines.
3. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances there from as indicated on the zoning map or as shall be determined by use of the scale shown on the zoning map.
4. Where a district boundary line divides a single lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion.
5. Where a district boundary line is based on natural features such as steep slopes, contour lines, soil types or ecological communities, such boundaries may be more precisely established through field investigation by a qualified professional such as an engineer, geologist, soil scientist, ecologist or other similarly trained person. Any costs associated with such field investigation shall be borne by the applicant or landowner.
6. In all other cases the location of the boundaries shown on the map shall be determined by the use of the scale appearing thereon.
7. After application of these rules, if uncertainty exists as to location of district boundaries, the Zoning Board of Appeals shall so determine at the request of the Code Enforcement Officer or the Planning Board. When the building inspector cannot definitely determine the location of a district boundary he/she shall refuse action, and the Zoning Board of Appeals, shall interpret the location of the district boundary with reference to the scale of the zoning map and the purposes set forth in all relevant provisions of this law.

Section 204 "APA" Adirondack Park

1. Objective: The purpose of this district is to protect sensitive environmental areas that contribute to the environmental quality, ecological functioning, mountainous character, scenic character, and recreational opportunities in Peru. Steep slopes, poor access, shallow soils, and important wildlife habitats characterize this area. A further purpose of this district is to provide for very low density of development.
2. Uses. See Appendix A
3. Area and Dimensions (Density to be determined by the Adirondack Park Agency Regulations)

| Class | Minimum Front Yard Setback (Ft) | Minimum Side Yard Setback (Ft) | Minimum Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------------|---------------------------------|--------------------------------|--------------------------------|----------------------|
| All Classes | 60 | 35 | 50 | 20 |

Section 205 "APA LK" Adirondack Park Lake

1. Objective: This district provides for predominantly single-family homes, for both year-round and seasonal use, oriented to the lake shore, with provisions for limited other uses by site plan review. Further purposes are to protect shore lines and the scenic and aesthetic character of this district.
2. Uses. See Appendix A.
3. Area and Dimensions (Density or required lot size to be determined by the Adirondack Park Agency Regulations).

| Class | Minimum Area Per Dwelling Unit in Sq. Ft. | Minimum Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback ¹ (Ft) | Max Lot Coverage (%) |
|-------|---|----------------------|-------------------------|------------------------|-------------------------------------|----------------------|
| 1 | 5,000 | 100 | 50 | 10 | 25* | 20 |
| 2 | 10,000 | 100 | 50 | 15 | 25* | 20 |
| 3 | 30,000 | 100 | 50 | 15 | 35* | 20 |

* 100 ft. set back from the mean high water mark for building, leaching field and septic tank

¹ For purposes of lots fronting on Lake Champlain, rear yards will always be considered the yard area between the structure and the lake

Section 206 "COM" Commercial

1. Objective: This district provides for most types of retail and service oriented commercial development in areas well suited for such businesses near the hamlet of Peru. Further, the purpose is to ensure that new development in this area contributes to the hamlet remaining as the principal location for commercial and cultural uses and where new development has a building scale, massing, layout and design that is pedestrian oriented and consistent with the traditional character and environment of Peru.

2. Uses. See Appendix A.

3. Area and Dimensions

| Class | Minimum Lot Size, in Sq. Ft. | Minimum Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|------------------------------|----------------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 20,000 | 100 | 75 | 25 | 25 | 75 |
| 2 | 37,500 | 150 | 85 | 30 | 30 | 75 |
| 3 | 37,500 | 150 | 85 | 30 | 30 | 75 |

4. Special district regulations for properties abutting Bear Swamp Road.

- a. Where practicable, access shall be from the Dashnaw Road or other minor road rather than by entry and exit directly onto the Bear Swamp Road.
- b. A landscaped area with no structures and/or parking area shall be maintained 80 feet deep from the center of Bear Swamp Road and 50 feet from the Interstate 87 right-of-way. Existing mature trees shall be retained to the extent practicable.
- c. Any clearing of vegetation greater than 50% of the parcel shall be permitted only upon site plan approval by the Planning Board.

5. Special Standards for entire district

- a. There shall be a maximum square footage per structure of 45,000 square feet.
- b. All commercial building design standards of Section 332 shall be met.
- c. All commercial development along Bear Swamp road shall include establishment of sidewalks and street trees as per Section 326(3).
- d. All traffic access standards of Section 333 shall be met. Further, the Planning

Board, or the Zoning Board of Appeals, as the case may be, shall require rear access roads, parallel services roads, and shared driveways and parking lots or shared access points to adjacent parking lots to the maximum extent feasible.

- e. Parking lots must be setback at least 40' from the center of the road in the front and at least 10' from side and rear lot lines.

Section 207 "H" Hamlet

- 1. Objective: This district provides for mixed residential and commercial development of a higher density and traditional style and scale compatible with the existing character of the hamlet.
- 2. Uses. See Appendix A.
- 3. Area and Dimension for Residential Uses.

| Class | Minimum Area Per Dwelling Unit in Sq. Ft. | Minimum Lot Size in Sq. Ft | Minimum Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|---|----------------------------|----------------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 4,000 | 8,000 | 80 | 45 | 10 | 25 | 50 |
| 2 | 10,000 | 20,000 | 100 | 50 | 15 | 25 | 50 |
| 3 | 30,000 | 37,500 | 150 | 50 | 15 | 35 | 50 |

- 4. Area and Dimensions for Non-Residential Uses.

| Class | Minimum Lot Size, in Sq. Ft. | Minimum Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|------------------------------|----------------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 8,000 | 60 | 25 | 25 | 25 | 75 |
| 2 | 10,000 | 60 | 25 | 30 | 30 | 75 |
| 3 | 20,000 | 100 | 45 | 30 | 30 | 75 |

- 5. Special Standards for District
 - a. Size of Building. No building designed for business use shall exceed three thousand (3,000) square feet in ground area. The purpose of this requirement is to ensure that new development within the district is in keeping with the scale of the existing structures.

- b. Franchise architectural styles that identify a specific company by building features are prohibited. For purposes of this section, "franchise architecture" shall be defined as a distinct architectural building style and/or elements commonly employed by fast food or other commercial franchise, that serves to enhance or promote brand identity through visual recognition.
- c. All commercial design standards of Section 332 shall be met for commercial uses.
- d. The Planning Board or the Zoning Board of Appeals, as the case may be, shall require sidewalks and street trees as per Section 326. Additionally, other streetscape facilities such as trash receptacles, benches, or other features may be required by the Planning Board.
- e. Multiple uses within one (1) structure are permitted. Buildings can be designed for multiple uses, with offices and/or residential units on upper stories.
- f. All mechanical equipment, such as furnaces, air conditioners, elevators, transformers, and utility equipment, whether roof- or ground-mounted, shall be completely screened from contiguous properties and adjacent streets in a manner that is compatible with the architectural treatment of the principal structure.
- g. Trash storage. Trash storage and recycling areas shall be completely enclosed and screened from public view and adjoining buildings in a manner compatible with the architectural treatment of the principal structure.
- h. The maximum height for freestanding signs shall be ten (10) feet.

Section 208 "IC" Industrial Commercial

1. Objectives: The "IC" district provides for the establishment of stores and businesses to provide shopping and employment opportunities and a broadening of the tax base in Peru without adversely affecting land uses in other areas of the community. The availability of good highway access and water and sewer services and relative isolation from residential areas are major considerations. A variety of types of manufacturing and offices are permitted, provided they do not pose a threat to groundwater and the environment, and are in keeping with the other goals of the Comprehensive Plan.
2. Uses. See Appendix A.

3. Area and Dimensions.

The minimum lot area is one (1) acre.

Area and Dimensions for Non-Residential Uses

| Class | Minimum Lot Width (Ft) | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|------------------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 100 | 75 | 20 | 25 | 75 |
| 2 | 150 | 75 | 25 | 25 | 75 |
| 3 | 150 | 75 | 25 | 35 | 75 |

4. Set Backs from Residential District Boundaries

Setbacks for all non-residential structures and parking areas shall be 50 feet from any abutting zoning district that allows residential use. This area shall be maintained as a landscaped area according to Section 326.

5. Special District Regulations

- a. Where practicable, access shall be by Dashnaw Road or other minor road rather than by entry and exit directly onto Bear Swamp Road.
- b. A landscaped area with no structures and parking area shall be maintained 80 feet deep from the center of Bear Swamp Road and 50 feet from the Northway right of way. Existing mature trees shall be retained to the extent practicable.
- c. A water system shall be provided, preferably adequate to meet fire fighting needs.
- d. All traffic access management requirements of Section 333 shall be met.

Section 209 "LK Com" Lake Commercial

- 1. Objective: This district makes provision for the location of businesses catering to the traveling public, especially tourists and Lake Champlain-oriented recreational uses.
- 2. Uses. See Appendix A.

3. Area and Dimensions.

Residential Uses

| Class | Minimum Area Per Dwelling Unit in Sq. Ft. | Minimum Lot Size, in Sq. Ft. | Minimum Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|---|------------------------------|----------------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 3,000 | 40,000 | 150 | 50 | 10 | 35 | 50* |
| 2 | 10,000 | 40,000, | 150 | 50 | 10 | 35 | 50* |
| 3 | 20,000 | 60,000 | 150 | 50 | 10 | 35 | 50* |

* multi-family uses shall be 75%.

Non- Residential Uses

| Class | Minimum Lot Size, in Sq. Ft. | Minimum Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|------------------------------|----------------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 10,000 | 100 | 50 | 20 | 35 | 75 |
| 2 | 10,000 | 100 | 50 | 20 | 35 | 75 |
| 3 | 20,000 | 100 | 50 | 20 | 35 | 75 |

4. Special Standards for district.

- a. Septic system discharges are prohibited within 400' of the Lake and within 400' of any stream bank that flows into the Lake.
- b. All non-residential building design standards of Section 332 shall be met for non-residential uses.
- c. All traffic access management standards of Section 333 shall be met for non-residential uses.

Section 210 "NC" Neighborhood Commercial

1. Objective: This is intended to provide for a "node" of mixed use residential and small business where small businesses serve the immediate area.
2. Uses. See Appendix A.

3. Area and Dimensions.

| Class | Minimum Area Per Dwelling Area in Sq. Ft. | Minimum Lot Area In Sq. Ft. | Minimum Lot Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|---|-----------------------------|--------------------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 4,000 | 10,000 | 100 | 50 | 25 | 30 | 50 |
| 2 | 10,000 | 10,000 | 100 | 50 | 25 | 30 | 50 |
| 3 | 30,000 | 10,000 | 100 | 50 | 25 | 30 | 50 |

4. Commercial Uses in NC. In addition to all requirements of Section 332, the following shall be met for all commercial uses in the NC:

- a. Franchise architectural styles that identify a specific company by building features are prohibited. For purposes of this section, "franchise architecture" shall be defined as a distinct architectural building style and/or elements commonly employed by fast food or other commercial franchise, that serves to enhance or promote brand identity through visual recognition.
- b. No commercial building shall exceed 5,000 square feet in building footprint size unless part of a shopping center.
- c. The proposed use shall not constitute a nuisance to the neighborhood due to hours of operation, noise, or loitering.
- d. No use shall be permitted where it is determined by the Planning Board that the type and number of vehicle trips it is estimated to generate would be expected to produce unusual traffic hazards or congestion.
- e. Multiple uses within one (1) structure are permitted. Buildings can be designed for multiple uses, with offices and/or residential units on upper stories.
- f. Doorways, windows, and other openings in the facade shall be proportioned to reflect pedestrian scale and movement.
- g. All mechanical equipment, such as furnaces, air conditioners, elevators, transformers, and utility equipment, whether roof- or ground-mounted, shall be completely screened from contiguous properties and adjacent streets in a manner that is compatible with the architectural treatment of the principal structure.
- h. Trash storage. Trash storage and recycling areas shall be completely enclosed and screened from public view and adjoining buildings in a manner compatible with the architectural treatment of the principal structure.

- i. Parking shall meet the standards specified in Section 312 and landscaping standards in Section 326(3).
- j. Any off-street parking space or parking lot in the main street area that abuts a sidewalk shall be buffered from the sidewalk by a landscaped area.

Section 211 "RES" Residential

- 1. Objective: This district provides for predominantly single-family residential uses in the center of Peru. Residential development in this district will have building scale, massing, layout and design that is pedestrian oriented and consistent with the traditional character and environment of the district.
- 2. Uses. See Appendix A.
- 3. Area and Dimensions.

| Class | Minimum Area Per Dwelling Unit in Sq. Ft. | Minimum Lot Size, in Sq. Ft. | Minimum Width in Ft. | Max Lot Size | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|---|------------------------------|----------------------|--------------|-------------------------|------------------------|------------------------|----------------------|
| 1 | 5,000 | 10,000 | 80 | 1 acre | 55 | 15 | 25 | 30 |
| 2 | 10,000 | 20,000 | 80 | 1 acre | 60 | 15 | 25 | 30 |
| 3 | 20,000 | 37,500 | 120 | 1 acre | 60 | 15 | 35 | 30 |

Section 212 "RR" Rural Residential

- 1. Objective: The purpose of this district is to provide areas in Town that will be predominantly single-family residential in character on larger lots outside the town center. Land uses in this district will be limited only to those uses that are complementary to residential use.
- 2. Uses. See Appendix A.
- 3. Area and Dimensions.

| Class | Minimum Lot Size in Acres | Minimum Width in Ft. | Front Yard Setback (Ft)* | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|---------------------------|----------------------|--------------------------|------------------------|------------------------|----------------------|
| 1 | 1 | 150 | 60 | 20 | 25 | 25 |
| 2 | 1 | 150 | 60 | 25 | 35 | 25 |
| 3 | 1 | 150 | 60 | 25 | 35 | 25 |

*80 Ft. set back if fronting on Routes, 22 or 22B.

4. Rural Siting Standards

a. Rural Siting Principles

1. Siting of all structures shall, to the maximum extent practicable, avoid placement on lands within the parcel that have been identified as having steep slopes > 15%, within 100 feet of stream banks, within 100 feet of any state or federal wetland, or within the 100 year floodplain. Siting should also take into consideration and plan for wetlands wildlife that also need adjacent upland habitats.
2. The following guidelines shall apply to the siting of uses that are subject to Site Plan approval, or in the case where clustered subdivision design is required. They are recommended but not required for the siting of individual residences on existing or newly subdivided lots. Wherever feasible:
 - a. Retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls.
 - b. Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
 - c. Use existing vegetation and topography to buffer and screen new buildings if possible. Group buildings in clusters or tuck them behind tree lines or knolls rather than spreading them out across the landscape in a "sprawl" pattern.
 - d. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.
 - e. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.
 - f. Locate new development so that the flow of water to farm properties is not impeded and in ways that is compatible with existing field drainage patterns.

Section 213 "R" Rural

1. Objective: In addition to the general purpose of promoting the health, safety and general welfare of the residents of the Town, the purpose of this district is to protect and maintain its rural character, agriculture, and a majority of the open spaces and scenic resources in Peru while allowing for a variety of land uses that are more appropriately located in areas where sufficient land area exists as buffer from neighboring land uses. Further purposes of this district are to maintain existing low density residential neighborhood development patterns outside of hamlet areas, to provide for the protection of the Town’s natural resources, to encourage the maintenance of native vegetation, to foster safe pedestrian, bicycle and traffic circulation consistent with the rural character, and to recognize the existence of non-conforming uses while maintaining their operation in an unobtrusive fashion.

2. Uses. See Appendix A.

3. Area and Dimensions.

| Class | Minimum Area Per Dwelling Unit in Acres** | Minimum Lot Size in Acres | Minimum Width in Ft. | Front Yard Setback (Ft)* | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------|---|---------------------------|----------------------|--------------------------|------------------------|------------------------|----------------------|
| 1 | .5 | 1 | 150 | 75 | 20 | 25 | 25 |
| 2 | .5 | 1 | 150 | 75 | 25 | 35 | 25 |
| 3 | .5 | 1 | 150 | 75 | 25 | 35 | 25 |

*80 Ft. set back if fronting on Routes, 22 or 22B.

** A minimum Lot Size of 3 acres is required for construction businesses in the Rural District.

4. Rural Siting Standards

1. Siting of all structures shall, to the maximum extent practicable, avoid placement on lands within the parcel that have been identified as having steep slopes > 15%, within 100 feet of stream banks, within 100 feet of any state or federal wetland, or within the 100 year floodplain. Siting should also take into consideration and plan for wetlands wildlife that also need adjacent upland habitats.
2. The following guidelines shall apply to the siting of uses that are subject to Site Plan approval, or in the case where clustered subdivision design is required. They are recommended but not required for the siting of individual residences on existing or newly subdivided lots. Wherever feasible:

- a. Retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls.
- b. Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
- c. Use existing vegetation and topography to buffer and screen new buildings if possible. Group buildings in clusters or tuck them behind tree lines or knolls rather than spreading them out across the landscape in a "sprawl" pattern.
- d. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.
- e. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.
- f. Locate new development so that the flow of water to farm properties is not impeded and in ways that is compatible with existing field drainage patterns.

OVERLAY ZONING DISTRICTS

Overlay Zoning Districts are special zoning districts placed over an existing base zoning district to protect a specific resource or guide development in a special area. Overlay Zoning Districts contain special provisions or requirements that may either limit or expand development opportunities from those allowed in the underlying district. The overlay district may share common boundaries with the base zoning district or may cut across base zoning district boundaries. It is advised that any individual seeking to determine what limitations might exist for his/her property first identify the base zoning district in which his/her property is located, and also determine if an overlay district exists at that location. If an overlay district exists, the regulations for both the base zoning district and the overlay district should both be consulted to determine those limitations that are applicable to the property, however, if any discrepancies exist, the regulations of the

overlay district shall rule.

Section 214 RESERVED

Section 215 "HO" Historic Overlay District

1. Purpose: It is hereby declared that the preservation of architecturally historic sites, areas, buildings and landmarks located in the Town of Peru is important to the general welfare of the community. The purpose of this section is to:
 - a. Safeguard the heritage of the Town by preserving sites and districts in the Town which reflect its cultural, social, economic, political and architectural history.
 - b. Protect buildings, structures, and areas in the Town which are recognized as architecturally historic sites and landmarks.
 - c. Foster civic pride in the accomplishments of the past.
2. All new construction or rehabilitation of existing buildings within the Historic Overlay District shall be harmonious (exterior only) with historic or contributing buildings within the District. Construction of all new buildings or alteration of existing buildings shall meet the following standards:
 - a. The design for new construction shall be sensitive to and take into account the special characteristics that the District is established to protect. Such considerations are to include building scale, height, orientation, site coverage, spatial separation from other buildings, façade and window patterns, entrance and porch size and general design, materials, texture, color, architectural details, and roof forms.
 - b. The size and dimension of the building shall be compatible with the traditional, historic buildings within the District. Newer or modern architectural styles are not allowed.
 - c. The exterior construction materials shall be compatible in style with the traditional, historic buildings within the District. For example, siding shall consist of clapboard style or brick, roofs shall be shingle style if pitched or flat for commercial buildings.
 - d. The color of exterior building elements shall be compatible with the traditional, historic buildings within the District.
3. Accessory structures, such as walls, fences, walkways, and pavement shall be appropriate to and compatible with the traditional, historic features of the

District.

4. Nothing in this section prevents any owner of a building or structure within the Historic Overlay District from moving or demolishing such building or structure.

Section 216 "MHO" Manufactured Home Overlay

1. Objective: That manufactured homes provide an alternative solution for housing compared to conventionally built housing and meet a housing need. That to meet the aforesaid housing need and to preserve the property values of all property owners, it is desirable to adopt regulations governing the location and installation of manufactured homes.
2. Manufactured Home Zones: The Town of Peru is hereby divided into the following classes of manufactured Home Zoning Districts which shall overlay the underlying zoning districts created by Section 201 of this law. A property owner may use his or her property for those permitted uses allowed in the underlying zone and the overlay zone created by this section.
3. Permitted Uses.
 - a. Manufactured Home-1 (MH-1)
Permitted Uses: No manufactured homes allowed
 - b. Manufactured Home-2 (MH-2)
Permitted Uses: Manufactured Home-Double Wide
 - c. Manufactured Home-3 (MH-3)
Permitted Uses:
 - i. Manufactured Home-Double Wide
 - ii. Manufactured Home-Single Wide
 - iii. Manufactured Home-Park
4. Manufactured Home District Map: The boundaries of the Manufactured Home Overlay Zoning Districts are hereby established on the overlay zoning map of the Town of Peru kept on file and available for public viewing in the office of the Town Clerk of the Town of Peru.
5. Minimum Area, Dimension, Yard Setbacks and Separation Requirements: No manufactured home shall be placed or erected, nor shall any existing manufactured home be altered, enlarged or moved in any manner not in conformity with the lot area, lot area per family, lot coverage, open space, yard requirements and other open space and area regulations imposed for single-family dwellings in the underlying zone.

6. Manufactured Home Site Standards
 - a. Manufactured homes shall comply with Federal requirements and the New York State Fire Prevention and Building Code.
 - b. No manufactured home shall be located within the flood plain as defined by the U.S. Department of Housing and Urban Development flood insurance maps.
 - c. Each manufactured home foundation shall be enclosed by a skirt securely fastened and extending from the outside wall of the mobile home. The skirt shall be constructed of sturdy wood, plastic, masonry, or metal material capable of withstanding extreme weather conditions over extended periods of time. No skirt shall be required where a perimeter foundation fully encloses the area between the unit and the ground level. Such skirt shall be installed within ten (10) days after placement of the manufactured home on the foundation.
 - d. Manufactured homes shall have a minimum size of 720 square feet and a minimum width of 14 feet.
7. Installation Standards for Single Wide Manufactured Homes outside Manufactured Home Parks. All single wide manufactured homes located on lots outside a Manufactured Home Park shall be installed and improved in accordance with the following standards:
 - a. All single wide manufactured homes shall be placed on a block or masonry foundation wall, or on a concrete slab and supported by columns of sufficient size and number to adequately support the manufactured home, provided that the space between the frame of the single wide manufactured homes and the ground level shall be enclosed with skirting. The skirt shall be constructed of sturdy wood, plastic, masonry, or metal material capable of withstanding extreme weather conditions over extended periods of time.
 - b. The hitch or tongue of the manufactured home shall be removed upon installation.
 - c. The manufactured home shall be placed on the lot so that its long axis is parallel to the street.
 - d. All fuel supply tanks shall be installed in the rear yard.
 - e. Any addition or attached garage, shall be covered with an exterior siding of a type normally used in residential construction.
 - f. All required improvements shall be completed within the time allowed under the building permit issued for the improvement.

8. Installation Standards for Double Wide Manufactured Homes Outside a Manufactured Home Park: All double wide manufactured homes located on lots outside a Manufactured Home Park shall be installed and improved in accordance with the following standards:
 - a. The roof on the double wide manufactured home's main structure shall be double-pitched at least two in twelve or greater and covered with standard residential roofing material, excluding corrugated fiberglass.
 - b. The manufactured home unit shall be placed on a permanent foundation that complies with the Town's building code for residential structures.
 - c. The manufactured home's hitch, axles and wheels shall be removed.
 - d. The manufactured home lot shall be suitably graded and seeded as weather permits.
 - e. All fuel supply tanks shall be installed in the rear yard.
 - f. If a garage or carport is constructed, the exterior siding and roofing material on the garage or carport shall complement that of the dwelling unit.
 - g. Any enclosed additions or enlargements, including garages or carports, to the manufactured home shall be covered with an exterior siding material that complements that of the dwelling unit. All additions shall be completed within two (2) years.
9. Non-Conforming Manufactured Homes: Any lawful use of land improved with a manufactured home at the time of enactment of this ordinance may be continued although such use of land does not comply to the provisions hereof. Such manufactured home may be replaced with a manufactured home that meets the fire, safety and electrical standards for new mobile homes that are in effect at the time of the replacement. All replacement mobile homes shall comply with the site, installation and other standards of this ordinance. See Article 5: Non-conforming Use and Structures.
10. Installation Standards for Manufactured Homes in a Manufactured Home Park.
 - a. A Manufactured Home Park (MHP) shall have an area of not less than five acres.
 - b. MHPs shall provide for individual lots, access driveways, parking and recreation space. All resident parking shall be confined to the year-round parking spaces provided.
 - c. Each Manufactured Home lot shall be at least 7,500 square feet in area, at least 60 feet wide by 120 feet in depth, and shall front on an access driveway.
 - d. All internal access roadways shall be paved or constructed of compacted

gravel of at least twelve inches in depth, and shall be at least twenty feet in width.

- e. All-weather walkways shall be provided.
- f. Two parking spaces for each manufactured home lot shall be provided, at least 9 feet wide by 22 feet long, with adequate base to meet year round conditions.
- g. MHPs shall provide at least 10% of the total area for recreation open space purposes if park is more than ten acres in area; 20% if park is ten acres or less in area. Recreation area must be contiguous and maintained for recreation use.
- h. The water supply must be approved by the Clinton County Health Department.
- i. The method of sewage disposal must be in compliance with regulations of the Clinton County Health Department.
- j. No manufactured home lot, office or service building shall be closer to a public street right-of-way line than 80 feet, nor closer to a property line than 50 feet.
- k. A strip of land at least 25 feet in width shall be maintained as a landscaped area abutting all MHP property lines.
- l. No Manufactured Home shall be parked closer than ten feet to a lot line.
- m. No additions shall be made to a Manufactured Home except a canopy and/or porch open on three sides, or an addition made by the manufactured home manufacturer.
- n. Provisions must be made to supply adequate water for fire protection.

Section 217 "PDO" Planned Development Overlay

The Planned Development Overlay is intended to allow mixed and multiple uses on one site that complement each other and serve to create a "community" within the Town. For instance, residential use or a mix of residential uses may be combined with a commercial or light industrial use on one site that will allow convenient access by residential users to adjacent commercial or job-related enterprises. Because the uses that may be allowed under the PDO may deviate from the uses normally allowed in the underlying district, the approval process for the right to use the PDO shall be more stringent than normally required for other uses under this zoning law.

1. The purpose of Planned Development shall be to encourage development which will result in:

- a. A choice in the types of environment and living units available to the public.
 - b. Open space and recreation areas, and the use of open space to buffer different land uses on the same site.
 - c. A pattern of development which preserves trees, outstanding natural topography and geological features and prevents soil erosion.
 - d. An efficient use of land resulting in smaller networks of utilities and streets.
 - e. An efficient use of land that promotes a combination of complementary land uses on the same site that promotes a reduction of the need for vehicular transportation to accomplish daily needs.
 - f. An environment in harmony with surrounding development.
 - g. A more desirable environment than would be possible through the strict application of other sections of the zoning law.
 - h. A development that meets the intent of the comprehensive plan.
2. Establishment of a Planned Development Overlay District Application for the establishment of a Planned Development shall be made in writing to the Town Board. Application shall be made by the owner(s) of the land(s) to be included in the district, or by a person or persons holding an option to purchase the lands, and the application shall be accompanied by a statement signed by all owners of such land indicating concurrence with the application.

If the Town Board determines that the application has merit, the Board shall refer the application to the Planning Board. The Planning Board shall require such changes in the preliminary plans as are found to be necessary or desirable to meet the requirements of this law to protect the established or permitted uses in the vicinity, and to promote the orderly growth and sound development of the community. The Planning Board shall notify the applicant of such changes and may discuss the changes with the applicant.

The Planning Board shall approve, approve with modifications, or disapprove the application and shall report its findings to the Town Board. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application.

Following receipt of the report of the Planning Board, the Town Board shall hold a public hearing on the application. The Town Board shall then either approve or reject the application, but shall not have the authority to make amendments without sending the application back to the Planning Board for further consideration.

3. Development Standards: In all Planned Developments the following standards

shall apply:

- a. The area of land to be developed shall not be less than 15 acres.
 - b. All Planned Developments shall comply with the intent of the Town Comprehensive Plan.
 - c. At least 50 percent of the land area being proposed for a PDO must consist of residential use, and the owner/developer is required to construct at least 50 percent of the approved residential units either prior to or at the same time as the development of non-residential uses that have been approved as part of the PDO.
 - d. At least 25 percent of the land area within the Development shall be retained in open space for common enjoyment and/or usage under regulations and conditions approved by the Planning Board.
 - e. All roads constructed within the PDO shall be constructed to Town standards in accordance with Town of Peru subdivision regulations, and shall be conveyed to the Town upon completion.
 - f. All PDOs shall include a comprehensive pedestrian system to facilitate and encourage non-vehicular travel.
4. Required Data. The applicant shall furnish with the PDO Application basic data including a map showing the boundaries of the proposed Planned Development District, existing zoning, topography, drainage and soil conditions, and such preliminary plans as may be required for an understanding of the proposed development.

Section 218 "RWO" Reservoir Watershed Overlay

1. Objective: The Reservoir Watershed Overlay district is established to protect this municipal drinking water supply source of the hamlet of Peru. The purpose is to limit and mitigate land use activities throughout the watershed that could negatively impact this resource from erosion and stormwater run-off.
2. Uses. See Appendix A.
3. Area and Dimensions.

| Class | Minimum Lot Width in Ft. | Front Yard Setback (Ft) | Side Yard Setback (Ft) | Rear Yard Setback (Ft) | Max Lot Coverage (%) |
|-------------|--------------------------|-------------------------|------------------------|------------------------|----------------------|
| All Classes | 300 | 60 | 50 | 50 | 15 |

4. There shall be a 400 foot setback of all septic systems and leach fields from

streams within this overlay district.

5. See the Town of Peru's Local Law titled "Rules and Regulations for Watershed" for additional regulations pertaining to uses with the Reservoir Watershed Overlay Zoning District.

ARTICLE III GENERAL PROVISIONS

The following provisions shall apply to all districts except as otherwise indicated:

Section 301 Front Yard Setback

The front yard setback in these regulations shall be measured from the center line of the existing roadway.

Section 302 Lots in Two Zoning Districts

Where a district boundary line divides a lot on record at the time such local law is adopted, the regulations for the less restricted part of such lot shall extend not more than thirty feet (one hundred feet in the Rural district) into the more restricted part, provided the lot has frontage on a street in the less restricted district.

Section 303 Dwelling On Lots

There shall be only one residential building on a lot unless otherwise permitted herein.

Section 304 Front Yards

A yard adjoining a street shall be considered a front yard for the purposes of this law. Lots located at intersections will be considered to have two front yards.

Section 305 Projection in Yards

Every part of a required yard shall be open from grade level to the sky, unobstructed, except for the ordinary projections of porches, sills, cornices, pilasters, chimneys and eaves, provided that no such projections may extend more than six feet into any required yard.

Section 306 Location of Driveways

All driveways are to be located at least seventy-five feet from a street line intersection for all uses except one- and two-family residential uses.

Section 307 Height Regulations

1. In all districts, structures shall not exceed a height of 35 feet above average ground level unless approved by the Zoning Board of Appeals, except as outlined in 307.2 below.
2. The Building Inspector may authorize a height in excess of 35 feet if the structure is any of the following, providing it does not constitute a hazard: church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, silos, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, flag poles, and ski lift towers.
3. See Section 405.19 for regulations pertaining to wind turbines.

Section 308 Reduction of Lot Area

No lot shall be so reduced in area, yard, lot width, setbacks, frontage, coverage or other requirements of these regulations (unless by variance approved by the ZBA) except when the Planning Board shall approve a clustered subdivision. The provisions of this section shall not apply when part of a lot is taken for a public purpose.

Section 309 Lots

In any district, notwithstanding limitations imposed by other provisions of this law, a single lot in existence at the effective date of adoption of this law, may be built upon subject to the following conditions. Such a lot must be in separate ownership, and not sharing a boundary or any portion of a boundary with other such lots in the same ownership. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width of the lot shall conform to the regulations for the district in which the lot is located.

If two or more undeveloped lots with a shared boundary are in single ownership at the time of passage or amendment of this law, and if all or part of the lots do not meet the requirement for lot width and area as established by the law, the lands involved shall be considered to be an individual parcel for the purpose of this law and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this law, nor shall any division of the parcel be made which leaves the remaining lot width or area below the requirements stated in this law.

Section 310 Restrictions

1. No building or land shall hereafter be used or occupied, and no building or part

thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

2. No building shall hereafter be erected or altered: to exceed the height, to accommodate or house a greater number of families, nor to have narrower or smaller rear yards, front yards, side yards, than is specified herein for the district in which such building is located.
3. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this law shall be included as a part of a yard or other open space similarly required for another building.

Section 311 Structures per Lot

There shall be no more than one principal structure per lot when such a structure is a single family dwelling.

Section 312 Off-Street Parking

The Town finds that large and highly visible parking areas may damage the character of the Town, and harm the natural environment and visual character of the community. The Town also recognizes that inadequate parking can diminish quality of life by creating traffic congestion, safety hazards, and inconvenience. The Town seeks to balance the need for adequate parking with the need to minimize harm resulting from parking lots and to avoid negative impacts of excessive parking requirements.

1. Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is enlarged. Public off-street parking in lieu of on-site parking may be utilized to fulfill parking requirements when provided for this purpose within a distance appropriate to the proposed use but not exceeding 500 feet upon approval of the Planning Board.
2. Off-street parking requirements for non-residential uses shall be established by the Planning Board based upon need of the proposed use. In the Hamlet of Peru, the Planning Board shall allow counting of existing off street or on-street parking to meet these requirements. With due consideration of the table in 312.5 of this section, the Planning Board shall have the authority to deviate parking space requirements on a case by case basis based on need. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the proposed uses. In determining the parking requirements for any proposed use, the Planning Board shall consider:
 - a. The maximum number of persons who would be driving to the use as employees, customers, clients, members, students or other uses at times of

peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak demand.

- b. The size of the structure(s) and site.
 - c. The availability of safely usable on-street parking.
 - d. The availability of any off-street parking within 500 feet that is open to the public, owned or controlled by the applicant, or available on a shared use basis.
3. The environmental, scenic or historic sensitivity of the site. In cases where sufficient area for parking cannot be created on the site without disturbance to these resources, the Planning Board may require a reduction in the size of the structure so that available parking will be sufficient.
 4. Standards used in generally accepted traffic engineering and planning manuals shall be referred to; however, such standards shall be used as a guide only.
 5. Guidelines for the minimum number of off-street parking spaces to be provided are as follows. The Planning Board can also refer to "Parking Standards: American Planning Association , Planning Advisory Service Report Number 510/511, 2002".

| USE | PARKING SPACES REQUIRED |
|--|--|
| Hotel, Motel, Lodging House | 1 for each rental unit plus 1 per every 2 employees |
| Residential | 2 per dwelling unit |
| Church and School | 1 per 10 seats in principal assembly room |
| Private Club or Lodge | 1 per 6 seats in the largest assembly area |
| Theater | 1 per 6 seats |
| Hospital, Nursing and Convalescent Home | 1 per 3 beds and 1 for each employee based on the expected average employee occupancy |
| Professional Office, Business, Service, and Medical Clinic | 1 for every 250 sq. ft. of gross leasable area |
| Eating and Drinking Establishment | 1 for every 2.5 seats provided |
| Industrial | 1 per each 1,000 square feet of gross floor area plus 1 space per 2,000 square feet of gross floor area in excess of 20,000 square feet. |
| Funeral Home | 1 per 3 permanent seats, plus 1 space per 25 square feet of temporary seating. |

6. Size of Parking Spaces

- a. Each parking space shall be at least nine (9) feet wide and nineteen (19) feet long or as follows:

| Angle | Stall Length | Min. Stall Width | Aisle Width |
|-------|--------------|------------------|-------------|
| 90 | 19' | 9' | 24' |
| 60 | 18'10" | 9' | 16' |
| 45 | 17'4" | 9' | 14' |

- b. Disabled parking spaces shall be provided in accordance with all State and Federal ADA regulations (ICC/ANSI A117.1).

7. To the greatest extent possible, parking areas shall be located to the side or rear of the structure. If this is not feasible, parking areas shall be located in such a way as to minimize visibility from roadways and adjacent properties. Landscaping shall minimize any negative visual effect.
8. Parking areas serving all uses except single family residences shall have crushed stone, blacktop, or other appropriate surface.
9. The maximum finished grade for parking areas shall not exceed three percent (3%).
10. All parking facilities shall be maintained throughout the duration of its use to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands.
11. Landscaped islands shall be integrated into parking areas to visually break up large expanses of paving and provide shading. Landscaping shall not block sight lines and plantings at parking facility entrances and exits shall be limited to ensure clear sight distances. Clear sight lines from doors and windows must also be protected. Lighting fixtures should be consistent with the character and style of the Town.
12. Berms and dense landscaping shall, to the extent practicable, be used to screen all parking lots and parking areas from all public roads, paths and private streets.
13. Factors such as the size of the parking area, direction and elevation from which it can be viewed, the viewer's position, the season and the distance of the lot from the view must be considered when determining the type, height, width and density of the plant materials to be used. Existing vegetation may be incorporated into the parking lot landscape plan.
14. All landscaping must be maintained.

15. The Planning Board shall utilize the "Lighting for Parking Facilities" by the Illuminating Engineering Society of America (IESA) guidelines for determining parking lot illumination requirements. Lampposts shall not exceed 20' in height (for nonresidential uses) and shall use full 90 degree cutoff luminaries.
16. Curbing may be required along frontage to delineate access points.
17. Maximum grade of access drives shall be eight percent (8%), and three percent (3%) for parking areas.
18. Stacking lanes shall be required for all uses that involve drive-up customer services such as bank window tellers, fast food restaurants, car wash bays, etc., to avoid any stacking of vehicles in public right-of-ways.

Section 313 Off-Street Loading

Off-street loading which is spaced logically, conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled, shall be provided for all commercial and industrial uses. Required off-street loading space is not to be included as off-street parking space.

Section 314 Exterior Signs

Signs as defined in Article VI are specifically prohibited except as herein provided:

1. All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.
2. In any district, a sign not exceeding four square feet is permitted which announces the name, address, or professional or home occupation of the occupant of the premises on which said sign is located.
3. A bulletin board not exceeding twelve (12) square feet is permitted in connection with any church, school or similar public structure.
4. A temporary real estate or construction sign, not exceeding twenty-four (24) square feet is permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.
5. Prohibited Signs. The following signs shall be prohibited unless otherwise exempted by the Zoning Board of Appeals:
 - a. Except for holiday seasons, grand openings and other special or temporary events of significance, not to exceed thirty (30) days for each event, no sign shall include or consist of pennants, ribbons, streamers, spinners or other

moving, fluttering or revolving devices.

- b. No sign shall contain flashing or intermittent lights.
- c. No revolving, moving, animated or similar signs shall be permitted.
- d. No permanent sign shall be erected on utility poles, trees or other natural features of the site intended for other uses.
- e. No advertising signs or directional signs shall be allowed on-site for an off-site purpose
- f. No temporary, movable signs, except for holiday seasons, grand openings, and other special events, not to exceed sixty (60) days for each event, shall be allowed.
- g. No signs with neon, mercury vapor, low or high pressure sodium and metal halide lighting, or plastic panel rear lighted signs, or internally lighted signs shall be permitted.
- h. Signs shall not project over public right-of-way or property lines.
- i. No vending machine shall be placed on sidewalks, parking areas, or other locations to the exterior of a structure.

6. Digital Signs.

- a. Digital Signs are prohibited from all zoning districts except Commercial, Industrial Commercial, and Hamlet.
- b. Digital signs may not display messages about goods or services that are not provided on the premises where the sign is located, or events that are not sponsored by the establishment located on the premises where the sign is located. This requirement does not apply to municipally owned facilities.
- c. Digital signs may not display messages that contain the appearance of motion or animation (intermittent flashing, blinking, video displays, or changing degree of intensity.)
- d. Digital signs may not display a message that changes more frequently than once every fifteen (15) seconds.

7. A business sign shall be permitted in connection with each legal business or industry located on the same premises, and shall meet the following requirements:

- a. Two signs are permitted for any legally established business, one free standing, the other attached to the building.
 1. Free Standing Signs. All freestanding signs shall comply with the following standards:
 - a. Only one freestanding sign, which may be double-faced, shall be permitted for the primary frontage of a property on a public street. Not more than one freestanding sign shall be permitted regardless of the number of stores or businesses housed therein.
 - b. All signs should be erected a minimum of fifteen (15) feet from any roadway edge.
 - c. The maximum height for freestanding signs shall be fifteen (15) feet, except in the Hamlet Zoning District where the maximum height shall be ten (10) feet.
 - d. Internally lighted signs are prohibited.
 - e. The maximum size of the sign shall be 50 square feet for buildings with more than 5000 square foot of building footprint. For buildings smaller than 5000 square feet, the maximum size of a sign shall be 24 square feet.
 - f. Ground-mounted freestanding signs may be required to have a landscaped base.
 2. Building Signs. Signs attached to a building shall conform to the following standards:
 - a. The maximum area shall be equal to the width of the building front times one foot, but in no case shall the sign area exceed ten percent (10%) of the building face area or 36 square feet, whichever is smaller.
 - b. Signs shall not project above the highest point along the face of the building.
 - c. Iconic signs, such as barber poles, eye glasses, etc., which are traditional in appearance and size should not extend more than four (4) feet from a building wall-nor occupy a space of more than fifteen (15) square feet when viewed from any angle.
 - d. One sign not exceeding four (4) square feet in area may be hung under a roof overhang perpendicular to each storefront in a shopping center.
 - e. The primary purpose of the sign shall be for identification and not for advertising and may state only the owner, trade names, trademarks, products sold, and/or the business or activity conducted on the

premises on which the sign is located.

- f. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.
8. Any sign which becomes in disrepair may be removed upon order of the Town Board if not repaired after 30 days notice. Any new sign must conform to all regulations.
9. Signs off-site may be permitted by the Zoning Board of Appeals for businesses, churches, or service organizations located in Peru only if necessary for directional purposes.
10. On-site and off-site signs may be permitted by the Zoning Board of Appeals for agricultural uses for the purpose of identification and location. These signs shall be of a seasonal temporary nature and be permitted for a period not to exceed three months and shall not exceed 24 square feet in size.
11. Sign Permits and Sign Administration. No sign shall be erected without Site Plan Approval from the Planning Board and a permit from the CEO. An application to erect a sign shall be made to the Planning Board and shall include a) a scale drawing of the sign showing type of sign, b) dimensions, advertising content, materials, method and style of illumination, c) method of structural support, d) colors, e) location on the land or building in relation to buildings, roadways, driveways and sidewalks, f) name of the sign owner and person responsible for maintenance of the sign. The Planning Board will accept a hand-drawn illustration of the sign to convey the above information. Upon approval of the sign site plan review, the CEO shall issue a sign permit.

Section 315 General Performance Standards - Air Pollution, Noise and Fire Controls

1. It shall be unlawful within the Town of Peru for any person, owner, agent, operator, firm or corporation to permit or cause, suffer or allow the discharge, emission or release into the atmosphere from any source whatsoever of soot, fly ash, dust, cinders, dirt, oxides, gases, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid gaseous matter or any other materials in such place, manner or concentration as to constitute atmospheric pollution.
2. Odor. Tanneries, stock yards, feedlots with a capacity in excess of 300 head, glue factories, oil refineries, soap factories, artificial gas manufacturers, rubber manufacturers, fertilizer manufacturers, and similar industries and businesses must present detailed plans for elimination of obnoxious odors to the Town Board before a permit is granted.

3. Noxious Gases: Detailed plans of any process likely to emit noxious gases must be presented to the Town Board, indicating elimination of such gases or fumes before permit is granted. A permit will not be required for agricultural uses.
4. Noise: All requirements of the Town of Peru's "Noise Ordinance" shall be met. This sub-section shall not apply to uses that are regulated under the New York State Agriculture and Markets Law.

Section 316 Excavation, Removal and Filling of Lands

The use of land for the excavation, removal, filling or depositing of any type of earth material, topsoil, gravel, rock, garbage, rubbish or other wastes or waste by-products is hereby prohibited in any zoning district except upon issue of a permit by the Building Inspector and upon prior approval of the Planning Board or as otherwise provided for in this law.

1. The Planning Board in granting any such permit may impose reasonable conditions protective of health, safety and welfare in the community and of individuals in the community. Without limiting the generality of the foregoing limitation, such conditions may include limitation of removal in respect to all or any of the following:
 - a. Extent of time;
 - b. Area and depth of excavation;
 - c. Steepness of slopes excavated;
 - d. Distance between edge of excavation and neighboring properties or ways;
 - e. Temporary or permanent drainage in a manner to be approved by the Town's Engineer;
 - f. The posting of security or bond in a dollar amount to be determined by the Planning Board on the advice of the Town's Engineer, to be sufficient to guarantee fulfillment of conditions imposed;
 - g. The replacement of not less than three (3) inches of topsoil over the whole of any area from which earth materials are removed where the location of such removal is afterward to become a residential subdivision;
 - h. Screening of excavation site from roads and neighboring properties.
2. No such permit shall be issued except upon written application thereof to the Planning Board and until after a public hearing by the Planning Board on such

application.

3. Such application shall include a diagram to scale of the land concerned, indicating existing and proposed elevations in the area to be excavated and stating the ownership and boundaries of the land for which such permit is sought, the names of all adjoining owners as found in the most recent tax list and the approximate locations of existing public and private ways nearest such land.
4. Notice of said public hearing shall be given by publication in a newspaper published in or of general circulation in Peru at least twelve (12) days before the date of such hearing.
5. Permit or Denial Promptly Mailed. A copy of any permit granted hereunder by the Zoning Board of Appeals stating all of the conditions imposed, if any, or a copy of the denial by the Zoning Board of Appeals of any such application stating the reasons for such denial, shall be mailed forthwith by the board to the parties in interest and to the Building Inspector.
6. Earth Removal Exceptions
 - a. The foregoing regulations shall be deemed not to prohibit such removal of soil, loam, sod, clay, sand, borrow, gravel or stone as may be incidental to and necessitated by any construction for which a building permit has lawfully been issued under the Zoning Law of the Town of Peru, New York, prior to such earth material's removal.
 - b. The foregoing regulations shall also be deemed not to prohibit such removal from any lot or way of earth materials so far as may be necessitated by the construction or installation of utilities or other engineering works on such lot or in such way, or as may be necessitated in constructing ways, provided the layout lines and grades of such works have been duly approved by the Zoning Board of Appeals prior to such removal.
 - c. The foregoing regulations shall also be deemed not to prohibit removal, grading or transferring of any said materials from one part of a lot, tract or parcel of land in the same ownership as long as materials are not removed from the parcel.
 - d. The foregoing regulations shall also be deemed not to prohibit the introduction of topsoil or other soil amendments utilized for landscaping that is ancillary to the primary use of the property.

Section 317 Open Burning Law

All sections of the New York State Open Burning Regulations (ECL Section 215 or relevant citation) shall be followed.

Section 318 Outdoor Wood Boiler Law

All sections of the Town of Peru Outdoor Wood Boiler Law and the NYS DEC Wood Boiler Law, whichever is more restrictive, shall be followed.

Section 319 Burned Buildings

No owner or occupant of land in any district shall permit fire or other ruins to be left, but within one year shall remove or refill the same to clear ground level or shall repair, rebuild or replace the structure.

Section 320 Abandonment, Destruction/Demolition of Structures

Within twelve months after work on an excavation for a building has begun or within twelve months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over or filled to the normal grade by the owner.

Section 321 Flood Plain Areas

1. Flood Plain areas shall be designated by the Planning Board based on available information from state and federal agencies. All requirements of Town of Peru Flood Plain Law shall be met.
2. A map showing flood plain areas as designated by the Planning Board shall be filed with the Town Clerk.
3. No structures shall be constructed on that portion of a parcel that is within the mapped 100 year floodplain, except for agricultural structures. Where development within the floodplain is unavoidable due to lot size or configuration, the subdivision or building should be platted or sited in such a way that each lot has a buildable portion or the structure is placed on natural high ground as feasible. For parcels that are entirely within a floodplain, the Planning Board shall determine the best possible location for a new structure in order to reduce flood hazards.

Section 322 RESERVED

Section 323 Accessory Structures and Uses

On a lot devoted to a permitted principal use, customary accessory uses and structures are authorized as follows:

1. Accessory uses shall be compatible with the principal use and shall not be established prior to the establishment of a principal use, except as permitted hereafter.
2. Any accessory structure hereafter constructed, erected, placed, structurally altered or enlarged, except as otherwise permitted in this Local Law, shall be subject to the following bulk requirements:
 - a. No accessory structure shall be permitted within the required front yards, as set forth in each district.
 - b. All accessory structures shall meet all side and rear setbacks.
 - c. No portable structure shall be used as an accessory structure for over 60 days except when used incidentally to and temporarily for construction operations of a principal use; said structures shall be removed prior to the occupancy of the principal use.
 - d. Any accessory structure which is attached to a principal structure shall be considered as a part of the principal structure and shall be subject to all regulations governing the location of principal structures.

Section 324 Fences

1. All fences shall have their finished face of the fence directed toward the abutting property. The property owner on whose land the fence is located shall be responsible for the maintenance of both sides of the same, provided that if the abutting property owner does not provide access for such maintenance, the property owner shall be relieved of the obligation for maintaining the finished face of the fence or wall.
2. The maximum height for fences shall be 8' except in the hamlet where it shall be 6'.

Section 325 Retention of Consultants

The Town Board, Zoning Board of Appeals and the Planning Board are hereby authorized to retain engineering consultants and/or such other expert consultants as are determined to be necessary to enable the full performance of the duties of the respective Board relative to any matters before either Board. Payment for the services of such consultants and/or engineers is to be made from funds deposited by the applicant with the Town in escrow accounts for such purpose. It shall be the

responsibility of the applicant to submit to the Town, prior to the commencement of any work associated with said application before the Board or at such other time as directed by the Board, certified check(s) in amounts equal to the estimate of the expert consultant and/or engineer for the cost of services to be rendered to the Town. This sum shall be released by the Town to said consultant or engineer in payment for the services rendered to it upon acceptance by the Town of said services.

Section 326 Landscaping

1. General. All portions of properties that are subject to site plan review, and that are not intended for development shall remain in their natural state or be suitably landscaped with planting of trees, shrubbery or ground cover. Landscaping shall minimize erosion and stormwater runoff, provide necessary buffering and generally work to blend the proposed use with the character of the Town. Primary landscape treatment shall consist of shrubs, ground cover and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Selected landscape plants should be native to the area to the extent practicable. Species identified as invasive, as defined by Cornell Cooperative Extension, shall not be allowed as new plantings.
2. Landscaping Standards. The following landscaping standards shall be met for all properties that are subject to site plan review:
 - a. Landscaping shall be appropriate to the project and the natural vegetation cover shall be maintained where possible, to the extent that alterations in the site plan may be required. Healthy trees with diameters of twelve (12) inches or greater measured at chest height shall be marked on the plan and preserved to the extent possible.
 - b. A Landscape Plan shall include plant selection suitable for the specific site. Native species of both deciduous and coniferous plants shall be included in the plan whenever possible.
 - c. Maintenance of Natural Landscaping – Wherever possible, natural vegetation shall be maintained by appropriate construction practices and site layout.
 - d. Maintenance – All planting shown on an approved landscape or site landscape or development plan shall be maintained throughout the duration of the use, and plants not so maintained shall be replaced in accordance with the plan’s specifications.
 - e. Blank end walls of buildings on site that are visible from the road or adjacent residences shall be landscaped.
 - f. Transformers, gas meters, dumpsters, etc. shall be screened.

3. Screening / Buffering. A landscaped area may be required to screen and protect neighboring residential properties and passing motorists from the view of facilities, buildings, and parking areas of the site development, as warranted. Landscaped areas are subject to the following:
- a. A minimum permanent vegetated buffer of a width of ten (10) feet shall separate non-residential uses from adjacent residential properties, or from the street, except in the Hamlet District when not practical. Plantings shall be indicated on the site plan and shall meet the following standards:
 1. Plant materials shall be a minimum of four (4) feet in height when planted and shall be spaced to form a continuous, solid screen at maturity. Generally, plants / trees shall be spaced apart at distances no greater than ten (10) feet on center.
 2. Where appropriate, a wall, fence (finished side out), or earthen berm of location, height, and design approved by the Planning Board, may be substituted for the required planting.
 - b. Modifications. Where the existing topography and / or landscaping provides adequate screening, the Planning Board may modify the planting and / or buffer area requirements.
 - c. Planting strips. Sidewalks shall be separated from street edges or curbs by a planting strip three to six feet wide and planted with grasses.
 - d. Shade trees shall be provided at the expense of the owner of the subdivision along each side of all new streets, public or private, but not including alleys.
 1. In locations where healthy and mature shade trees currently exist, these should be maintained and the requirements for new trees may be waived or modified. Shade trees shall be not located in the planting strip between the street curb and the sidewalk but to the outside of the sidewalk away from the street where sidewalks are present. When a new street has a sidewalk on only one side, the shade tree shall be planted at the same distance from the street edge or curb on both sides of the street to the extent practicable.
 2. Shade trees shall have a minimum caliper of 1 ½ inches measured at chest height at the time of planting and shall be spaced a maximum of 30 feet on center, with exact spacing to be evaluated on a site-specific basis.
 3. The particular species of shade trees shall be determined upon specific location requirements. Species shall be selected to cast moderate to dense shade in the summer, survive more than 60 years, have a mature height of at least 50 feet, be tolerant of road salt, and be insect and disease resistant. It is recommended for long roads to have a variation in tree species. The following urban tolerant street trees are recommended:

Green Ash
Hackberry
Little-leaf Linden
Pin Oak
Red Oak
Thornless Honey Locust
Village Green Zelkova
Sycamore
Red Maple

4. Street trees shall be irrigated and fertilized for a minimum of one year after installation. Any tree that dies within two years of planting, or any tree that is removed shall be replaced with the same species. The Planning Board may require establishment of an escrow account to cover costs of replanting.

Section 327 Lighting

1. Lighting. The Planning Board shall take into consideration the need to minimize nighttime lighting to protect dark skies. Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes, unless waived by the Planning Board. A lighting plan may be required by the Planning Board in site plan review application which shall include a layout of proposed fixture locations, footcandle data that demonstrate conforming intensities, and a description of the equipment, glare control devices, lamps, mounting heights, hours of operations and maintenance methods proposed. The Planning Board may require illumination intensities to be plotted on a map. Lighting shall conform to the following standards:
 - a. All lighting, including sign lighting, shall be designed and arranged so as to minimize glare and reflection on adjacent properties.
 - b. The style of the light and light standard should be consistent with architectural style of the building and surrounding area. Poles and fixtures shall complement the architectural character of the development and surrounding area.
 - c. The maximum height of freestanding lights should not exceed twenty (20) feet.
 - d. The source of the lights shall be fully shielded with full 90 degree cut-off luminaries or located such that it shall not be visible outside the boundaries of the parcel being developed unless the Planning Board determined in certain situations that this requirement is unfeasible.

- e. All exterior site lighting shall be of such type and location to provide a minimum illumination of 1 footcandle in public areas and shall have such shading as will prevent the source of the light from being a visual nuisance to any adjacent residential property. Hours of lighting may be limited by the Planning Board in acting on any site development plan. Where site development plan approval is not required, the CEO may limit the hours of lighting as a condition of building permit approval.
- f. Externally illuminated signs including building identification signs shall only use shielded light fixtures. Lighting shall consist of downcast shielded light fixtures, not ground mounted spotlights.
- g. At the property line of the proposed property, illumination from light fixtures shall not exceed 0.1 foot-candles on adjacent residential property, or 0.5 foot-candles on adjacent business property.
- h. The Planning Board may, as it deems appropriate, require that lighting be controlled by automatic timing devices to extinguish offending sources during specified periods to mitigate glare. The Planning Board may also require that lighting, except for security lighting, be extinguished after hours for businesses that are not in operation during that time. Motion detectors can be considered for security lighting.
- i. Glare control shall be accomplished primarily through the proper selection and application of lighting equipment. Only after those means have been exhausted shall vegetation, fences and similar screening methods be considered acceptable for reducing glare.
- j. Luminance and uniformity. Light levels shall be designed not to exceed the latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IES) for the type of activity/area being lighted, except light levels for ATM machines shall be in accordance with the New York State ATM Safety Act. Where no standard is available from the IES, the applicable standard shall be determined taking into account the levels for the closest IES activity.

Section 328 Wetlands and Streams

1. Applicants for building permits that affect areas regulated by the federal Army Corps of Engineers or the New York State Department of Environmental Conservation (NYSDEC) as freshwater wetlands shall comply with the current applicable laws of the State and Federal Government. Freshwater wetland boundaries shall be flagged on the site and verified by the DEC and/or the Army Corps of Engineers. The regulated wetland boundary and protective buffer shall be indicated on site plans and subdivisions for properties with such wetlands. There shall be no construction or disturbance within a federally regulated or

NYSDEC regulated wetland or buffer without an Army Corps of Engineers or NYSDEC permit. The Planning Board may require buffering berms, filter strips and vegetated buffers between new development and wetlands.

2. No alteration of watercourses, whether by excavation, filling, grading, clearing, draining, or otherwise, shall be made that affects the water levels or flow of such watercourses without review as to the effect of such alteration and any related facilities on water recharge areas, water table levels, water pollution, aquatic animal and plant life, temperature change, drainage, flooding, runoff and erosion. This review and approval of such alteration shall be made by the Planning Board in consultation with the Soil Conservation Service and the NYSDEC. Where the applicant must obtain a stream disturbance or discharge permit from the NYSDEC, Planning Board approval shall be conditional on the NYSDEC's permit approval. There shall be a 100' setback from classified streams and 50' from non-regulated watercourses. The Planning Board can vary this setback due to slope as needed.

Section 329 Stormwater and Erosion Control

1. Stormwater runoff rates after development should not exceed the rate that existed prior to the site being developed.
2. Where possible the project shall reduce the volume of runoff and improve water quality by preserving the natural hydrology of a site.
3. Where soil permeability is minimal or where lot sizes are small, the Planning Board may require driveways to be constructed of pervious materials.
4. The following low impact development methods may be required by the Planning Board as necessary:
 - Bioretention / Rain Garden
 - Soil Amendments
 - Grassed Swale
 - Use of Rain Barrels
 - Permeable Pavers
 - Minimizing Imperviousness to Water
5. Development on sites with steep slopes (grades of fifteen percent (15%) or greater), streams, wet areas and wetlands, and soils subject to erosion and high runoff volume, shall be minimized wherever possible. Disturbance of any such areas shall be stabilized and reclaimed as much as possible during and after construction. Erosion control management practices shall be designed and constructed in accordance with the New York Standards and Specifications for Erosion and Sediment Control, latest edition.
6. All disturbances of 1 acre or larger shall conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge

Elimination System (SPDES) General Permit for Construction Activities (GP-02-01) as amended or revised.

7. Exemptions. The following activities may be exempt from review under this law.
 - a. Agricultural activity as defined in this local law.
 - b. Forestry activity except that landing areas and log haul roads are subject to this law.
 - c. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
 - d. Repairs to any stormwater management practice or facility deemed necessary by the Zoning Enforcement Officer and/or the Town's engineer.
 - e. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Peru on or before the effective date of this law.
 - f. Land development activities for which a building permit has been approved on or before the effective date of this law.
 - f. Cemetery graves.
 - g. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
 - h. Emergency activity immediately necessary to protect life, property or natural resources.
 - i. Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.
 - j. Landscaping and horticultural activities in connection with an existing structure.
8. Drainage, erosion and siltation control measures shall be implemented to:
 - a. Guide drainage and prevent increases in runoff on and off the site.
 - b. Prevent destruction and loss of soils on and off the site from increased runoff.
 - c. Prevent siltation of water bodies, watercourses and wet areas on and off the site and subsequent harm to or loss of aquatic plant and animal life.
 - d. Minimize increases in non-point source pollution caused by stormwater runoff from land development activities which would otherwise degrade local water

quality.

9. The town shall designate the CEO to accept all Erosion and Sediment Control Plans (E&SC) and Stormwater Pollution Prevention Plans (SWPPP) and shall forward such plans to the Town's engineer. The Town's engineer may review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, and may accept the certification of a licensed professional that the plans conform to the requirements of this law.

Section 330 Utilities

1. In all non-residential and multi-family residential developments, the Planning Board may require that all utilities, exclusive of transformers, be placed underground at the time of initial construction. Required utilities may include water, sewer, storm drainage, telephone, cable, electricity, gas, and wiring for street lights.
2. Reasonable provision shall be made for extension of utilities to adjoining properties, including installation of water gates and manholes if necessary, and the granting and recording of easements as required.

Section 331 Flag and Key-Hole Lots

If an exception to lot frontage requirements is granted by area variance for lots designed as "flag lots", "keyhole lots", etc. such lots must meet the following requirements:

1. In the opinion of the Zoning Board, the character of the land precludes typical subdivision development, or a unique and desirable lot can be created;
2. The creation of a flag lot is not to circumvent typical subdivision with the internal street development and does not negatively impact continuing use of agricultural land;
3. The proposed lot has a minimum "Lot Frontage" of fifty (50) feet, as measured along the right-of-way of the fronting highway, and shall be no less than fifty (50) feet throughout the entire length leading to the buildable portion of the lot which shall conform to the minimum lot width;
4. The required setbacks can be met when measured from the point where the lot meets the required minimum lot width for that zoning district.

Section 332 Commercial Building Design Standards

1. General. These standards are in addition to all requirements of the New York State Fire Prevention and Building Code. It is not the intent of this section to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of the zoning district and to ensure the compatibility of new structures within the existing district zoning. The standards established in this section are for the purpose of promoting quality development that is attractive, convenient and compatible with the surroundings. These standards are intended to be general in nature and not to restrict creativity, variety or innovation. During project development and review, attention should be given to the compatibility of adjoining developments when reviewing project proposals.
2. Applicability. These standards apply to all commercial development.
3. Context and Compatibility. These standards and guidelines establish an expectation that new development is similar in context and compatible with existing development. Context and compatibility with respected neighborhood buildings can be judged by the following major points of comparison:
 - a. Roof shapes, slopes and cornices are consistent with the prevalent types in the area.
 - b. Rhythm of building spacing along the street and overall scale are not interrupted.
 - c. Proportions for facades and window openings are in harmony with the traditional types within the district.
 - d. Materials, textures, and colors are similar, with natural and traditional building materials preferred.
 - e. Site details (porches, entrances, signs, landscaping, lighting, screened parking and mechanical systems) complement traditional examples in the area.
4. Building Placement.
 - a. Buildings shall be designed so that entrance doors and windows, rather than blank walls, garages, side walls or storage areas, face the street. Blank walls for commercial applications are discouraged but may be allowed at the discretion of the Planning Board under certain circumstances such as when the structure is along an alley or when facing another blank wall.
 - b. The front façade of the building shall be parallel to the main street unless traditional orientation of buildings on that street differs for the majority of buildings.
 - c. No parking area shall be located in the front yard setback between a principal building and any public street. If necessary due to specific site conditions, one row of parking may be placed between the principal building and the public street only if topography or a year round vegetative buffer of sufficient density

to substantially limit the view of the parking lot from the road.

- d. Build-to line. Buildings shall define the streetscape through the use of setbacks along the build-to-line for each block. The function of the build-to line is to form a distinct street edge and define the border between the public space of the street and the private space of the individual lot. The build-to line shall fall between the minimum and maximum front yard setbacks. In areas of existing development where existing buildings fall within the minimum and maximum front yard setbacks, the build-to line shall be designed to create the greatest uniformity on the block. In areas of existing development where existing buildings do not fall within the minimum and maximum front yard setbacks, the build-to line shall be designed as the closest line within the minimum and maximum front yard setbacks so as to create as much uniformity on the block as possible.

5. Building Scale.

- a. The scale and mass of buildings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with that of adjacent and nearby buildings as viewed from all exposed (public) vantage points.
- b. In order to minimize the apparent scale of buildings greater than 40' in width, facades facing the main street should be broken by periodic setbacks, façade breaks, and rooflines should include offsets and changes in pitch. Other design features such as porches or cupolas, window bays, separate entrances and entry treatments, or the use of sections that may project or be recessed may also be used.

6. Building Façades

- a. Exterior materials of new construction shall be compatible with those traditionally used in the Hamlet and may include wood or wood-simulated (clapboard, board and batten or shingles, vinyl, red common brick, natural stone, and man-made or processed masonry materials if they simulate brick or stone and have the texture and architectural features sufficiently similar to that of the natural material to be compatible). Primary façade materials such as stucco, sprayed-on textured surface finishes, modular metal panels, and concrete blocks are not permitted.
- b. The front facade of the principal building on any lot shall face a public street.
- c. A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.
- d. There shall be no blank walls.

7. Roof Types and Materials

- a. All buildings having a height of less than 25' from original grade are prohibited from having a flat roof unless the Planning Board approves a façade

treatment that gives the appearance of a sloped roof or that is complementary with other commercial structures within the zone it is being constructed.

- b. Peaked or slope roof dormers and cupolas are encouraged.
 - c. Roofing materials of slate, metal, asphalt or fiberglass shingles or cedar shakes or composites that have the same appearance as these materials shall be permitted.
 - d. Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements that define the front entrance are encouraged.
 - e. Multiple Buildings within a development shall have a variety of different roof overhang profiles, proportioned to replicate a traditional downtown street-front rhythm.
8. Windows
- a. The spacing, pattern and detailing of windows and window openings shall be reviewed by the Planning Board during Site Plan Review and determined to be compatible with adjacent buildings, including historic buildings, where possible.
 - b. The relationship of the width of windows to the height of windows in a building shall be visually compatible with adjacent buildings.
9. Accessory Equipment.
- a. All roof, wall or ground mounted mechanical equipment such as heating and air conditioning units, exhaust fans, etc. shall be confined within the principal structure or within an area enclosed by a wall, screen, fence, berm or hedge of sufficient height and density to screen the equipment year round from view from adjacent streets, properties and parking lots. No equipment shall be located in front of a building and the preferred location is to the rear of the building.
 - b. All dumpsters or other trash containers shall be fully enclosed by a fence and screened by appropriate landscaping. No dumpster shall be located in front of a building and the preferred location is to the rear of the building.

Section 333 Traffic Access Management

1. The Planning Board or the Zoning Board of Appeals, as the case may be, is authorized to require a traffic impact analysis for any development that proposes to add 100 or more vehicles per day to the street.
2. There shall be no more than two access points into any commercial or industrial lot.
3. The Planning Board, during site plan review shall evaluate the proposed development for traffic impacts. The Board is authorized to require as needed, traffic calming features such as curb extensions, landscaped medians, use of variable surface textures, and creation of frontage or service roads to encourage slower traffic speeds and minimize traffic access issues.
4. The Boards shall consolidate access points into commercial lots wherever possible and encourage shared driveways or common access points off streets.
5. The Boards shall promote inter-connection of parking lots and unified on-site circulation systems.

ARTICLE IV SPECIAL PROCEDURES AND PROVISIONS

Section 401 Site Plan Review

401.1 Intent and Purpose, Title and Enactment

1. It is the intent of this section to ensure optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town as described in the Town of Peru Comprehensive Plan and any of its amendments, through review and approval of site plans. Specifically, it is the intent of this section to ensure that new development is consistent with the following goals established in the comprehensive plan and this local law:
 - a. New commercial and residential growth will be consistent with the small town and rural character of Peru. It is not the intent of this Law to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of the district and to ensure the compatibility of new structures. The standards below are intended to provide a framework within which the designer of the development is free to exercise creativity, invention and

innovation while recognizing the Town's small, rural and historic qualities. When applying such standards and guidelines, the Planning Board shall carefully weigh the specific circumstances surrounding each application, and strive for development solutions that promote development that protects and enhances the character and architectural heritage of the Town and that is consistent with the adopted Town of Peru Comprehensive Plan.

- b. The Hamlet of Peru will be a distinctive and attractive location and central to the Town's cultural life and economy;
 - c. Scenic views will be maintained;
 - d. A safe and efficient transportation infrastructure will exist;
 - e. Sensitive environmental areas, active farms, and open spaces will be protected and maintained and remain vital components to the distinctive character of Peru; and
 - f. Historic elements and character will be protected.
2. Toward this end, these regulations establish a review process and development standards to ensure that the following general conditions have been met:
- a. That the site plan, to the extent practicable, is compatible with the goals, policies and standards set forth in the Town of Peru Comprehensive Plan;
 - b. Adjacent properties are protected from nuisance caused by noise, traffic, noxious or harmful fumes and glare of lights.
 - c. Significant natural, cultural, and historic features on a site are preserved as much as possible (i.e. hills, water bodies, wetlands, stone walls, trees, tree groves, wooded areas, rock outcrops, native plants, wildlife habitats, scenic locations, historic locations, and other areas of aesthetic and ecological interest).
 - d. Adequate facilities for off street parking and loading, drainage, snow removal, fire protection and methods of solid waste disposal are provided on site.
 - e. Roads, pedestrian ways, access driveways, loading areas and parking facilities are properly designed and operated for public convenience, universal accessibility, public safety, and for consistency with rural road standards and desired aesthetic character.
 - f. Pollution of air, streams, ponds, lakes and groundwater supplies is minimized.
 - g. Development will be compatible with its surroundings and in keeping with the character of the Town of Peru.

401.2 Planning Board Authority to Review Site Plans

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the Town as hereinafter designated pursuant to, and in accordance with, the standards and procedures set forth in this local law.

1. Uses Requiring Site Plan Approval

- a. Except those specifically exempted in Section 2 below, all new land use activities regardless of square footage shall require site plan review and approval before being undertaken including:
 1. all construction;
 2. reconstruction;
 3. expansion;
 4. relocations;
 5. filling, excavation, grading or tree removal that disturbs an area greater than 1 acre except the construction, installation or maintenance of public roads and public and private utilities;
 6. all earth moving activities on slopes of 15% or greater;
 7. change of uses within the town shall require site plan review and approval before being undertaken. Site plan approval shall also be required for the construction, reconstruction, installation, expansion, contraction, alteration or relocation of any sign associated with a use that is subject to this law.
 8. Agricultural structures over 5,000 square feet in size.
- b. Any change in the use, other than a single or two family residence, to another use including but not limited to an increased or different requirements for parking, an increase or change in impervious surface area, proposed erection of a new sign, proposed establishment of additional exterior lighting, proposed structural enlargement, proposed additional site plan improvements, or if the exterior façade is changed shall require site plan approval.
- c. Additions which are less than 500 square feet in size to multiple family residential dwellings and/or commercial buildings shall be referred to the Planning Board which shall have the discretion to waive the applicability of this law to such improvements.
- d. Agricultural structures including, but not limited to barns, silos, and manure

storage facilities over 5,000 square feet in size shall require site plan review and approval.

2. Exempted Uses.

The following land use activities are exempted from the requirements of this Section:

- a. Construction of one or two family dwellings, ordinary residential accessory structures (ie. sheds and decks) and related land use activities when grading or excavation of less than 1 acre occurs, unless construction occurs on slopes greater than 15%.
- b. Ordinary repair or maintenance of existing structures or uses.
- c. Temporary roadside stands smaller than 100 square feet are exempt.
- d. Incidental landscaping or grading not intended to be used in connection with a land use reviewable under the provisions of this local law and that disturbs less than 1 acre, unless landscaping or grading occurs on slopes greater than 15%.
- e. Exterior alterations or additions to an existing residential structure which do not substantially change its nature or use.
- f. Interior alterations that do not substantially change the nature or use of an existing commercial structure.
- g. Any change in use which does not require the issuance of a certificate of occupancy pursuant to the New York State Fire Prevention and Building Code.
- h. Residential garden uses and residential, non-commercial timber cutting.
- i. Yard sales.
- j. Uses and structures which have already initiated construction prior to the enactment of this local law.
- k. Fences and parking lots.
- l. Agricultural structures under 5,000 square feet in size.

3. Existing Uses, Structures, and Applications.

This law does not apply to uses and structures that are lawfully in existence as of the date this law becomes effective. Any use that would otherwise be subject to this law, which has been discontinued for a period of one (1) year or more, shall be subject to review pursuant to the terms of this law before such use is resumed. This law does

apply to all changes in existing uses unless specifically exempted by Section 2, above. Uses and structures which have already initiated construction are exempt from this law. Proposed uses and structures which have site plan applications before the Planning Board but which have not yet received any site plan approvals from the Town of Peru shall be subject to this law.

4. Uncertain Applicability.

Any person uncertain of the applicability of this law to a given land use shall apply in writing to the CEO for an opinion on applicability.

401.3 Procedures

1. General Application. Procedures

Any person, before undertaking any new land use activity at any location within the Town for which this law requires site plan approval, shall submit a sketch plan together with appropriate supporting data for review and approval in accordance with the standards and procedures set forth in this law.

2. Sketch Plan.

An informal sketch plan conference between the applicant and the Planning Board shall be conducted prior to submission of a site plan application to review the proposed development and to generally determine the information to be required in the site plan. The Planning Board may schedule a site visit by one or more of its representatives to familiarize itself with the parcel and project.

In order to accomplish these objectives, the applicant shall provide eight copies of the following information to the Planning Board for the Sketch Plan conference on the 15th of the month preceding the regularly scheduled Planning Board meeting:

- a. A statement and rough sketch showing the locations and dimensions of existing and proposed principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; where applicable; anticipated changes in the existing topography and natural features and measures and features to comply with flood hazard and flood insurance regulations;
- b. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features that impact the proposed development;
- c. A sketch showing locations of natural features such as wetlands, streams, or lakes.

3. Sketch Plan Review.

The intent of the sketch plan conference is to enable the applicant to inform the planning board of the proposal prior to the preparation of a detailed site plan and for the planning board to review the basic site design concept, advise the applicant as to potential problems and concerns, and to generally determine the information to be required on the site plan. At the sketch plan conference the Planning Board will review and determine if the proposal is in conformity with the Comprehensive Plan of the Town of Peru. The Planning Board shall also review with the applicant submission requirements to determine what specific information is to be presented with the site plan application. For smaller projects that are determined to have minor or no impact on neighboring properties, the Planning Board may determine that a Preliminary Site Plan may not be required and that the Site Plan review process is complete.

4. Application for Preliminary Site Plan Approval.

Required site plans must be completed by a licensed surveyor, engineer or landscape architect or other qualified planning professional as approved by the Planning Board. The applicant shall forward a copy of the completed Preliminary Site Plan Application and eight copies (no larger than 12" by 18") and five copies (no smaller than 24" by 36"), of a site plan map together with appropriate supporting data contained in 401.3 (5) and an application fee that has been established by the Peru Town Board to the Planning Board. In addition, the Planning Board or CEO may require an electronic copy of all maps and plans. All applications for site plan review must be submitted to the Planning Board on the 15th of the month preceding the regularly scheduled Planning Board meeting.

5. Preliminary Site Plan Submission Requirements.

The site plan submitted for preliminary approval and supporting documentation shall include all applicable information contained in the sketch plan in addition to the following information, unless waived by the Planning Board pursuant to 401.3 (7). All submitted maps shall be drawn at a scale of 50' to one inch or larger, designed by a qualified professional.

- a. Title of site plan, including name and address of applicant, and person responsible for preparing such drawing.
- b. North arrow, scale and date.
- c. Boundaries of property plotted to scale.
- d. Location, size, and existing use of buildings on premises, if any.

- e. Location and ownership identification and addresses for all adjacent lands as shown on the latest tax records.
- f. Location and name of all existing public streets, known easements, rights of way, other reservations of land or areas dedicated to public use within 200 feet of the applicant's property.
- g. Location and identification of all structures and uses on adjacent lands within 100 feet of the property line, including all historic resources that are listed on the State and National Historic Registers, or are eligible for listing.
- h. Any pertinent natural features that may affect the proposed use such as water courses, swamps, wetlands, wooded areas, areas subject to flooding, steep slopes (more than 15%), areas of frequent outcrops, etc.
- i. A topographic or contour map of adequate scale and detail to show site topography. The Planning Board shall have the discretion to waive the provision of a topographical map in the event that the applicant can demonstrate that the contour of the subject matter parcel(s) does not impact the project in any manner.
- j. Grading and drainage plans showing existing and proposed contours and water courses within, and extending 50 feet beyond applicant's property, and soil erosion and sediment control plan if required by DEC or other local statutes or regulations.
- k. Location, building architecture and design, and exterior dimensions of all proposed buildings and structures.
- l. Identification of the amount of gross floor area, proposed division of building into units of separate occupancy and hours of operation for retail sales and service offices and other commercial facilities.
- m. Location, design, type of construction, and area of all parking and truck loading areas (including number of parking spaces, showing access and egress).
- n. Provision for pedestrian access, including public and private sidewalks, if applicable.
- o. Location of outdoor storage and solid waste disposal, and location and description of any hazardous materials to be used or stored on site.
- p. Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- q. Description of the method of sewage disposal and the location of such facilities, including the location of the collection system.

- r. Description of the method of securing water, location of such facilities, design and construction materials, approximate quantity of water required and location of distribution system.
- s. Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
- t. Location, design, and construction materials of all energy generation and distribution facilities, including electrical, gas, solar energy, and all power and communication facilities, including towers and satellite dish antennas.
- u. Location, size, design and type of construction of all proposed signs.
- v. Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
- w. Location and design of existing and proposed outdoor lighting facilities.
- x. General landscaping plan.
- y. Identification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies.
- z. Estimated project construction schedule.
- aa. Other elements integral to the proposed development as may be specified by the Planning Board at the sketch plan conference.
- bb. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form.)
- cc. Elevation and façade treatment plans of all proposed structures.
- dd. Stormwater Management Plan. The contents of the stormwater management plan shall contain sufficient information for the Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. The stormwater management and stormwater pollution prevention plans shall be prepared in compliance with the Stormwater Design Manual of the New York State Department of Environmental Conservation (SPDES), with the requirements of the Environmental Protection Agency's current National Pollutant Discharge Elimination System (NPDES) regulations.

ee. Signature lines and Date lines for Applicant and for approval of the Chairperson of the Planning Board.

6. Additional Requirements.

If, in the opinion of the Planning Board, projects could have traffic, visual, or stormwater impacts, the applicant shall submit, at their expense, traffic impact and drainage design reports, visual impact assessment and/or proposed grading plans as detailed below. Costs for all reports, assessments, or plans required by the Planning Board shall be borne by the applicant pursuant to Section 401.3(17).

a. Traffic Report. Traffic Reports shall include the following for the study area:

1. Internal traffic flow analyses.
2. Existing average daily traffic and peak hour levels.
3. Analyses of average daily traffic and peak hour levels resulting from the project.
4. An analysis of existing and resulting intersection levels of service (LOS).
5. Directional vehicular flows resulting from the proposed project.
6. Proposed methods to mitigate the estimated traffic impact.
7. Identification of any pedestrian crossing issues.
8. The methodology and sources used to derive existing data and estimations.

b. Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect or other qualified professional and shall include:

1. Visually illustrate and evaluate the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g. scale, materials, color, odor, door and window size and locations, setbacks, roof and cornice lines, and other major design elements);
2. An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes;
3. A site plan rendering.

7. Less Intensive Review and Waiver Requirements.

The Planning Board must state in writing its grounds for electing to conduct less intensive review and file such statement along with the site plan application and supporting documents. The Planning Board may elect to conduct a less intensive review for minor types of projects. Minor projects are those that do not generate a significant amount of traffic, or are a re-use of an existing building under 5,000 square feet and that create no new parking, curb cuts, lighting, or signage. Certain requirements of 401.3 (5) and (6) of this law for such proposed uses may be waived by the Planning Board if the Board finds that any such requirements are not requisite in the interest of the public health, safety or general welfare or are inappropriate to a particular site plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted by the Planning Board. Requirements of this law may not be waived except as properly voted by the Planning Board by a majority plus one of the full Board.

8. Specifications of Materials Submitted

- a. Elevations and/or Sections. Elevations and/or sections, illustrating front, rear, and side profiles drawn to the same or larger scale as the site development plan, shall be required by the Planning Board. The elevations and/or sections shall clearly delineate the bulk height of all buildings and other permanent structures included in the proposal, including the dimensions and height of any proposed signs.
- b. Engineering Plans. The Planning Board may require engineering plans prepared by a licensed professional engineer to illustrate and describe such development aspects as: road improvements, drainage systems, grading plan, public or private utility systems, sewer and water facilities, and such other supporting data as may be necessary.

9. Planning Board Action on Preliminary Site Plan:

- a. Acceptance of Site Plan Application. The Planning Board shall, within forty-five (45) days of a site plan application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application deficiencies. No application shall be considered complete until a negative declaration under SEQRA Part 617 has been issued or until a draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.
- b. Public Hearing. The Planning Board shall conduct a public hearing on the site plan. Such hearing shall be held within sixty-two (62) days of the Planning Board's acceptance of the preliminary site plan application as complete and shall be advertised in the town's official newspaper at least ten (10) days before the hearing. The Planning Board shall give the applicant at least ten

(10) days notice by mail of the Public Hearing.

- c. Decision. Within 62 days of the public hearing, the Planning Board shall render a decision on the preliminary site plan. The Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is recommended for approval, disapproval or approval with modifications. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition for a recommendation of approval. If the preliminary site plan is recommended for disapproval, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned. The Planning Board's decision must be filed with the Town Clerk within five business days after such decision is rendered and a copy mailed to the applicant.
 1. Approval. Upon approval of the preliminary site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file with the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant.
 2. Approval with Modifications. The Planning Board may approve the site plan and require that specific modifications or conditions be made. A copy of a written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall then submit a final site plan in reproducible form that contains the necessary modification(s).
 3. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall, within five (5) business days, file the same with the Town Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the Planning Board's reasons for disapproval.

10. Application for Final Site Plan.

The final detailed site plan shall conform substantially to the preliminary site plan originally recommended for approval. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

The applicant shall forward a copy of the completed Final Site Plan Application and eight copies (no larger than 12" by 18") and five copies (no smaller than 24" by 36"), of a site plan map, as well as three full size Mylar copies (may be replaced by a

digital copy), together with appropriate supporting data contained in 401.3 (5) and an application fee that has been established by the Peru Town Board to the Planning Board. The Planning Board and/or CEO may require electronic copies. All applications for Final site plan review must be submitted to the Planning Board at least 10 days prior to the Planning Board's regular meeting.

The following additional information shall accompany an application for final detailed site plan review:

- a. Record of application for and status of all necessary permits from federal, State and County officials on a checklist to be provided to applicant.
- b. Detailed sizing and final material specification of all required improvements.
- c. An estimated project construction schedule.

11. Planning Board Action on Final Site Plan.

After receiving a recommendation for approval, with or without modifications from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board. If more than 6 months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

- a. Public Hearing. The Planning Board may conduct a Public Hearing on the final site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of complete application for final site plan review and shall be advertised in the Town's official newspaper, or if there is none, in a newspaper of general circulation in the Town at least 10 days before the public hearing.
- b. Decision. Within 62 days of receipt of the complete application for final site plan approval or if a public hearing is held within 62 days of public hearing, the Planning Board shall render a decision. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board. In its decision the Planning Board may approve, approve with modifications or disapprove the final site plan. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by the Building Inspector.
 1. Approval. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within

five (5) business days of its decision, file with the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant.

2. Disapproval. Upon disapproval of the final site plan the decision of the Planning Board shall immediately be filed with the Town clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

12. Extension of Time to Render Decision.

The time period in which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and board, shall not constitute Planning Board approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.

13. Segmentation.

The site plan application and associated maps may include proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board may consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

14. Reservation of Park Land.

In accordance with the provisions of Section 274-a (6) of the Town Law, the Planning Board may require the site plan to contain a park or parks suitably located for playgrounds or other recreational purposes, or require the payment of a sum of money in lieu thereof.

15. Referral to Other Agencies and Boards

- a. Coordinated Review. The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the state or county Department of Health, whichever has jurisdiction.
- b. Required Referral. Prior to taking the final action on the site plan, and at least ten (10) days prior to the Public Hearing, if a public hearing is held, and where applicable, the Planning Board shall refer the plan to the Clinton County

Planning Board for their review pursuant to Section 239-m of the General Municipal Law.

c. Required Ag and Markets Review.

1. Agricultural data statement. An application for a site plan review must also contain an agricultural data statement if any portion of the project is located on property within a New York State certified Agricultural District containing a farm operation, or other property with boundaries within 500 feet of a farm operation located in such agricultural district. The agricultural data statement shall contain the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district which contains farm property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement. The Planning Board shall evaluate the impact of the proposal on existing agricultural operations. A written notice of such application, including a description of the proposed project and its location, shall be mailed to the owners of land as identified by the applicant in the agricultural data statement.

16. SEQRA Compliance.

No application shall be approved without compliance with SEQRA (Article 8 of the Environmental Conservation Law, Section 8-0113, Part 617), including, where necessary, a lead agency determination, a negative or positive declaration, and submission of an acceptable draft environmental impact statement. No application for site plan review shall be considered complete for initiation of the site plan time frames until either a negative declaration has been issued or a draft environmental impact statement has been accepted. When scenic resources are of concern, the Planning Board may require the use of the SEQR Visual EAF Addendum so that visual impacts can be evaluated during site plan review.

17. Costs Associated with Review and Escrow.

The Planning Board reserves the right to hire professional consultants, at the applicants' expense, to review any information filed by the applicant including that filed under the SEQRA process. All costs related to the site inspection and review of a site plan, including any studies, reports, analysis, or other information that may be required by the Planning Board, shall be borne by the applicant. In addition to the application fees established by the Town Board, an escrow account, funded by the applicant, may be established to cover all costs related to the review of a site plan. The applicant shall supply the Planning Board information as may be required to calculate the dollar amount required for the escrow account.

18. Revocation of Site Plan Approval.

Any approval issued hereunder shall expire after one year from the date of such approval unless the applicant shall have commenced and substantially proceeded with construction of the project.

401.4 Criteria for Review.

The planning board's review of the site plan shall include, but is not limited to, the following general considerations:

1. Compatibility with the Town of Peru Comprehensive Plan.
2. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs, including compatibility with setbacks and build-to lines.
3. Glare and light pollution that may be associated with new development. Glare and light pollution shall be minimized.
4. Consistency with the Town of Peru Highway Specifications (Subdivision) and adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. The Planning Board may require a traffic study pursuant to Section 401.3 (6)(a) of this local law.
 - a. All entrance and exit driveways shall be located with due consideration for traffic flow so as to afford maximum safety to traffic on public streets and shall be reviewed and approved by the appropriate state, county, or local authority prior to the granting of site plan approval.
 - b. To the maximum extent practicable, provide cross access between properties to reduce the number of curb cuts and limit the amount of traffic on the main arterial or collector street fronting the development. The Planning Board may require individual developers to construct a site layout that facilitates future cross access in anticipation of future adjacent development. The Planning Board may require use of shared driveways.
 - c. Similar land uses shall provide, wherever practicable, joint access to arterials or collector streets fronting the development to minimize disruption of traffic flow, reduce potential points of conflict between through and turning traffic, and facilitate the control and separation of vehicles and pedestrian movement. The Planning Board may require individual developers to construct a site layout that facilitates future joint access in anticipation of future adjacent development. Minimize the number of curb cuts.
 - d. Safe pedestrian facilities shall be provided for including but not limited to use of raised intersections, curb extensions, textured crosswalks, speed humps,

and pedestrian crossing islands.

5. Location, arrangement, appearance and sufficiency of off-street parking and loading. For example: where possible parking areas should be placed at the rear and/or side of principal buildings so they are not visible from public roads. Where site limitations necessitate that parking areas be located adjacent to a public road, a berm, masonry wall, solid fence or evergreen hedge at least 30 inches in height above grade at the time of planting shall be installed to screen the view of parking areas from the road or street. Existing vegetation, which is proposed for preservation, shall also be used to screen the view of parking areas.
6. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
7. Adequacy of stormwater and drainage facilities. The proposed development shall be designed to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns, protects other properties and public roadways, and mitigates water quality impacts to the greatest extent practical. Drainage plans may be reviewed and approved by an Engineer retained by the Planning Board prior to approval. To the greatest extent practical, drainage systems shall be designed to avoid an increase in peak stormwater volume and velocity. Use permeable surfaces to the maximum extent practical.
8. Adequacy of water supply and sewage disposal facilities. These plans may be reviewed and approved by an Engineer retained by the Planning Board prior to approval.
9. 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.
 - a. Landscape plantings of shrubs, ground cover, and shade trees, as well as perennials and annuals and other materials, such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian scale spaces and to maintain landscape continuity and build-to lines within the community. All landscaping within the site shall be designed to facilitate conservation of the environment and preservation of community aesthetic character. This may be accomplished through the use of native plant material and the retention of existing natural vegetation, thereby reducing or eliminating the need for irrigation, pesticides, herbicides, and fertilizers.
 - b. Preservation of mature plant species, including but not limited to, hedgerows, wetlands, wildlife corridors, trees, and woodlots shall be encouraged and included as a design element in the development of the site. Existing stone walls shall be preserved to the maximum extent practical.

- c. Landscaping shall be used to create boundaries and transitions between areas of differing development intensities as well as to separate areas of incompatible land uses. A buffer zone thickly planted with native trees and shrubs of sufficient width to entirely screen a nonresidential use from a neighboring residential use shall be required.
 - d. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate the unsightliness of parked cars.
 - e. Solid waste facilities and containers, outdoor service areas, and loading docks shall be screened around their perimeter from the street and from other adjacent residential areas through the addition of conifer plantings or architectural elements. Outdoor storage shall be prohibited.
10. Adequacy of utilities. Newly installed utility service systems, and service revisions shall be installed underground and may require approval of the Engineer retained by the Planning Board. When feasible, existing aboveground utility service systems shall be placed underground.
11. Adequacy of site accessibility, fire lanes and other emergency zones and the provision of fire hydrants. All buildings shall be accessible to emergency vehicles as required by the New York State Fire Prevention and Building Code. If the Planning Board deems it necessary, it shall refer the application to the applicable emergency services providers and to an Engineer retained by the Planning Board for comment on the proposed access arrangements.
12. Adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. These may be reviewed and approved by an Engineer retained by the Planning Board.
13. Location of and adequacy of measures proposed to protect environmentally sensitive areas. The Planning Board may request an advisory opinion on these matters from the Clinton County Soil and Water Conservation District, NYS DEC, or other agencies prior to final decision.
14. Type, frequency, pitch, and decibel levels of noise that may be generated from project. The Planning Board may request a noise analysis be conducted by measuring existing ambient sound levels with a sound-level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association and comparing to proposed sound levels. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24, 3-1944, American Standards Association, Inc., New York, New York, and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24, 10-1953, American Standards Association, Inc., New York, New York, shall be used.) No nuisance noise shall result from the project.

15. Compatibility with neighborhood character and the overall rural character of Peru.

- a. Relationship of buildings and site to adjoining areas. Site plans involving nonresidential uses proposed adjacent to a residential district or residential uses shall be reviewed with regard to minimizing the impact of the development on such district or use. The Planning Board shall encourage the use of a combination of landscaping, buffers, berms, screens, visual interruptions, and common building materials to create attractive transitions between buildings of different architectural styles and uses.
- b. Individual buildings shall relate to each other and to traditional structures in the surrounding area in lot placement, scale, height, build-to lines, and connections to harmonize visually and physically with the traditional character of the area. Buildings shall have facades that honor traditional styles and patterns found in Peru. The Planning Board shall evaluate the impact to and compatibility of these design features with existing neighborhoods and historic resources.
- c. Treatment of the sides and rear of all buildings shall be comparable in amenity and appearance to the treatment given to street frontages of these same buildings. Windowless walls shall not face a street. For buildings greater than 80 feet in length, facades shall have a façade break or change in roofline to break up long lengths of structure.
- d. Rooftop and ground level mechanical equipment shall be screened from public view by the use of materials harmonious with the building, or shall be located so as not to be visible from any public ways.
- e. When projects involve the renovation/reuse of an existing building, the historic character and architectural elements shall be maintained as may be required by the Planning Board. The Board may engage the services of an architectural advisor to suggest alternatives to harmonize with the character of the area at the applicants' expense.
- f. Minimize clearing of vegetation.
- g. If present, retain stonewalls, hedgerows and other rural elements, to the greatest extent practicable.
- h. Provide for setbacks from streams and wetlands to protect water quality.
- i. In the hamlet, new development shall be placed on the lot to be consistent with the setbacks of adjacent and surrounding structures. Siting shall be based on and emulate existing development patterns and shall not introduce suburban or strip commercial styles.
- j. On hills or ridge tops, rooflines shall be placed below the ridgeline to prevent visual disruption of that ridgeline. The Planning Board may also require use of

non-reflective or low reflective building materials and dark natural or earth tone colors to mitigate visual impacts, especially if the proposed structure is highly visible from many locations.

- k. Restrict development to those portions of a parcel less than 15% slope to the maximum extent practical.
16. Compatibility with active agricultural activities. The Clinton County Agriculture and Farmland Protection Board or others may be consulted with regarding significance, location and type of agricultural activities that may be impacted by the proposed development.
17. Protection of plant and animal habitats to the maximum extent practical. Methods to accomplish this include, but are not limited to the following:
- a. Maintaining buffers between areas dominated by human activities and core areas of wildlife habitats such as un-fragmented woodlands;
 - b. Facilitating wildlife movement across areas dominated by human activities by incorporating into any development design undisturbed areas of vegetation in the form of wildlife travel corridors or "steppingstones" between habitat patches;
 - c. Mimicking features of the natural local landscape in developed areas; and
 - d. Identifying areas within the parcel containing features to be conserved including but not limited to: wetlands, streams, un-fragmented woodlands, hedgerows, and important micro-habitats that may be present and locating development away from these areas.

401.5 Guarantee of Site Improvements

- 1. General. Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a performance guarantee pursuant to Sub-section 401.5(2) has been provided by the applicant for improvements not yet completed.
- 2. Performance Guarantee Options. In order that the Town has the assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, landscape elements, parking, and access roads will be constructed in accordance with the site plan approval, the Planning Board may require that the applicant enter into one of the following agreements with the town.
 - a. Furnish bond executed by a surety bond company equal to the cost of construction of such improvements as shown on the plans. Such bond shall

be 1) based on an estimate furnished by the applicant; and 2) approved by the Planning Board.

- b. Deposit certified check in sufficient amount up to the total cost of construction of such improvements as shown on the site plan.

3. Conditions

- a. The performance guarantee shall be to the town and shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this law and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.
- b. Any such bond shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.
- c. Certified checks shall be made payable to "the Town of Peru" and will be placed in a non-interest bearing escrow account established by the Town for this purpose.
- d. No approval(s) shall be granted by the Planning Board until such bond funds are placed in such escrow account.

- 4. Extension of Time. The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the site plan. All construction of new roads and associated improvements including, but not limited to curbs, curb cuts, drainage, and paving, shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Planning Board grant an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the bond or certified check deposit to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction or improvements are not performed in accordance with applicable standards and specifications.

- 5. Schedule of Improvements. When a certified check or performance bond is issued pursuant to the preceding sections, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However ten percent (10%) of the check deposit or performance bond may not be repaid to the applicant until one year following the completion and inspection by the town of all construction

and installation covered by the check deposit or performance bond.

6. **Phased Development.** The Planning Board may further request, subject to Town Board approval, that the applicant deposit a separate performance bond or certified check for each phase of development proposed. In this event, five percent (5%) of the check deposit or performance bond shall be withheld from the applicant until sixty (60) days following the completion, inspection, and acceptance by the town of all construction and installation covered by such deposit. No subsequent phase of development shall be undertaken until each earlier phase has been completed and approved by the Engineer retained by the Planning Board and Building Inspector.
7. **Termination of approval.** In cases of site plan approvals for which no guarantee of completion of site plan improvements has been required by the Planning Board, the approval may be deemed terminated if construction is not completed within eighteen (18) months of approval.

401.6 Administration/Enforcement

1. **Site Plan Completion.** No permit or certificate of occupancy shall be issued by the CEO, except upon authorization by and in conformity with an approved site plan where required.
2. **Revocation of Approval.** Failure by any property owner to continually observe all conditions of a site plan approval shall result, after notice and hearing, in revocation of such site plan approval and any building permit and certificate of occupancy issued as a result of such site plan approval. If the CEO determines that the site is not being maintained in accordance with the approved site plan he or she shall order the same to be corrected within ten days of the date of his order. Should non-compliance continue, the CEO may recommend revocation of site plan approval by the Planning Board. Upon receipt thereof the Planning Board shall notify the owner of said premises by written notice. Such notice shall specify the time, date and place of said hearing and the ground upon which revocation has been recommended. After hearing all competent evidence, it shall render a decision.
3. **Court Review.** Any person aggrieved by a decision of the Planning Board may apply to the Supreme Court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the final decision by the Planning Board is filed in the office of the Town Clerk. The court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

401.7 Integration of procedures

Whenever the circumstances of proposed development require compliance with this Site Plan Review Law, and with any other local law, ordinance or requirement of the town, the planning board shall attempt to integrate, as appropriate, site plan review as required by this local law with the procedural and submission requirements for such other compliance.

401.8 Site Plan Review for Agricultural Structures over 5,000 Square Feet in Size

- a. Purpose. The Town of Peru recognizes the importance of agriculture to our community. It also recognizes that some agricultural practices may impact adjacent land uses. The Town of Peru Comprehensive Plan establishes a variety of goals related to agriculture as well as identifies potential concerns related to these uses. In order to mitigate any potential negative impacts related to new farm activities, a site plan shall be submitted and approved for all new agricultural structures over 5,000 square feet in size. In order to not unreasonably restrict agricultural activities, a modified site plan review process pursuant to this Section is established. This affords the Planning Board the ability to review new or expanded agricultural activities in an expedited fashion with the purpose of identifying and mitigating potential impacts in light of public health, safety and welfare without unduly burdening farm operations.
- b. Application Materials. The applicant for site plan review and approval shall submit the following:
 1. Sketch of the parcel on a location map showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements of rights-of-ways and roadways. Show existing features including land and water areas, water or sewer systems and the approximate location of all existing structures on or immediately adjacent to the site.
 2. Show the proposed location and arrangement of buildings and uses on the site including means of ingress and egress, parking and circulation of traffic.
 3. Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front and side views.
 4. A description of the project and a narrative of the intended use of such proposed buildings, structures or signs, including any anticipated changes

in the existing topography and natural features of the parcel to accommodate the changes.

5. If any new structures are going to be located adjacent to a stream or wetland, provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
- c. The Planning Board may require a survey, architectural or engineering drawings or plans as may be necessary depending on the size and complexity of the proposed buildings or structures and whether any State agricultural exemption applies.
- d. The Planning Board may require a public hearing prior to making a decision on the site plan.
- e. The Planning Board shall have a maximum of 45 days from the submission of a complete application to make a final decision.
- f. The Planning Board can accept, reject, or accept with conditions a proposed agricultural site plan provided it does not unreasonably restrict or regulate farm operations.

Section 402 RESERVED

Section 403 Cluster Development

As provided for in Section 281 of the Town Law, the Planning Board is authorized to modify the provisions of other sections of this Zoning Law according to the procedure and standards outlined in this section.

403.1 Purposes

1. To provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure.
2. To provide residential development and permit flexibility of design in order to promote environmentally sensitive and efficient uses of the land.
3. To preserve, in perpetuity, unique or sensitive natural resources such as: groundwater, floodplains, wetlands, streams, steep slopes, hydric soils, woodlands, wildlife habitat, prime soils, and soils of statewide importance.
4. To permit clustering of houses and structures on less environmentally sensitive soils so as to reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.

5. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
6. To promote interconnected greenways and corridors throughout the community.
7. To promote contiguous greenspace with adjacent jurisdictions.
8. To encourage clustering that promotes interaction in the community by orienting new houses closer to the street, providing public gathering places, and encouraging use of parks and community facilities as focal points in the neighborhood.
9. To encourage street designs that reduces traffic speeds and reliance on main arteries.
10. To promote construction of convenient landscaped walking trails and bike paths both within the subdivision, and connected to neighboring communities, businesses, and facilities so as to reduce reliance on automobiles.
11. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to, and views of, open space.
12. To preserve important historic and archaeological sites.

403.2 General Regulations

1. Applicability of Regulations. A clustered subdivision may be permitted, at the discretion of the Planning Board in any district allowing residential development provided the parcel is at least five acres in size. Applicant shall comply with all other provisions of the zoning law and all other applicable laws, except those that are incompatible with the provisions contained herein.
2. Ownership of Development Site. The tract of land to be subdivided may be held in single, separate, or multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.
3. Lot Size. Lot sizes in a clustered subdivision shall be determined by the Planning Board at the time of the subdivision review. The Planning Board has the authority to waive all dimension requirements of this local law, except for density requirements.
4. All plans and maps shall be prepared by a qualified professional at the applicant's expense.

403.3 Application Requirements

1. Site Analysis Map Required. Concurrent with the submission of a sketch plan as required in the Town of Peru Subdivision Law, the applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this section. This analysis map shall include an identification of primary and secondary conservation lands as defined later in this section (403.4) within a parcel(s), which includes those elements most highly valued by the community. The purpose of a sketch plan is to facilitate an expedient review of proposed new subdivisions in conformance with the Town Zoning Law and Comprehensive Plan. The sketch plan is not intended to be a highly engineered or exact document, but a general sketch illustrating the location and type of environmental features that are present on the site. The preliminary sketch plan shall include the following features:
 - a. Area having slopes of fifteen percent (15%) or greater;
 - b. Wetlands, aquifer, and aquifer recharge areas, municipal water supply areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any;
 - c. Agricultural lands including farmland within, and adjacent to, a New York State certified Agricultural District, and soils classified as being prime farmland or soils of statewide importance, if any;
 - d. Sites where community sewer, community water, or community water and sewer are available or planned, if any;
 - e. Lands within or contiguous to a Critical Environmental Area designated pursuant to Article 8 of the Environmental Conservation Law, if any;
 - f. Lands contiguous to publicly owned or designated open space areas, or privately owned and designated natural areas, if any;
 - g. Historic structures or areas of national, state or local importance, if any;
 - h. Sites bordering on, or located within, known scenic locations identified in the Town's Comprehensive Plan, or in the Open Space Plan, if any;
 - i. Areas with rare vegetation, significant habitats, or habitats of endangered, threatened, or special concern species, or unique natural or geological formations, if any;
 - j. General locations of vegetative cover conditions on the property according to general cover type including: cultivated land, grass land, old field, hedgerow, woodland and wetland, and the actual canopy line of existing trees and woodlands;

- k. Lakes, ponds or other significant recreational areas, or sites designated as such in the Town's Comprehensive Plan, if any;
 - l. Existing trails, bikeways, and pedestrian routes of Town, State or County significance, if any;
 - m. Location of all existing streets, roads, buildings, utilities, and other man-made improvements; and
 - n. All easements and other encumbrances of property that are, or have been filed on record with the Clinton County Clerk's Office.
2. Open Space Management Plan Required. An open space management plan, as described in Section 403.4, shall be prepared and submitted along with the preliminary subdivision plat.
3. Instrument of Permanent Protection Required. An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant, as described in Section 403.4, shall be placed on the Open Space concurrent with the issuance of a subdivision approval.
4. Other Requirements. The applicant shall adhere to all other applicable requirements of the underlying zoning and the subdivision code.

403.4 Open Space

1. Definition. Open Space is the undeveloped and unimproved portion of the clustered subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.
2. Standards to Determine Open Space.
- a. The minimum restricted Open Space shall comprise at least sixty-five percent (65%) of the gross tract area. The primary and secondary conservation areas, as defined below, together constitute open space areas to be preserved.
 - b. The following are considered Primary Conservation Areas and are required to be included within the Open Space if possible:
 - 1. Lands within any regulatory 100-year floodplain;
 - 2. Slopes greater than fifteen percent (15%);
 - 3. DEC regulated wetlands and those wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;

4. Populations of endangered or threatened species, or habitat for such species; and,
 5. Archaeological sites, cemeteries, and burial grounds.
- c. The following are considered Secondary Conservation Areas, and should be included within the Open Space to the maximum extent feasible:
1. Important historic sites and structures;
 2. Existing healthy, forests of at least three (3) acres contiguous area;
 3. Other significant natural features and scenic viewsheds such as peaks and rock outcroppings, particularly those that can be seen from public rights of way;
 4. Prime agricultural lands of at least five (5) acres contiguous area; and,
 5. Existing trails that connect the tract to neighboring areas.
- d. Above-ground utility rights-of-way and small areas of natural impervious surface may be included within the protected Open Space, may be counted towards the sixty-five percent (65%) minimum area requirement. Large areas of paved or other manmade impervious surface shall be excluded from the Open Space.
- e. At least seventy-five (75%) of the Open Space shall be in a contiguous tract. The Open Space should adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.
3. Permitted Uses of Open Space. Uses of Open Space may include the following:
- a. Conservation of natural, archeological, or historical resources;
 - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
 - c. Walking or bicycle trails, provided they are constructed of porous paving materials;
 - d. Passive recreation areas;
 - e. Active recreation areas, provided that they are limited to no more than ten percent (10%) of the total Open Space, and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the

protected Open Space;

- f. Agriculture, horticulture, silviculture, or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within Primary Conservation Areas;
- g. Nonstructural stormwater management practices;
- h. Easements for drainage, access, and underground utility lines; or
- i. Other conservation-oriented uses compatible with the purposes of this ordinance.

4. Prohibited uses of Open Space

- a. Golf courses;
- b. Roads, parking lots, and impervious surfaces, except as specifically authorized in the previous sections;
- c. Agricultural and forestry activities not conducted according to accepted Best Management Practices; and,
- d. Other activities prohibited by the legal instrument providing for permanent protection.

5. Ownership and Management of Open Space.

- a. Ownership of Open Space. The applicant must identify the owner of the Open Space who is responsible for maintaining the Open Space and facilities located thereon. The options for ownership of the open space include: 1. Homeowners Association, 2. Ownership by one owner, partners or corporation with a conservation easement benefiting the Town of Peru. 3. Town of Peru. Depending upon the nature of the open space to be protected, the Town of Peru may accept ownership of the protected open space if registered by the owner. If a Homeowners' Association is the owner, membership in the Association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners' Association is the owner, the Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the owner. All open space owned by Homeowners' Association shall comply with the applicable provisions of Section 352-E of the New York State General Business Law, and file an offering plan approved by the New York State Department of Law, or obtain from the New York State Department of Law one of the following: (i) approval of an offering plan for the sale of the real property; (ii) a letter granting the applicant an exemption from the filing of an offering plan

pursuant to Cooperative Policy Statement 7 (CPS-7), or (iii) a “no-action” letter advising that the Department of Law will not take any action against the applicant for failure to file an offering plan. In the event that the New York State Department of Law grants CPS-7 treatment, or issues a no-action letter, the applicant shall impose an open space obligation on all properties served by the open space for maintenance in a form which shall be approved by the Town Attorney, and which agreement, when executed by all parties, shall be recorded in the Clinton County Clerk’s office.

6. Legal Instrument for Permanent Protection.

- a. The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
 1. A permanent conservation easement in favor of either:
 - a. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence, and the conveyance instruments shall contain an appropriate provision for retransfer, to the Town of Peru, which shall have the ability to enforce the terms of the Conservation Easement in the event the organization becomes unable to carry out its functions; or
 - b. The Town of Peru; or,
 2. A permanent restrictive covenant for conservation purposes in favor of The Town of Peru; or,
 3. An equivalent legal tool that provides permanent protection, if approved by the Town of Peru
 4. The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.

7. Other Open Space Standards

- a. No portion of any house lot may be used for meeting the minimum required open space land.
- b. Community septic systems cannot be placed in the required open space.
- c. Where active agricultural lands are set aside in a cluster development, such lands may remain in active agricultural use. In approving such a cluster development, the Planning Board shall consider the potential incompatibility of residential and agricultural uses in establishing appropriate screening, buffer

areas, setbacks, or other requirements.

403.5 Design Process for Cluster Subdivisions

1. Delineation of Open Space Lands. Proposed open space lands shall be designated as follows:
 - a. Delineate Primary Conservation Areas;
 - b. Delineate Secondary Conservation Areas;
 - c. A total of sixty-five percent (65%) of the original parcel shall be preserved as open space. This open space shall constitute both the primary and secondary conservation areas and other lands as necessary to meet the sixty-five percent (65%) open space requirement.
2. Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
3. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified herein, and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding fifteen percent (15%). Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All road standards of the Town shall be met.
4. Draw Lot Lines. Upon completion of the preceding three (3) steps, lot lines are drawn as required to delineate the boundaries of individual residential lots.

Please note: The subdivision of lots in a clustered development requires that the applicant go through subdivision approval by the Planning Board.

403.6 Site Design Criteria

1. Residential structures in a clustered subdivision should be located according to the following guidelines, which are listed in order of significance (some of which may conflict with each other on a particular site, in which case, the Planning

Board may use its discretion to resolve such conflicts):

- a. On the least fertile agricultural soils, and in a manner which maximizes the usable area remaining for agricultural use;
- b. Away from the boundaries of any preserved farm, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm;
- c. In such a manner that the boundaries between house lots and active agricultural land are well buffered by vegetation, topography, roads, or other barriers, so as to minimize potential conflict between residential and agricultural uses;
- d. To avoid disturbance to the existing environmental, cultural, and scenic features;
- e. To be as visually inconspicuous as is practical when seen from state, county and local roads, and particularly from designated scenic routes;
- f. Next to other residences or building lots on adjacent properties;
- g. To minimize the perimeter of the built area by encouraging compact development, and discouraging strip development along roads;
- h. On suitable soils for subsurface sewage disposal (where applicable); and
- i. Within woodlands or along the far edges of open agricultural fields adjacent to any woodland, to enable new residential development to be visually absorbed by the natural landscape.

2. Other Layout Criteria

- a. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping.
- b. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two (2) access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two (2) entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- c. Open space shall be directly accessible or viewable from as many home sites as possible.
- d. The layout shall leave scenic views and vistas unblocked or uninterrupted,

particularly as seen from public thoroughfares. A deep no-build, no-plant buffer is recommended along the road where those views or vistas are prominent or locally significant.

- e. The layout shall maintain or create a buffer of natural native species vegetation of at least one hundred (100) feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, and ponds.
- f. Design around and preserve sites of historic, archeological, or cultural value insofar as needed to safeguard the character of the feature.
- g. Protect wildlife habitat areas of species listed as endangered, threatened, or of special concern by the New York State Department of Environmental Conservation.

3. Streets and driveways.

- a. Common driveway access may be provided. This is where two (2) or more driveways share one curb cut. A pedestrian circulation and/or trail system may be designated and installed sufficient for the needs of residents, at the discretion of the Planning Board.
- b. From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid long straight segments. Shorter straight segments connected by ninety (90) degree and one hundred thirty-five (135) degree bends are preferred in a more formal or traditional arrangement.
- c. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design, and contribute positively to the Town's open space goals.
- d. Single-loaded streets are encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
- e. Landscape common areas and plantings on both sides of new streets with native species of shade trees is encouraged.

Section 404 RESERVED

Section 405 Uses Subject to Special Conditions

Section 405.1 Home Occupation

- 1. Minor Home Occupations shall be permitted by right in any zoning district.
- 2. Major Home Occupations and Home Based Businesses shall be permitted in

selected districts as shown in the Appendix A. Use Schedule.

3. The following standards shall apply to all major home occupations and home based businesses:
 - a. Must receive Site Plan Review approval.
 - b. Must be incidental to the use of the dwelling unit for residential purposes;
 - c. The residential property where a home occupation or home based business is to occur must be owner-occupied;
 - d. Accessory structures may be used for major home occupation or home based business purposes provided all other criteria of this section are met;
 - e. No offensive noise, vibration, dust, or odor, heat or glare shall be produced;
 - f. Off-street parking and loading shall accommodate access and egress of any supply or service vehicles to the home occupation or home based business without obstructing traffic;
 - g. One unanimated, non-illuminated sign of not more than six (6) square feet shall be allowed for major home occupations or home based business. There shall be no other exterior evidence of the home occupation.
 - h. Business operation hours, lighting and where allowed, signage, should be set so as not to adversely affect adjacent uses;
 - i. Adequate off street parking must be provided. Parking areas shall have crushed stoned, blacktop, or other appropriate surface and shall be appropriately landscaped to provide screening from adjacent properties and public right of way.
4. Other Criteria for Major Home Occupations. The Planning Board shall ensure that a major home occupation will not:
 - a. generate traffic or parking significantly in excess of what is normal in the neighborhood;
 - b. create a hazard to person or property, result in utility interference or disruption, or have the potential of becoming a nuisance;
 - c. involve the permanent outside storage or display of any items except signs, as otherwise allowed in this section; and
 - d. be incompatible with the surrounding neighborhood.

5. Prior to initiating a home occupation, it shall be demonstrated that there exists a functioning sewage disposal system servicing the residence that has been inspected and shown to have sufficient handling capacity to accommodate the combined demands of the residence and the home occupation or home based business. Such inspection shall have occurred not more than one (1) year prior to application for a Site Plan Review to allow such a home occupation or home based business. The Planning Board may accept an inspection report prepared by another agency or inspector which the Planning Board deems qualified to perform such an inspection.

Section 405.2 Water Recreation and Water Storage

Any facilities for water recreation such as private swimming pools, swimming clubs, and commercial fishing ponds, or any other water storage facilities such as reservoirs, fish hatcheries, outdoor water storage tanks, sewage lagoons, and farm ponds shall comply with the following requirements:

1. The facility shall conform with the setback requirements.
2. If prescribed by the Zoning Board of Appeals for safety reasons, the facility shall be enclosed by a fence no less than four feet high to prevent uncontrolled access by small children.
3. The facility, if operated to attract visitors, shall comply with parking requirements established by Section 312.
4. Before a site plan permit shall be issued to the operator or owner of the non-residential facility a plan shall be submitted to the Planning Board.

Section 405.3 Storage of Boats, Travel Trailers, Trucks, and Mobile Homes

No boat, travel trailer or truck over one ton capacity shall be stored in the front yard in any district that allows residential use except in the driveway. In addition, when such boats or vehicles are stored elsewhere, they shall be stored in a manner that does not create a nuisance and shall meet the set back requirements for structures of the district. No mobile homes shall be stored in any residential district.

Section 405.4 Agriculture

Agricultural uses shall comply with the following requirements:

1. Farm buildings, other than a dwelling, shall not be erected within fifty (50) feet of a neighboring property in all districts.

2. Feed lots, fenced runs, pens, and similar intensively used facilities for animal raising and care shall not be located within fifty (50) feet of a neighboring property, excluding pastures.
3. Roadside stands for sale of agricultural products shall be permitted with the following conditions:
 - a. Regardless of setback requirements elsewhere in this law they are erected at least sixty five (65) feet back from the center of New York State Routes and forty five (45) feet on other roads;
 - b. They are used solely for the sale of agricultural products, a predominance (at least 50%) of which must be grown and produced locally (grown locally shall mean grown in New York State no further than 100 miles from the Town of Peru; except to restock inventory after a natural disaster);
 - c. All necessary parking must be provided off road;
 - d. Signs shall conform to provisions set forth in Section 314.
4. Removal of Apple Trees. Special regulations are necessary to protect active apple orchards lands from the diseases associated with neighboring apple orchards that are not active and no longer maintained.
 - a. The abandonment of typical apple orchard activities (spraying of trees, harvesting of apples) for two years on lands previously farmed for apples shall require the owner of such property to remove and destroy all apple trees that have been abandoned.
 - b. The conversion of land formerly used for apple production to another use shall require the owner of such property to remove and destroy all apple trees on such lands to be converted prior to transfer of title of the land.

Section 405.5 Auto Service Stations

In all districts where permitted, auto service stations shall comply with the following:

1. An auto service station lot shall not be located within three hundred feet of any lot occupied by a school, hospital, library or religious institution
2. Lot size shall be at least 20,000 square feet.
3. Lot frontage shall be at least 150 feet.
4. Lot depth shall be at least 125 feet.

5. Pumps, lubricating and other service devices shall be located at least 55 feet from the center of any road and 35 feet from other lot lines.
6. All fuel and oil shall be stored at least 35 feet from any property line.
7. All automobile parts are to be stored within a building; any dismantled or inoperable vehicles must be obscured from view from any road or adjacent property and no repair work is to be performed outside a building.
8. No signs shall extend beyond the pumps, nor exceed 15 feet in height.
9. The maximum width of each access driveway shall be 40 feet. The location of the driveway shall comply with Section 306.
10. A suitably edged landscaped area shall be maintained at least five feet in depth along all street frontage not used as a driveway.

Section 405.6 Housing for Agricultural Employees

In any district a farm may have more than one dwelling on a lot provided that, all dwellings in excess of one dwelling are occupied by persons employed full-time in the agricultural enterprise on either a seasonal or year-round basis.

If manufactured homes are not permitted in the district where the farm is located, a building permit may not be issued without prior site plan approval pursuant to Section 401 of this law. The Planning Board may, as a condition of site plan approval, require that the manufactured home be situated or screened so that it is not visible from a public street or highway, or from adjoining properties.

Section 405.7 Open Storage

In any district open storage of equipment, major appliances, construction material of any type and similar materials and supplies will not be permitted except for on-lot bonafide commercial and industrial operations and for agricultural purposes in connection with an operating farm unless such open storage is screened from public rights of way and nearby residents. Any existing open storage not conforming to the requirements of this section shall, within three years from the effective date of this law, be brought to conformity.

Section 405.8 Multi-family dwellings

The minimum lot size shall be computed by multiplying the number of families times the minimum area per family as allowed in the district in which it is proposed to be located.

1. All front yards attached to multiple family structures shall have a clearly defined space using landscaping, fencing, hedging, or brick or stone wall, none of which shall exceed three feet in height. Front yards of attached townhouses may be unified into one common yard treated as a single front yard for the entire building.
2. All condominium and townhouse multiple family units shall have the following dimensions:
 - a. Maximum building coverage: 60%
 - b. Maximum lot coverage: 70%
 - c. Maximum building size: four dwelling units in a row and 100 feet in length.
 - d. Minimum open space between buildings on the same lot: 30 feet
 - e. Rear yard garage or parking spaces required.
 - f. All front, side and rear yards as required by in the district in which it is proposed to be located.
3. All apartments, condominiums, or other multiple family units shall have the following dimensions:
 - a. Maximum building coverage: 60%
 - b. Maximum lot coverage: 70%
 - c. Maximum building size: six dwelling units in a building and 100 feet in length.
 - d. Minimum open space between buildings on the same lot: 30 feet
 - e. Rear yard garage or parking spaces required.
 - f. All front, side and rear yards as required in the district in which it is proposed to be located.
4. All multiple family developments shall:
 - a. Consist of structures of an architectural style that emulates single-family residences in building design, entrance, and other architectural details.
 - b. Limit uniformity and monotony by limiting the repetition of colors, materials and architectural details throughout the neighborhood. Buildings should vary in appearance but share a common design style.
5. Paved off-street parking areas shall be provided as follows:

- a. On-site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
 - b. Two (2) parking spaces per dwelling unit shall be required.
 - c. Parking and traffic circulation should include appropriate signs and striping to direct traffic on and off-site.
 - d. Sidewalks shall be provided, as appropriate, to connect the residential units with parking areas, public streets, recreation areas, and other apartment building(s) and other existing sidewalks if present.
6. Buffer areas shall be used to maintain natural areas between multi-family structures. Buffer strips shall consist of trees, hedges, dense plantings, earth berms, or other changes in grade.
7. Landscaping and screening shall conform to the following minimum standards:
- a. Use of existing vegetation to the greatest extent possible.
 - b. Along road frontage, a ten (10) foot wide, landscaped buffer shall be provided and designed so as not to obstruct sight distance at road access points.
 - c. Units shall be sited for maximum preservation of mature trees (trees of twelve (12) inches or more in diameter).
 - d. Clear cutting of the entire site area is prohibited.
 - e. Lighting provided on the site to ensure safe movement of persons and vehicles and for security purposes shall conform to the following standards:
 1. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties.
 2. The maximum height of freestanding lights should not exceed twenty (20) feet.
 3. The source of the lights shall be shielded or located such that it shall not be visible outside the boundaries of the parcel being developed.
 - f. The Planning Board may require that all utilities, exclusive of transformers, be placed underground at the time of initial construction. Required utilities may include water, sewer, storm drainage, telephone, TV cable, electricity, gas, and wiring for streetlights.
 - g. Solid waste and recycling receptacles of adequate capacity shall be provided for the maximum number of residents. Receptacles shall be screened from

view by fencing or landscaping and properly emptied to prevent odor and unsanitary conditions. The receptacle shall be designed to prevent loose litter.

- h. Snow storage areas shall be indicated on the site plan and shall not interfere with required parking or traffic circulation.
8. One sign per entrance is permitted to identify the development and should be compatible with the general environment of the project site. Signs should conform to the following standards.
- a. Maximum height for each two (2) sided, freestanding entrance sign, from base elevation, shall be no greater than six (6) feet.
 - b. Maximum area of one side or face of a sign shall not exceed ten (10) square feet.
 - c. All signs should be erected a minimum of forty (40) feet from the centerline of any roadway.

Section 405.9 Gas Stations and Gas Stations with Convenience Store

- 1. Gas stations (and that portion of a convenience store that may have gas facilities) shall be permitted only on lots of one quarter acre or more, with 150 feet minimum road frontage.
- 2. The area for use by motor vehicles, except access drives thereto, as well as any structures shall not encroach on any required yard area.
- 3. No fuel pump shall be located closer than 20 feet from any side lot line nor closer than 60 feet from the centerline of any road, measured from the outside of the fuel island. Pumps should be sited to the side or rear of the structure to the extent practicable.
- 4. The Planning Board may limit the number of gas pumps to ensure consistency in scale between the gas filling station and adjacent land uses.
- 5. All repair work, and storage shall be within a completely enclosed building which has a maximum height of 25 feet.
- 6. All gas canopy lights shall be recessed with no bulb, lens or globes extending below the casing or canopy ceiling.
- 7. No signs other than gasoline name and logos shall be allowed on the canopy mansard, fascia or roof area covering gas dispensers.

8. Construction, maintenance and inspection of any gas station shall use all applicable federal, state and county environmental protection and mitigation requirements relative to installation, use and removal of tanks and pumps.
9. The Planning Board may require a traffic impact analysis.
10. The Planning Board may limit hours of operation or limit acceptable hours of fuel delivery where a gas station is adjacent to residential uses.
11. Lot must be designed so that no surface run-off leaves the site before passing over non-pervious surface area.
12. All pumps, pump islands, tanks, piping and canopies shall be removed when fuel dispensing activity has been inactive for a period of 12 months.

Section 405.10 Bed and Breakfast Inns

1. Bed and Breakfasts shall be owner-occupied and their Certificate of Occupancy shall so stipulate. Further, all Bed and Breakfasts up to five units must also be consistent with all New York State Uniform Fire Prevention and Building Code standards.
2. Unless otherwise allowed by the Planning Board, off-street parking shall not be located in a front yard and shall be screened from roads and adjacent properties so as to provide no variation from the residential character of the site. Off-street parking spaces for members of the owner's family residing in the dwelling unit as well as one parking space per room shall be provided.
3. Each bed-and-breakfast shall be established, maintained and operated so as to preserve and complement the residential character and integrity of the surrounding area.
4. No guest shall stay for a period of time in excess of thirty (30) consecutive days.
5. A single exterior sign or display may be established on the site of the bed-and-breakfast. Said sign or display shall not exceed six (6) square feet in area. No freestanding sign shall be located less than forty (40) feet from the centerline of any road or less than five (5) feet from the side property line. Further, said sign or display shall be as unobtrusive as reasonably possible and may be illuminated by no more than the equivalent of two (2) seventy-five-watt light bulbs which shall be shielded so as to prevent glare.
6. The bed-and-breakfast shall be maintained and operated at all times so as to comply with the New York State Uniform Fire Prevention and Building Code and the rules and regulations promulgated there under, as amended including furnishing of smoke alarms, carbon monoxide detectors and exit signs.

7. During Site Plan Review, the Planning Board shall consider the:
 - a. Adequacy and arrangement of vehicle traffic access and circulation,
 - b. Location, arrangement, appearance and sufficiency of off-street parking,
 - c. Location, arrangement, size and design of lighting and signs,
 - d. Relationship and compatibility of proposed use (bed-and-breakfast) to uses of adjacent parcels in the immediate vicinity, together with their scale,
 - e. Adequacy, type and arrangement of trees, shrubs, fences and other landscaping or improvement constituting a visual or noise-deterring buffer between the site and adjacent or adjoining uses.

Section 405.11 Convenience Store

1. There shall be a maximum of 10% of floor area for seating facilities.
2. Exterior display of merchandise for sale will be allowed only on paved walkway within 3' of building.
3. Loading areas shall minimize impact on neighborhood; screening and buffer yards shall be provided if adjacent to residential use.
4. At least 1 entrance and all principal windows shall be street oriented.
5. Use of alternative pavements (brick pavers, porous pavement, are encouraged).
6. There shall be a minimum lot size of 10,000 square feet.
7. There shall be a maximum floor area of 2,500 square feet.
8. Vehicle entrances shall be minimized to maximize safety, efficient traffic circulation while minimizing impact on neighborhood.
9. Exterior lighting shall not glare on adjacent property or public right-of-way.
10. The hours of operation may be restricted.
11. The scale, massing, and building design shall be compatible with neighborhood.
12. Parking shall not be in the front yard (unless otherwise impracticable).

Section 405.12 Accessory Apartments

1. General. All accessory apartments and conversions of single to two-family residences in any zoning district where allowed require a site plan approval from the Planning Board.

- a. Either the accessory apartment or single-family dwelling must be owner-occupied.
- b. The accessory apartment shall be limited to two bedrooms.
- c. All applicable minimum setbacks, road frontage and area requirements set forth in this local law shall be met.
- d. Adequate off-street parking must be provided on site in order to accommodate occupation by tenants.
- e. The design of any proposed addition to the principal single-family dwelling in which the accessory apartment is proposed shall conform to the general character and appearance of the principal dwelling and be consistent with the general character of the neighborhood.
- f. The driveway for ingress and egress to the accessory apartment should utilize the existing driveway utilized for the ingress and egress of the principal single-family dwelling to the maximum extent practicable. If another driveway is needed, its location and design should not adversely affect the existing driveway on the lot or driveways of neighboring lots in the area with respect to safety and layout.
- g. The location and use of the accessory apartment shall not adversely affect neighboring properties.
- h. The design, size, and layout of the accessory apartment shall be consistent with the continual use of the apartment as an accessory use to the principal single-family dwelling on the lot. Such accessory apartment shall not be subdivided from any parcel containing a single-family dwelling for any use.
- i. Only one accessory apartment shall be allowed in any single-family dwelling and only one accessory apartment shall be allowed on any single-family residential lot.
- j. The accessory apartment is subordinate to the principal residence and contains no more than 40% of the total habitable space of the existing structure prior to the construction of such accessory apartment or 1000 square feet, whichever is the more restrictive.

- k. The accessory apartment shall be connected to the same water supply and/or sanitary system of the single-family dwelling. Any proposed accessory apartment shall first receive approval from the Clinton County Department of Health with respect to the on-site water supply and sanitary system to be utilized by the accessory apartment before a zoning permit is granted.
- l. The lot may not be an existing nonconforming lot of less than the prescribed lot area or lot width.

Section 405.13 Kennels and Veterinary Hospitals

1. Animal waste shall be disposed of in a manner acceptable to the Department of Health.
2. Crematoria or land burial of animals in association with a commercial kennel or veterinary hospital shall be prohibited.
3. The minimum area required shall be 2 acres in the IC zone and 5 acres in the Rural zone.
4. All facilities associated directly with the kennel or veterinary hospital, whether indoors or outdoors, shall be set back a minimum of 100 feet from any property line in the IC zone and a minimum of 200 feet from any property line in the Rural zone.
5. Parking shall be located behind the front line of the principal building to the side or rear of the structure.
6. The Planning Board shall evaluate potential noise impacts and shall require measures to be implemented to minimize negative impacts on adjacent uses which may include sound proofing.
7. Outdoor runs shall be screened from roadway, parking and adjoining lots.

Section 405.14 Auto Service Station

1. All vehicles stored on the premises in excess of 72 hours shall be screened from view.
2. The exterior display or storage of new or used automobiles or automobile parts is prohibited.
3. Parking shall be located behind the front line of the principal building or to the rear of the structure.

Section 405.15 Self Storage

1. The minimum front setback shall be 60 feet from the center of the road.
2. No security fencing, security gate, or other obstruction to vehicle access shall be permitted in the required front yard or in any required transitional yard.
3. No door opening for any rental unit shall be constructed facing any residential use unless fully screened from view.
4. Door openings for rental units shall face the interior of the site unless impracticable.
5. The roof shape and materials shall be pitched and compatible with the design and materials of neighboring buildings and shall meet all design and siting requirements for the district.
6. Views of the storage facility from public rights-of-way shall be fully buffered with vegetative material.
7. Storage units shall not be used for the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment; or for office, retail, manufacturing or other similar uses.
8. No activities such as miscellaneous or garage sales shall be conducted on the premises.
9. All storage uses shall be inside an enclosed building.
10. An on-site office for a manager is allowed as part of the business.
11. Security fencing shall not include electrically charged, barbed wire or razor wire, and shall not be placed in a required front yard setback area.
12. Spacing between structures shall be a minimum of 20 feet and emergency access shall be provided to at least three sides of all structures.
13. All lighting shall be shielded and directed downwards; light sources shall be located and designed so as to prevent light from being directed outside the boundaries of the development. Light poles and fixtures shall be located as low as practical. A greater number of low "area" lights are favored over higher lights. Incandescent lights are favored over sodium or mercury-type lighting.
14. Access drives shall be designed to handle automobiles, vans, light trucks, and other two-axle vehicles.
15. No overnight parking is allowed outside the storage units.
16. No explosive or hazardous materials shall be allowed to be stored in the storage units.

Section 405.16 Adult Uses

Purpose: The purpose of this section, as per the Town of Peru Comprehensive Plan is to address and mitigate the secondary effects of adult entertainment. In the execution of these provisions, the Town of Peru recognizes that there are some adult uses which, due to their very nature, have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods and other sensitive land uses. The objectionable characteristics of these uses are further heightened by their concentration within an area thereby having deleterious effects on adjacent areas. It has been acknowledged by communities across the nation that State and local governments have a special concern in regulating the operation of such businesses under their jurisdiction to ensure that these adverse secondary effects will not contribute to the blighting or downgrading of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The special regulations deemed necessary to control the undesirable secondary effects arising from these enterprises are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods and important natural and human resources of the town, to deter the spread of blight and to protect minors from objectionable characteristics of these adult uses by restricting their proximity to churches, schools, nursery schools, day-care centers, educational institutions, parks, historic and scenic resources, civic and cultural facilities and residential areas. It is not the intent of this section to impose a limitation on the content of any adult entertainment nor to deny access by adults to such uses.

1. Siting Requirements: Adult Entertainment Businesses or establishments or accessory uses as defined in this local law are allowed in the Industrial-Commercial (I-C) District upon the granting of site plan approval by the Planning Board. All Adult Entertainment Uses shall comply with the following requirements:
 - a. No adult entertainment establishment shall be located within the following designated areas¹:
 1. Within 500 feet from the nearest boundary line of any residential zoning district;
 2. Within 1000 feet from the nearest property line of any public or private school, any municipal building open to the general public;

¹ The distances specified above shall be measured by a straight line at a 90 degree angle from the nearest property line of the premises on which the adult entertainment is to be located to the nearest boundary line of a residential zoning district, or to the nearest property line of any residential use, public or private school, church or other religious facility, public park or recreational area, group day care center, family day care center, nursing home, hospital or any other adult entertainment use, as the case may be.

any church or other religious facility; any public park or recreation area and any principal or accessory private recreational facility use or club; and any group day care center, family day care center, nursing home and hospital.

3. Within 1000 feet from the nearest property line of any other adult entertainment establishment.
 - b. Not more than one (1) adult entertainment use or adult business uses shall be located in the same building or upon the same lot or parcel of land.
 - c. Adult entertainment uses shall be on a minimum parcel size of 3 acres and have a maximum building footprint of 5,000 square feet.
 - d. All adult entertainment uses shall have a 250' front setback.
2. Additional Siting Requirements:
 - a. The Planning Board will require screening (minimum height of 6 feet) of the building containing an adult entertainment use and/or the accessory uses from all adjacent roads and all parking lots. Such screening may be a forever-live vegetated buffer, or stockade/weave fencing. Such stockade or weave fencing will be built and maintained at all times.
 - b. (2) An adult entertainment use shall not be allowed within a building containing other retail, consumer or residential uses, or within a shopping center, shopping plaza, or mall.
 - c. (3) The appearance of buildings for adult uses shall be consistent with the appearance of buildings in the adjacent area , and not employ unusual color or building design that would attract attention to the premises.
 - d. (4) There shall be screening of windows and doors to prevent the public's view of the interior from any public or private right of way or abutting property.
3. Sign Requirements:
 - a. Sign content shall identify the name of the establishment only. Only one free standing or mounted on the building wall identification sign shall be allowed for an adult use and shall not be larger than 12 square feet. All other signs whether on the exterior of the building or visible from the exterior of the building are prohibited.
 - b. No adult entertainment business or establishment may have any flashing lights visible from outside the establishment. Furthermore, no sign shall rotate, be animated or contain reflective or fluorescent elements.
 - c. No pictures, publications, videotapes, movies, covers or other advertising items that fall within the definition of an adult bookstore, adult motion

picture theater/media center, adult paraphernalia store, adult live nudity establishment or adult video store shall be displayed in the windows of, or on the building of, any adult entertainment use establishment.

4. Site Plan Submission and Approval for Adult Uses:

- a. All applicants must obtain Site Plan approval from the Planning Board.
- b. A site plan shall be prepared and submitted to the Town of Peru Planning Board in accordance with Section 401 of the Town of Peru Zoning Law. The site plan shall also show, when appropriate, the distances between the proposed adult entertainment establishment and any residential zoning district, public or private school, church or other religious facility, public park or recreation area, group day care center, family day care center, nursing home and hospital, municipal building, any principal or accessory private recreational facility or club and any other adult entertainment establishment(s).
- c. In approving a Site Plan, the Planning Board may attach such conditions, limitations and safeguards as are deemed necessary to protect the immediate area and the Town, provided however that no such conditions in fact prohibit the use of the property for the use intended. Conditions of approval may include but are not limited to the following:
 1. Street, side or rear setbacks greater than the minimum required by the current zoning ordinance.
 2. Screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other means.
 3. Modification of the exterior features or appearances of the structure.
 4. Regulation of number, design and location of access drives or other traffic features.

Section 405.17 Senior Citizen Housing

1. Regardless of its location, a senior citizen housing complex is subject to site plan review by the Peru Planning Board. During review, impacts shall be considered related to the type of living units, number of living units, number of residents, and the demand on public facilities and services generated. The design and operating characteristics of the senior use shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood. Consideration shall be given to harmony in

scale, bulk, coverage, and density; to harmful effect, if any on desirable neighborhood character; and to the generation of traffic and capacity of surrounding streets.

2. Density. No dwelling complex authorized hereby shall be erected or altered to accommodate or make provision for more than 25 dwelling units per acre or more than a proportionate number of dwelling units on any fractional part of an acre, and for the purpose of this section, a dwelling unit shall be such combination of rooms with provisions for living, cooking, sanitary and sleeping facilities for one or two individuals.
3. Setbacks. There shall be a minimum side yard setback of 20 feet. There shall be a minimum rear yard setback of at least 25 feet. There shall be a minimum front yard setback of 60 feet from the centerline of the road. The Planning Board may, as a condition of its site plan review, require landscaping within these setback areas, and planting or landscaping must be designated on any final site plan approved by the Planning Board.
4. Parking. There shall be 1 (one) parking space for each dwelling unit and additional adequate parking as determined by the Planning Board for employees, delivery vehicles, and nonresidents. Parking spaces shall otherwise conform to the requirements of this local law. There shall be provided such space as necessary for adequate ingress, egress and turning. The Planning Board has the discretion to reduce the number of parking spaces if the facility is mostly for non-drivers.
5. Outdoor public area. Two hundred twenty five square feet of usable, maintained space per dwelling unit shall be provided within the boundaries of the housing complex property as contiguous outdoor public space. This space shall be landscaped and contain seating areas for the use of the residents. It shall provide a mixture of shaded and sunny areas for the use and enjoyment of the senior citizens in the Spring, Summer and Fall. The site plan shall contain a detailed depiction of the outdoor public area, and the applicant for the construction of the senior citizen housing complex shall demonstrate to the satisfaction of the Planning Board plans for the continued maintenance of the outdoor public area.
6. Trash, storage and service areas. Trash, storage and/or service areas shall not be located or operated in such a manner as to be detrimental to the visual quality of the primary use nor to negatively impact adjacent properties by means of noise, odor, appearance, or other characteristics. In approving such areas the Planning Board may impose buffers consisting of walls, landscaping, berms, or any combination thereof.
7. Lighting. All parking areas and walkways shall be provided with suitable lighting so arranged as to direct light away from adjoining lots in any residence district and away from any public street.
8. Minimum number of dwelling units and minimum unit size.

- a. One-bedroom apartments shall be a minimum of 650 square feet.
 - b. Two-bedroom apartments shall be a minimum of 750 square feet.
9. Height restrictions. No building shall be greater than 2 1/2 stories high and in no event greater than 35 feet high.
10. Accessory structures. Accessory structures may not occupy more than 40% of the area of the rear yard and not more than 10% of the total lot area, to an average height of not more than 20 feet.
11. Design Standards for Senior Citizens. Housing shall be specifically designed for the elderly and include facilities generally associated with the needs and interests of aged persons. Such facilities shall include safety bars and rails in units, emergency signal system, adequate exterior lighting for security, ramps and other provisions required for elderly persons by state law or federal regulation.

Section 405.18 Wind Turbines

1. Purpose: It is the purpose of this regulation to promote the safe, effective and efficient use of wind energy systems installed to reduce the on-site consumption of utility-supplied electricity and to minimize the negative consequences associated with wind turbines.
2. Findings: Peru finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources, and decrease the air and water pollution that results from the use of conventional energy sources. Peru also finds that wind energy systems can have negative impacts on the environment and adjacent landowners including, but not limited to visual impacts, noise, shadow flicker, and negative impacts to wildlife.
3. Permitted Use: Wind Energy Systems (WES) as defined in this Local Law shall be a permitted use subject to site plan review on parcels of land having a minimum lot size of 3 acres in the Rural and Ag Overlay districts; subject to certain requirements as set forth below:
4. Units per parcel:
- a. WES located on a non-agricultural parcel: Only one wind energy system per legal non-agricultural parcel shall be allowed.
 - b. WES located on an agricultural parcel: All WES proposed to be located in a New York State certified agricultural district shall be a permitted use subject to site plan review. More than one WES shall be allowed per legal parcel limited to the minimum number of WES needed to meet on-farm electrical needs.

When electrical output from a WES consistently results in net-metering and excess electricity is sold back to the electrical grid, then no additional WES can be installed on the property . During site plan review, the Planning Board shall review proposed total output of the WEC in kWh, along with proof of the agricultural uses total electrical needs in order to determine if it is likely that net-metering will occur.

5. Wind Energy System Height: Shall be limited to 100 ft.
6. Controlled Access to WES: Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - a. Tower-climbing apparatus located no closer than 12 feet from the ground;
 - b. A locked anti-climb device installed on the tower; or
 - c. A locked, protective fence at least six feet in height that encloses the tower.
7. Guy wires: Anchor points for any guy wires for a wind energy system tower shall be located within the property that the system is located on and not on or across any above- ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from ground to eight feet above the ground.
8. Over-speed controls: All wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
9. Set-back: The distance between a Wind Energy Conversion System and the property line shall be at least the Wind Energy Conversion System Height.
10. Noise: Wind energy systems shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as severe wind storms. Should there be a complaint, then the complainant shall prove non-compliance.
11. Compliance with the NYS Fire Prevention and Building Code: A Building Permit shall be required prior to construction. An engineering analysis of the tower showing compliance with the manufacturer's installation instructions or certified by a licensed professional engineer shall be submitted as part of the Building Permit application.
12. Compliance with Other Regulatory Agencies: Wind energy systems must comply with all applicable regulations, including any necessary approvals for installations, as needed from State, County, APA, or other regulatory agencies (for example, the FAA when the tower is proposed close to airports).

13. Abandonment of use: A wind energy system which is not in use for twelve successive months and therefore deemed abandoned shall be dismantled and removed from the property at the expense of the property owner.

14. Visual Disruption: The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible, and incorporates non-reflective surfaces to minimize any visual disruption.

15. Procedures

a. Application Process:

1. All applications for a WES shall be reviewed pursuant to the Town of Peru Zoning Law, Article IV, Section 401, Site Plan Review.

b. Application Materials: A sketch plan meeting with the Planning Board prior to application is encouraged so that the Planning Board can indicate which application materials will be required. The Planning Board may require a lighting plan, decommissioning plan, visual impact analysis, or noise analysis if it deems it necessary. An application for a Permit shall include, but is not limited to the following:

1. A description of the project, including the number and maximum rated capacity of each WES, size of lot, zoning designation of the site and adjacent properties, noise ratings of the WES, and description, photo and manufacturer's specifications for each WES.

2. Location of electrical transmission lines if present or proposed, required setbacks shown with circles drawn on the site plan equal to one times the tower height, access, and location of guy wires if any.

Section 405.19 Hobby Farms

1. Hobby Farms can exist as a primary or accessory use of land.

2. The minimum area required shall be three acres.

3. Hobby Farm activities shall be set back a minimum of fifty feet from any property line.

4. Hobby Farms must incorporate fencing suitable to contain the animals.

Section 405.20 Junk Motor Vehicles

Please refer to Section 302.8 of the New York Property Maintenance Code, as listed below:

Except as otherwise provided for in statute or other regulations, two or more inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

Section 405.21 Junk Yards

All regulations of the Town of Peru's Local Law "Regulations of Junk Yards" shall be met for junk yards.

Section 405.22 Yard Sales

1. An individual, family, group of families, business, or any other entity may conduct no more than two yard sales during any calendar year, and a yard sale may not exceed more than three days in duration.
2. A yard sale must be conducted during daylight hours.
3. Signs advertising a yard sale shall not exceed four square feet in area. No sign shall be exhibited more than three days prior to the start of the sale and shall be removed immediately after the yard sale has ended.
4. The sale of motor vehicles shall be limited only to those properties for which the owner of the property is also the registered owner of the motor vehicle, except for places of business designed for the sale of motor vehicles.

Section 405.23 Telecommunications Facilities

1. See Town of Peru's Local Law "Regulation of Telecommunication Facilities".

ARTICLE V NONCONFORMING USES AND STRUCTURES

Section 501 Continuance

Any lawful building or use of premises existing at the time of enactment of this chapter, or any subsequent amendment thereof applying to such building or use of premises, may be continued unless it conflicts with other portions of this zoning law, although such building or use of premises does not conform to the provisions thereof, provided that there is no increase or enlargement of the area or space occupied by or devoted to such nonconforming use and except as otherwise provided in this Article.

Section 502 Termination

When a nonconforming use of land or a structure has been discontinued for a period of one (1) year or more, it shall not thereafter be reestablished, and the future use of the land, building or structure shall be in conformity with the terms of this Local Law.

Section 503 Change to Another Nonconforming Use

If no external structure alterations are made, a nonconforming use of a building or land may be changed to another nonconforming use more nearly conforming to the requirements of the district in which it is situated as approved by the Zoning Board of Appeals. The action required by the Zoning Board of Appeals is a change from a nonconforming use to another nonconforming use.

Section 504 Maintenance

A nonconforming use is hereby required to be maintained in such condition as will not constitute a danger to the safety, health or general welfare of the public. Alterations and extensions of the nonconforming use, in order to comply with the provisions of this section, are permitted, provided that such alteration or extension shall not tend to increase the inherent nuisance nor shall such alteration or extension violate any provisions of this chapter regarding yards, lot area or lot coverage for the district in which it is situated or increase in any existing violation of such provision.

Section 505 General Requirements

Nonconforming uses or structures in all zoning districts shall conform to the following requirements:

1. Enlargement and Extension. Any structure or use of land which is nonconforming because of use shall not be enlarged or extended except by special exception. In addition to the other findings required by this Article, the Zoning Board of Appeals

shall find that the proposed enlargement or extension will not cause a substantially greater increase in traffic, noise, litter, odor or other objectionable conditions that would be the case if the land were used for a conforming use.

The Zoning Board of Appeals may impose such conditions on the granting of a special exception to the article as it deems advisable, including but not limited to the following:

- a. It may limit the period of time that the enlarged or extended portion of the nonconforming land or structure can be used for a nonconforming purpose.
 - b. It may impose more restrictive requirements than those set forth elsewhere in this law concerning lot area, lot coverage, yard, and parking requirements.
 - c. It may require the land to be landscaped or fenced.
 - d. It may impose any other conditions or requirements that it deems necessary or desirable to make the nonconforming use more compatible with conforming uses in the district.
2. Alterations. Structural alterations may be made in a building which is nonconforming because it fails to comply with use, height, area, yard, off-street parking or other like requirements of this chapter, so long as the structural alteration does not extend, enlarge or aggravate the nonconformance.
 3. Reconversion. A nonconforming use changed or altered to a conforming use may not thereafter be changed back to a nonconforming use, but nothing herein before stated shall prevent the strengthening or restoring to a safe and lawful condition of any part of any building declared unsafe by the CEO or other county or state inspector.
 4. Existing Permits. Nothing in this chapter shall require any change in plans, construction or designated use of a structure or building for which a building permit has been heretofore validly issued if construction has been started and diligently pursued at the time of the adoption of this local law.
 5. Reconstruction. Any structure which is nonconforming as to the use, lot size, building setback, or other provision of this law and which is destroyed or damaged by fire, flood or other hazard, may be repaired, restored or reconstructed provided that such work is commenced within one year of the date upon which the damage or destruction occurred. Any enlargement or extension of such structure shall be subject to Section 505 of this law.

ARTICLE VI DEFINITIONS

Section 601 Word Definitions

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory, the word "may" is permissive.

The words "used" or "occupied" include the words "intended", "designed", or "arranged" to be used.

Section 602 Term Definitions

Abandonment: The voluntary relinquishment of an established use with intent of permanently terminating such use or occupancy.

Access: Entrance way for vehicles to leave or enter a property or lot from a public highway or private road.

Accessory Apartment: A dwelling unit that has been added onto, or created within, a single-family house or preexisting accessory structure and which is clearly subordinate to the primary use as a single-family house. An accessory apartment created within a single-family dwelling is not a two-family house.

Accessory Structure & Use - A use of land or of a structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same lot with the principal use. Parking lots and fences shall not be considered an accessory use.

Adult Entertainment Use: For the purposes of this by-law, Adult Entertainment Use shall be defined as any of the following: Adult Bookstore, Adult Motion Picture Theater/Media Center, Adult Paraphernalia Store, Adult Video Store, Adult Live Nudity Establishment or any other business or establishment characterized by an emphasis depicting, describing or related to sexual conduct or excitement.

Adult Bookstore: A business or establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct.

Adult Live Nudity Establishments: Any business or establishment which provides live entertainment for its patrons, which includes the display of full or partial nudity related to sexual conduct or excitement.

Adult Motion Picture/Theater/Media Center: A business or establishment used for presenting media distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement.

Adult Paraphernalia Store: A business or establishment having as a substantial or significant portion of its stock, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

Adult Video Store: A business or establishment having a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement.

Alteration, Structural: To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts; interior plan or layout,; the exit facilities of a structure; or the relocation of a building from one location to another.

Agriculture: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" and "timber processing" as defined in subdivision thirteen of Section 301 of New York State Agriculture and Markets Law 25-AA. Such agricultural parcel may be one of many parcels of land owned and may be contiguous or noncontiguous to each other. Crops, livestock and livestock products shall include but not be limited to the following:

- a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, such as alpacas and llamas, milk, eggs and furs.
- f. Maple sap.
- g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- h. Aquaculture products, including fish, fish products, water plants and shellfish.
- i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
- j. Apiary products, including honey beeswax, royal jelly, bee pollen, propolis,

package bees, nucs and queens.

Note: For the purposes of this definition, it is the intent of this Zoning Law to follow the definition of "Agriculture" as included in the New York State Agriculture and Markets Law Section 301.

Agri-business: Activities conducted on a farm that are dependent upon an agricultural operation including, but not limited to on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches and offered to the public, or to invited groups, the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-business activity may be secondary to the primary farm use on a property. Agri-business activities may be conducted in an accessory structure.

Apartment: A portion of a building used as a dwelling unit. (See definition of a dwelling unit.)

Apartment Building: A building containing one or more apartments.

Architectural Features: A prominent or significant part or element of a building, structure, or site.

Atmospheric Pollution: Discharging from stacks, chimneys, exhausts, vents, ducts, opening, buildings, structures, premises, open fires, portable boilers, vehicles, processes, or any source, of any smoke, soot, fly ash, dust cinders, dirt, noxious or obnoxious acids, fumes, oxides, gasses, vapors, odors, toxic or radioactive substances, waste, particulate, solid, liquid, or gaseous matter, or any other materials in such place, manner or concentration as to cause injury, detriment, nuisance, or annoyance to the public, or to endanger the health, comfort, repose, safety or welfare of the public, or in such a manner as to cause or have a natural tendency to cause injury or damage to business or property.

Auto Body Shop: A commercial use involving the painting and refurbishing of motor vehicles.

Average Daily Traffic: The average number of vehicles per day that enter and leave the premises or travel over a specific section of road.

Bed and Breakfast: A home occupation involving the rental of bedrooms as transient accommodations, with breakfast served to guests but with no full-service restaurant facilities, and with no more than one nonresident employee.

Billboard: A sign that identifies or communicates a message related to an activity conducted, a service rendered or a commodity sold at a location other than where the sign is located.

Buffer Area: An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g.

noise, dust, visibility, glare, etc.) on adjacent properties.

Build-To Line: An alignment which dictates the front yard setback from a public right-of-way boundary line, to be followed by buildings or structures fronting on it. The build-to line does not apply to building projections or recesses such as porches.

Building: A structure designed to be used as a place of occupancy, business, storage, or shelter.

Building, Existing: A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

Building Height: The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building Materials: Any substance used in the creation of a structure including, but not limited to wood, metal, glass, concrete, or plastic.

Campground: A parcel of land designated and specifically designed or used for temporary, seasonal, and/or transient (no more than 6 months in a year) occupancy of two or more tents, travel trailers, campers, motor homes, or similar self contained mobile units designed to provide temporary shelter.

Carwash: A retail establishment for the washing, cleaning and/or waxing of automobiles, light trucks and vans by hand or with manually operated equipment or automatic machines.

Cemetery: A parcel of land designated and specifically designed for human burial.

Cemetery - Pet : A parcel of land designated and designed for animal burial.

Certificate of Occupancy: Evidence that the building complies substantially with the plans and specifications that have been submitted to and approved by the local authority. A certificate of Occupancy complements a building permit.

Change of Use: The change of use of land, or buildings, structures, or other improvements on land, from either residential, commercial or industrial to one of the other uses, or change in the nature, substance or intensity of the same use including, but not limited to, changes in use which require the issuance of a Certification of Occupancy pursuant to the New York State Building and Fire Code. Any use that substantially differs from the previous use of a building or land.

Child Care Center: Building, or portion thereof, used for purposes of providing day care services for seven or more children which is not a "group family day care home" or "family day care home" within the meaning of Section 390 of the Social

Services Law.

Church: A building used for assembly of persons for the purpose of engaging in religious services.

Class: The Classes referred to in Section 204 to 218 are:

Class 1 = A lot having off-lot water and sewer services.

Class 2 = A lot having off-lot water or sewer services with the other utility service contained within the lot.

Class 3 = A lot having both the water supply and sewage disposal on-lot.

Clinic: A facility for diagnosis and treatment of outpatients and/or a facility where one or more physicians work cooperatively, without performing any type of surgery.

Cluster Development: A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be concentrated on a smaller and more compact portion of land and where a majority of the remaining land is left in its natural open space condition in perpetuity. Cluster development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

Code Enforcement Official (CEO): The officer or other designated authority charged with the administration and enforcement of this code.

Colors (dark, natural or earth tones): Any color scheme that draws from a color palette of browns, tans, greys, greens and some reds. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in dirt and rocks.

Commercial Logging: The logging of forest products for commercial purposes including site assessments, road construction, harvesting, reclamation or reforestation but does not include the cutting of wood by the owner of the property for:

- a. Personal use;
- b. The routine maintenance of roads, and rights-of-way;
- c. The clearing of a home site for which a building permit has been obtained;
- d. Christmas tree culture;
- e. Clearing of approved subdivision roads and public utility easements.
- f. Tree clearing for farm purposes within agricultural districts established pursuant to New York State Agriculture and Markets Law;
- g. Severe natural disturbances, which include fire, insect infestation, disease, ice and wind;
- h. Ecologically appropriate improvement or creation of wildlife habitat, with

accompanying prescription and justification from a certified wildlife professional, a New York State Department of Environmental Conservation Forester, a member of the New York Institute of Consulting Foresters, or a Cooperating Consultant Forester

Commercial Purpose: Any wholesale, retail, or service business activity established to carry on trade for profit.

Commercial Use: Any activity involving the sale of goods or services carried out for profit; and other economic activities including mining, construction, manufacturing, transportation, communication, electric, gas, and sanitary services; wholesale trade; and any activity involving an office for conducting the affairs of a business, profession, service, industry or government.

Condominiums: A building or housing complex in which dwelling units are owned by individuals and common parts of the property (such as grounds, lobbies, elevators, etc.) are owned jointly by the unit owners. Condominiums shall be considered multi-family dwellings in this zoning law.

Construction Business: A commercial operation related to the erection, alteration, or extension of a structure, that includes the storage of vehicles and/or equipment.

Corner Lot: A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees. The two sides abutting the streets will be considered the front yards for setback purposes.

Court: An open uncovered space, unobstructed to the sky, bounded on three or more sides by exterior building walls or other enclosing devices.

Curb-cut: A defined opening to provide vehicular access from a public highway to a lot or property.

Demolition: Destruction and/or removal of part, or all, of a building or structure.

Development: The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; and any use or extension of the use of land.

Digital Sign: a sign with an electronic display that is programmed (content changes on a predetermined schedule) and automated (content and display instructions can be generated by a computer.)

Disposal: A material which is discharged, deposited, buried, injected, dumped, spilled, leaked, burned, incinerated, or placed into any or on any land or water, so that such material or any constituent thereof may enter the environment or be

emitted into the air or discharged into groundwater or surface water.

Drainage: A system of swales, ditches, and culverts, catch-basins, and piping to convey storm-water runoff to retention areas and stabilized discharge points.

Driveway: Privately owned and maintained entrance drive.

Drycleaner: An establishment that cleans (clothing or fabrics) with chemical solvents that have little or no water.

Dwelling, Single Family: A detached dwelling unit other than a mobile home, designed for one family only.

Dwelling, Two Family: A building designed for two dwelling units.

Dwelling, Multi-Family: A building designed for three or more dwelling units.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Easement: A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

Egress: A one-way access from a property leading onto a public highway/road or private road.

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

Erosion: The wearing away of surface soils by action of wind or water.

Erosion Control: Use of re-seeding, re-vegetation, placement of mulch or artificial matting or rip rap or other appropriate or accepted methods to prevent soil erosion.

Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection therewith, and including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. All above ground facilities shall be adequately screened.

Excavation Business: Any commercial enterprise related to the removal or recovery by any means whatsoever of soil, rock, mineral substances, or organic substances, other than vegetation, from land or water, on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Factory Built Housing: Any structure, designed for long-term residential use, that is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this law, factory-built housing shall consist of modular homes, mobile homes, and manufactured homes.

Family: As used herein shall mean:

- A. Any number of persons occupying a single nonprofit dwelling unit, related by blood, marriage or legal adoption, living and cooking together as a single housekeeping unit.
- B. Any number of persons occupying a single nonprofit dwelling unit, not exceeding five adults living and cooking together as a single housekeeping unit where all were not related by blood, marriage or legal adoption.
- C. Notwithstanding the provisions of this definition, a group of unrelated persons numbering more than five shall be considered a "family" when it is proven that:
 - a. The group is one which, in theory, size, appearance and structure, resembles a traditional family unit;
 - b. The group is one that shares the entire dwelling unit and lives and cook together as a single housekeeping unit;
 - c. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration, and filing taxes;
 - d. The group is of a permanent nature and is neither a framework for transient or seasonal living nor merely an association or relationship that is transient or seasonal in nature. Nothing herein shall preclude the seasonal use of a dwelling unit by a group which otherwise meets the standards of this subsection at its permanent residence;
 - e. Any determination under this subsection shall be limited to the status of a particular group as a "family" for zoning purposes and shall not be interpreted as authorizing any other use, occupancy, or activity;
 - f. In no case shall a dwelling be occupied by more than two (2) adults to a conventional bedroom, and
 - g. Persons occupying group quarters such as a dormitory, fraternity or sorority house or a seminary shall not be considered a "family."

Farm Animal: Any domestic animal typically raised for home use or profit.

Farm Operation: The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding operation as

defined in this local law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

Farmers Stand: see Roadside Stand

Farmer's Market: An organized gathering consisting of multiple individual vendors (mostly farmers) who set up booths, tables or stands, outdoors or indoors, to sell produce, meat products, fruits and sometimes prepared foods and beverages to the general public.

Financial Institution: A retail establishment engaged in deposit banking or extending credit in the form of loans.

Flood Hazard Area: Land within a community subject to a one percent (1%) or greater chance of flooding in any given year as shown on the Flood Insurance Rate Maps developed by the Federal Emergency Management Agency. Also commonly referred to as base floodplain or 100 year floodplain.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency.

Firewood : Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

Footprint: The amount of space, measured in square feet, taken up on the ground by a structure. A building footprint measurement does not include the square footage of multiple floors of a structure.

Forestry business: see Agriculture

Franchise Architecture: A building design that is trademarked or identified with a particular franchise, chain or corporation and is generic or standard in nature.

Front Yard: See Yard, Front.

Front yard setback: The least distance permitted from the center of the road to the outer surface of a building, measured across the front yard.

Funeral Home: An establishment with facilities for the preparation of the dead for cremation or burial, viewing of the body, and for funerals.

Gasoline Station with No Other Retail: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels including any fuel or gasoline storage facilities required on site and where no

other retail products or convenience items are sold.

Gasoline Station with Convenience Store Retail: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, including any gasoline or fuel storage facilities, and where the sale of prepackaged food products, household items, newspapers and magazines, and sandwiches or other freshly prepared foods.

Golf course: A commercial property developed for the playing of golf. This term shall not include those uses commonly known as miniature golf.

Grading: The leveling of land for site development purposes including construction of roads, building construction, drainage areas and parking.

Gross Leasable Area: The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any: expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

Group Home: A dwelling unit in which, for compensation, lodging and meals are provided. Personal and financial services may be offered as well as accessory uses.

Hazardous Materials: Any material which constitutes a danger to the environment or public safety, health or general welfare.

Hill: A landform that extends above the surrounding terrain, in a limited area.

Hobby: Pursuit outside one's occupation, not used as a second employment or business enterprise.

Hobby Farm: The tending of farm animals on at least three acres of land without expectation of being a primary source of income.

Home Based Business: A business activity resulting in a product or service for financial gain, conducted wholly or partly in a dwelling unit or accessory structure which is clearly secondary to the use of the dwelling for living purposes and does not change the residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign. Such unit or accessory structure shall not employ more than one nonresident, and shall allow customers, clients or sale representatives to enter the premises. This shall also include business activities, clearly secondary to the residential use of the property which may include external storage of vehicles, equipment, tools, or other materials.

Home Occupation – Minor : Any nonresidential use that is secondary and clearly subordinate to an existing residential use, conducted within a dwelling unit or an accessory structure by a permanent resident of that dwelling unit, which does not

change the residential character of the dwelling unit or vicinity, and where no customers or clients are allowed to enter the premises, and where no signage, non-resident employees, or exterior storage of products or equipment are required. Also, no sales of products or commodities are allowed.

Home Occupation – Major : A business activity resulting in a service for financial gain, conducted wholly or partly in a dwelling unit or accessory structure which is clearly secondary to the use of the dwelling for living purposes and does not change the residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign. Such unit or accessory structure shall not employ more than one nonresident, and shall allow customers, clients or sale representatives to enter the premises

Horse Farm: An agricultural use for stabling, or training equines, including but not limited to providing riding lessons, training clinics, and schooling shows. Under no circumstances shall this be construed to include operations whose primary on site function is horse racing.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, and other physical or mental conditions and including as an integral part of the institutional related facilities such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

Hotel: A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

Hunting Camp: A seasonal camp used for housing transient visitors whose primary activity is hunting.

Impervious Surface: Any man-made material, such as pavement used in parking lots or driveways, or any building or other structure on a lot, that does not allow precipitation and melted snow to penetrate into the soil.

Indoor Recreation: The conduct of sporting uses undertaken entirely within a building, including team or individual sports and related health and exercise facilities. Video parlors, computer gaming facilities, movie theaters and bars do not constitute indoor recreation businesses. However, an indoor recreation business use may be accompanied by customary accessory uses, which may include food service facilities, meeting room or banquet facilities, serving of alcoholic beverages, video or computer game facilities, video theater facilities, sales or sport or exercise-related equipment or clothing and other customary accessory uses. An indoor recreational business includes a spa. An accessory use within an indoor recreation facility shall not exceed 10% of the floor area of the recreation facility.

Ingress: A one-way access from a public highway/road or private road leading into a

lot or property.

Junk: Any scrap, waste, reclaimable material or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or for other uses or disposition.

Junk Car Yard: The outdoor storage or deposit of more than 2 junk motor vehicles whether viewed or not from a public street or other location or in connection with another business or not.

Junk Motor Vehicle: Any motor vehicle, or used parts or waste materials from motor vehicles which, taken together, equal in bulk one or more such vehicle, which is:

- a. unlicensed or unregistered; or
- b. abandoned, wrecked, stored, discarded, dismantled, or partly dismantled; or
- c. not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be moved under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

Junk Yard: The outdoor storage or deposit of junk.

Kennel: Any place at which there are kept four (4) or more dogs or cats more than four (4) months of age that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

Laboratory: See research and testing.

Laundromat: A self-service laundry facility with pay for use washing machines, dryers, and sometimes ironing or pressing machines, open to the public for washing clothing and household cloth items.

Lodging House: A building in which the rooms are rented with or without meals to three (3) or more persons. A boarding house or a rooming house, or a furnished room shall be deemed a lodging house.

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on

an approved private street and may consist of:

- a. A single lot of record
- b. A portion of a lot of record
- c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record
- d. A parcel of land described by metes and bounds

Provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Law.

Lot Coverage: The percentage of the lot area covered by the combined area of all buildings, structures, parking areas, or other impervious surfaces on the lot.

Lot Measurements: Depth of a lot shall be considered to be the average distance measured from the front lot line to the rear lot line. Width of a lot shall be considered to be the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Lot of Record: A lot which is part of a subdivision recorded in the office of the Clinton County Clerk, of a lot or parcel described by metes and bounds, the description of which has been so recorded.

Machine Shop: An establishment where power-driven tools are used for making, finishing, or repairing machines or machine parts.

Manufactured Home: A structure transportable in one or more sections that, in the traveling mode, is 8 feet or more in width or 40 feet or more in length or, when erected on site, is 320 square feet minimum, and that was built on or after June 15th 1976 on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term "manufactured home" shall also include any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the federal department of housing and urban development (HUD) and complies with the standards established under the national manufactured housing construction and safety act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle.

Manufactured Home - Double Wide: A mobile home built or constructed in more than one section which when fully assembled on site has exterior walls, no one of which is less than twenty feet in length.

Manufactured Home - Single Wide: A mobile home built or constructed as a single unit, having four finished exterior walls, at least one of which is less than

twenty feet in length.

Manufactured Home Park: Any lot of record upon which two or more manufactured homes occupied for dwelling purposes are located, whether or not there is a charge for accommodation (except manufactured homes on a farm used for dwelling by farm workers working on that farm).

Manufacturing: Any process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled or packaged in quantity.

Marina: Any waterfront facility which provides accommodation services for vessels by engaging in any of the following:

- a. The sale, lease, rental or charter of vessels of any type or;
- b. Storage, wharf space or mooring for vessels not registered to the owner of said facility, members of the owner's immediate family, or overnight guests on said property.

Membership Club: A social, sports or fraternal association or organization that is used exclusively by members and their guests.

Mobile Home: A moveable or portable dwelling unit that was built prior to June 15, 1976 and designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year round living, excluding travel trailers.

Modular Home: A structure designed primarily for residential occupancy and constructed by a method or system of construction where the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, assembly and permanent installation.

Motel: Building containing rooms which are rented as a series or sleeping units for transients with a stay or no more than 3 months, each sleeping unit consisting of at least a bedroom and bathroom. This shall include hotel.

Motor Vehicle Repair Station with Gasoline Sales: Any building, land area, or other premises, or portion thereof, used for the servicing and repair of automobiles, including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories and where retail or wholesale dispensing or sales of vehicular fuels takes place.

Motor Vehicle Repair Station with no Gasoline Sales: Any building, land area, or other premises, or portion thereof, used for the servicing and repair of automobiles, including as an accessory use the sale and installation of lubricants, tires, batteries, washing (which does not require mechanical equipment) and similar vehicle accessories and where no retail or wholesale dispensing or sales of vehicular fuels takes place. This does not include auto bodywork, welding or painting.

Motor Vehicle Sales: A use of land for the display and sales, of new or used motor vehicles, trailers, travel trailers, motorcycles tractors, boats, farm vehicles, all terrain vehicles or snowmobiles.

Motor Vehicle Sales & Repair Facility: A use of land for the display, sales and repair, of new or used motor vehicles, trailers, travel trailers, motorcycles tractors, boats, farm vehicles, all terrain vehicles or snowmobiles.

Museum: a not-for-profit institution engaged in the acquisition, preservation, study, and exhibition of works of artistic, historic or scientific value.

Nursery, Greenhouse : A use of land, including a building whose roof and sides are made largely of transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of out of season plants for subsequent sale.

Office: Place where the business of a commercial, industrial, service or professional organization is transacted.

Off Lot Water & Sewer: The providing of water from and the disposal of the sewage to a source not located on the lot or adjoining lots on which is located the building for which these utilities are provided.

Open Space: That portion of a parcel, which is not building or impervious surface.

On Lot Water & Sewer: The providing of water from a source such as a drilled well and the disposal of the sewage by such means as septic tank and drainage field located on the same lot as the building of which these utilities are located.

Outdoor Recreation or Recreational Business: A place designed and equipped for the conduct of sports and leisure time activities for profit. Includes but is not limited to golf, skiing, ball playing on ball fields, swimming, bike trails, hiking and similar outdoor activities on a commercial or fee basis.

Outdoor Theater: An area devoted to showing motion pictures or for drama, dance, musical, or other live performances.

Outdoor Storage: The holding or safekeeping of goods outdoors to await the happening of some future event or contingency which will call for the removal of the goods.

Outdoor Wood Boiler: Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space, swimming pool, hot tub or other hot water uses. Outdoor wood boilers do not include fire pits or wood-fired barbecues.

Overlay Zoning District: a special zoning district placed over an existing base zoning district to protect a specific resource or guide development in a special area. Overlay Zoning Districts contain special provisions or requirements that may either limit or expand development opportunities from those allowed in the underlying district. The overlay district may share common boundaries with the base zoning district or may cut across base zoning district boundaries.

Parcel: A contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

Parking Lot/Area: An off-street, ground-level open area, usually improved, for the temporary storage of motor vehicles.

Parking Space - Off Street: A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way and must be constructed of a gravel or paved surface.

Parking Space – On street : A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

Performance Guarantee: Funds submitted by the applicant to an Escrow Account established by the Town of Peru pursuant to this local law, and determined by the Planning Board to be of a dollar amount large enough to assure that improvements required as part of an application for development will be satisfactorily completed.

Permitted Use: A use for which the Code Enforcement Officer may issue a building permit providing the other requirements of this law have been fulfilled or a variance has been authorized by the Zoning Board of Appeals.

Personal Services: Including barber, hairdresser, beauty parlor, shoe repair, shoe shine, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

Principal structure: The building on a lot that houses the primary use on a parcel of land.

Principal Use: The main use of a lot or structure.

Private School: Any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education and which use does not secure the major part of its funding from any governmental agency.

Professional or Business Office: A place or establishment used for the organizational or administrative aspects of a trade or used in the conduct of a business and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales

representatives, insurance brokers, real estate brokers and persons with similar occupations. A professional office is an office devoted to a professional service occupation, in which knowledge in some department of science or learning is applied to the affairs of others, either advising or guiding them, or otherwise serving their interest or welfare through the practice of a profession founded on such knowledge.

Public Facility: A facility owned and operated by agencies and departments of town, county, state or federal governments.

Public Way or Public Right of Way: A street, alley or other parcel of land open to the outside air leading to a street, that has been deeded, dedicated or otherwise permanently appropriated to the public for public use and which has a clear width of not less than 10 feet and height of no less than 14 feet.

Rear Yard: See Yard, Rear.

Recreational Facility: See indoor and outdoor recreation.

Research and Testing: An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

Restaurant: Any structure having as a principal use the preparation and dispensing of foods and beverages for consumption on the premises, whether food is served upon order or taken by self-service and where there are no facilities for drive-through service.

Restaurant with Drive Through: Any structure having as a principal use the preparation and dispensing of foods and beverages for consumption on the premises, whether food is served upon order or taken by self-service and where there are facilities for drive-through service.

Restaurant Drive-In or Refreshment Stand: Any place or premise used for selling, dispensing or serving food, refreshments, or beverages in automobiles or outside on the premises.

Retail Service/Repair: *to be added*

Ridge Top or Ridgeline: The long, narrow crest or horizontal line of hills or mountains, usually at the highest elevation.

Riding Academy: Any land, building, or complex of structures where horses are boarded and cared for and where instruction in riding, jumping or showing is offered for compensation, and where horses may be hired for riding.

Road: A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal means of access to abutting property.

Road, Primary: Where the subject property has frontage on two or more roads, this refers to the road that is used most intensively (e.g. has the greater volume of vehicular traffic). This usually corresponds to the public road classification and size, assuming county roads receive greater traffic than local roads, and that state highways have greater traffic volumes than county roads.

Road, Private: An access drive or roadway, privately owned and maintained, and not meant for use by the general public.

Road, Secondary: Where the subject property has frontage on two or more roads, this refers to the second (or least) most intensively used road (See Road, Primary).

Road, Right-of-Way: An area defined by an ownership boundary which provides for road construction, maintenance, improvement, and/or widening.

Roadside Stand: A use involving a temporary structure for the purpose of the sale of farm produce and agricultural products to the general public. A seasonal (May through October), non-permanent structure, including, but not limited to wagons, stands, and tents, for the display and sale of farm products. Such booth or stall shall not exceed 200 sf in size.

Roof Line: The highest portion of the outside top covering of a building or structure. Flat roofs also have a roof line even when there is no pitch and the surface of the roof is generally parallel to the ground.

Runoff: Surface water that flows onto, within, and/or off of the site area.

Screening: Vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses.

Sediment: Soils or other surficial materials transported by surface water as a product of erosion.

Seasonal Camp: A use of land, including any building thereon, used for any assembly of persons for what is commonly known as "camp" purposes, whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families, or groups, and occupied not more than six months per year.

Sedimentation (Siltation): The deposition of sediment and silt in drainage-ways, watercourses and water bodies which may result in pollution, murkiness, accumulation, and blockage.

Self Storage: An industry in which storage space is rented to tenants. A self storage business provides rooms, lockers, containers, and/or outdoor space in which tenants can store and access their goods.

Senior Housing: Multifamily housing designed for seniors. This includes adult retirement community, assisted living facility, continuing care retirement community, and retirement community.

Septic System: An on-site sewage disposal system (designed as a simple gravity or alternative system), which consists of a septic tank and septic field, in which waste material is distributed through a network of tile fields following a process in the septic tank where solids are settled out of the waste.

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

Service and Repair Facility: A commercial use involving the service and repair of gasoline or electricity powered machinery and/or equipment.

Setback: That area or plot of ground free of any permanent structure (except fencing) as measured from the exterior boundaries of the parcel to where the main or accessory building is located.

Shared Living Residence: Dwelling in which two to six people, aged sixty years or older, whom may be related or unrelated, live together and share the finances and upkeep of the residence. No more than two persons shall share a sleeping room in a Shared Living Residence.

Shopping Center: A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements and landscaping and signage in accordance with an approved plan for the site.

Sign: A name, identification, description, display, or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices nor any official traffic control devices nor shall it include the flag emblem or insignia of a nation, state, municipality, school, or religious group.

Sign, Business: A sign which directs attention to a business, service, profession, organization or industry located on the premises where the sign is displayed to

the type of products sold, manufactured, or assembled and/or to service or entertainment offered on said premises. A "for sale" or "to let" sign relating to the property on which it is displayed shall be deemed a business sign.

Sign, Exterior: Signs on the outside of buildings.

Sign, Freestanding: A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

Sign, Height Of: The distance from the ground level, measured from the mid-point of the base of the sign, to the top of the sign.

Sign, Externally Lit: Any sign illuminated by a lighting device and reflecting the light thereof, but not emitting any light and therefore not an internally lit sign.

Sign, Internally Lit: Any sign illuminated from within by electricity, gas or other artificial light, including reflective or phosphorescent light.

Sign, On-Site: A sign relating in its subject matter to the premises on which it is located, or to product, accommodations, services, or activities on the premises.

Sign, Off-Site: A sign other than an on-site sign (see also "billboard").

Sign, Portable: Any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.

Sign, Sandwich: A temporary self-standing sign or advertising display made of plywood or other solid material and designed or intended to be displayed only for the period of time the business is open or event taking place.

Sign, Temporary: A sign that advertises or gives direction to a business or activity for a period of time not to exceed seven (7) days.

Site Plan: A rendering, drawing or sketch prepared to specifications and containing necessary elements as set forth and required by the Town of Peru Zoning Law, as amended from time to time, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for the initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

Sketch Plan Conference or Meeting: Initial optional Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements will be prior to submitting the site plan.

Slope: The vertical distance, in feet, between the highest elevation of a lot or development and the lowest elevation of a lot or development, divided by the horizontal difference between these two elevations, in feet.

Solid Waste: Solid waste means any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 USC 1342, as amended (86 Stat. 880), or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) except as may be provided by existing agreements between the State of New York and the government of the United States (see Section 360-1.3 of this Part).

Start of Construction: The initiation of any physical alteration of the property, excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling, installation of roads, excavation for a basement, footings, foundations, or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

Store - Convenience: Small retail store serving nearby residential areas with less than 5000 square feet in floor area, including but not limited to foods, goods, meats, beverages and personal items. This definition does not include automobile repair shops, automobile service stations, or gasoline sales, any storage, or taverns or any establishments serving alcoholic beverages.

Store – Retail: A place of business offering for a fee goods and merchandise to the general public, and where the providing of services is clearly incidental to the sale of such goods or merchandise. Specifically excluded from this definition is restaurants.

Street Frontage: Lot lines which abut a public street.

Street Line: That part of a thoroughfare dedicated by deed to the Town with established widths outlined. Where a street width is not indicated the street line shall be twenty-five feet from the center line of the street pavement.

Structure: Anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground, including, but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, assembled temporary garages, retaining walls etc., excepting outdoor areas such as paved areas and walkways.

Structure - Non-Conforming: Structure not complying with the Zoning Law or

Regulations for the zoning district in which it is located, where such structure complied with all applicable laws and regulations prior to enactment of these Regulations.

Subdivision: The division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Swimming Pool: Any body of water or receptacle for water, having a capability or depth of 24 inches or more at any point, used, intended to be used, or designed to be used for swimming, bathing or wading and installed either above or below ground level.

Telecommunications Facilities: A fixed, mobile, or transportable structure, including (a) all installed electrical and wiring, cabling, and equipment and (b) all supporting structures, such as utility, ground network, and electrical supporting structures designed for the purpose of telecommunications.

Temporary Certificate of Occupancy: Grants residents and building owners all of the same rights as a Certificate of Occupancy, however it expires after a prescribed period of time.

Temporary Agriculture Worker Housing: Accommodation that is used solely for the purpose of providing cooking, sanitary and sleeping facilities to temporarily house temporary (less than six months) farm workers on a farm operation.

Towing and Recovery: A commercial use involving the recovery and towing of motor vehicles, including the temporary (less than six months) storage of recovered motor vehicles.

Town House: A dwelling accommodating or designed to accommodate a single family in a single unit, the walls on one or two sides of which are in common with the walls of adjoining dwellings.

Trailer: Any vehicle or device used or so constructed as to permit its being used as conveyance on the public streets and highways whether licensed or not, and does not permit occupancy as a dwelling or sleeping place, but allows for the transporting of articles or goods. Includes utility, snowmobile, boat, all terrain vehicle and semi-trailers.

Trailer – Travel: Any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways whether licensed or not and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons, and not designed to be used as a principal place of abode. A trailer under this local law shall also mean tent trailers, truck campers, vehicles converted to sleeping facilities other than a mobile home and/or what normally constitutes a permanent dwelling unit.

Trailer – Travel, Park: An area, usually with piped water, electricity, etc., designed to provide rental space for trailers, especially travel trailers, to be parked for a long or short time.

Truck Stop, Truck Terminal: A use involving the provision of fuel, repair services, dining facilities, or overnight accommodations intended for servicing trucks and truckers.

Untreated Lumber: Wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

U-Pick Operation: An agri-business oriented to supplying visitors from the general public the opportunity to pick their own produce grown on a farm.

Use: The specific purpose for which land, a building or structure is used, designed, arranged, intended, or occupied.

Use - Non-Conforming: Use of land or structure which does not comply with all Zoning Regulations for the zoning district in which it is located, where such use conformed to all applicable laws and regulations prior to enactment of these Regulations.

Uses - Non-Residential: All uses of buildings, structures or land, except those defined as dwellings of any type or as defined by New York State Law.

Use Permit: A permit issued by the CEO for change of use for any property.

Variance: The relaxation or varying of the terms of the zoning law where such variance will not be contrary to the public interest, and where owing to conditions peculiar to the property and not the result of any action of the applicant or the landowner, a literal enforcement of the law would result in, amongst other things as specified in state law, unnecessary and undue hardship. As used in this law, a variance is issued for reason of height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district. Variances, once granted by the Zoning Board of Appeals, run with the land and property and do not cease to exist as a result of a change of ownership or occupancy.

Variance, Area: An exception to a zoning restriction which allows for the placement of a building or structure on a lot in a manner which is not otherwise allowed by dimensional or physical requirements of the zoning law.

Variance, Use: An exception to a zoning restriction which allows for the establishment of a land use that is not otherwise permitted within a particular zoning district.

Veterinary Clinic and Animal Hospital: A commercial use where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Warehouse and Distribution: A commercial use intended primarily for, or designated or intended primarily for, the storage, receiving or shipment of goods and materials. Includes warehouse, wholesale establishment, discount house, bulk storage and bulk sales outlet.

Waste Disposal Area: Any area used for the disposal of solid waste. (See definitions of solid waste and disposal).

Water Bottling Business: An establishment that takes water that is intended for human consumption and seals it in bottles or other containers with no added ingredients, except that it may contain safe and suitable anti-microbial agents. It also includes bottling water that has been flavored. It does NOT include soft drinks and similar beverages that have the following declarations in the ingredient labeling: carbonated water, disinfected water, filtered water, seltzer water, soda water, sparkling water, and tonic water. Requires at least 10 acres of land area. Does not involve on site retail sale.

Wind Energy Conversion System (WECS): Any mechanism designed for the purpose of converting the kinetic energy of wind into electrical or mechanical energy.

Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 50 kW and which is intended only to reduce on-site consumption of utility power and are not used to generate utility scale electrical energy to be supplied to the local utility electrical grid.

Wind Energy System Height: The height from original grade of the land to the highest point of any part of the wind energy system including the top of the blade when it is in the vertical position.

Yard: An open space , other than a court, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated.

Yard, Front: The space in the front of a lot, extending the full width of a lot from the nearest road to the part of a building or structure which is nearest to said road.

Yard, Rear: A yard extending along the full width of the rear lot line between the side lot lines and extending from the rear lot line to the rear face(s) of the principal building or to the depth required in the setback regulations for the zoning district in which such lot is located whichever distance is greater.

Yard, Side: Area or plot of ground as measured from the lot line boundaries, not including any road or accessory building to the nearest point of the principal building or structure.

Yard Sale: A sale of used or unwanted household belongings, held outdoors or in a garage or storage structure. Shall not be longer than three consecutive days and no more than twice per year at the same location.

ARTICLE VII ADMINISTRATION AND ENFORCEMENT

Section 701 Enforcement

This law shall be enforced by the Code Enforcement Official (CEO), who shall be appointed by the Town Supervisor with the approval of the Town Board. The CEO is the officer charged with the administration and enforcement of this code. In deciding whether or not any proposed action complies with the zoning law the CEO must follow the requirements contained in the law exactly. The CEO may not issue a permit for something that is not authorized, nor may the CEO deny a permit for something that is authorized. In the issuing of zoning and/or building permits the CEO, a purely administrative agent, has no discretion, but must follow the literal provision of the zoning regulations. No building permit or certificate of occupancy shall be issued except where all the provisions of this law have been complied with.

The powers and duties of the CEO shall include but not be limited to the following:

1. To receive and review all applications for variances, site plan review or other zoning approvals and subdivision review pursuant to the provisions of this Zoning Law. In the event that the CEO determines that the application meets all of the requirements of the Zoning Law, the application shall be forwarded by the CEO to the Planning Board (PB) or Zoning Board of Appeals (ZBA), as applicable, for further review in accordance with the provisions of the Zoning Law and/or Subdivision Regulations. In the event the CEO finds that the application does not comply in one or more respects with the provisions of the Zoning Law, the application shall be denied by the CEO, with an opportunity to appeal the CEO's determination to the ZBA in accordance with the provisions of 708 of this Zoning Law.
2. To notify applicants in the event that an application for the PB or ZBA is determined to be incomplete.
3. To attend and facilitate meetings of the PB and ZBA, including presentation of applications received for action by those boards.
4. Upon approval of any application for site plan approval or variance or for any other change in use requiring the issuance of a building permit, the CEO shall issue a certificate of use verifying that the use complies with the provisions of the Zoning Law and the requirements and conditions imposed by the Planning Board and/or ZBA.
5. To conduct inspections prior to the issuance of a certificate of use and inspections incidental to the investigation of complaints and all other inspections required or

permitted under any provision of this Zoning Law.

6. To issue stop work orders, notices of violations and/or compliance orders.
7. To review and investigate complaints.
8. To issue orders pursuant to §705 ("Violations and Penalties").
9. To maintain all records from zoning and code inspections; site visits; Planning Board applications, minutes and correspondence; ZBA applications, minutes and correspondence; and all correspondence to and from the CEO.
10. To collect fees set by the Town Board.
11. To pursue administrative and criminal enforcement actions and proceedings and/or criminal proceedings to enforce the provisions of this Zoning Law.
12. To issue building permits.
13. In consultation with the Town Attorney to pursue such legal actions and proceedings as may be necessary to enforce the provisions of the Zoning law.
14. To exercise all other powers and fulfill all other duties conferred upon the Zoning Enforcement Officer by this Zoning Law.

Section 702 Permits

1. Building Permit: No structure, building or dwelling unit shall be constructed, structurally altered, enlarged or moved where such construction, alteration, or enlargement requires a building permit under the NYS Fire Prevention and Building Code unless a building permit for such action has been issued by the CEO.
2. Use Permit: Any change in use of the property requires the issuance of a use permit by the CEO.
3. Certificate of Occupancy: No structure shall be occupied for which a building permit is needed until a certificate of occupancy has been issued by the CEO. The CEO shall not issue a certificate of occupancy unless the premises comply with the building permit, subdivision regulations, and all site plan review requirements and all other requirements of this law and all other local, county and state regulations, as applicable.
4. Temporary Certificate of Occupancy: Grants residents and building owners all of the same rights as a Certificate of Occupancy, however it expires after a prescribed period of time.

Section 703 Matter Accompanying Application for Permits

Each application to the CEO 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 with onsite sewage treatment, no building permit shall be issued unless approval is received by the Clinton County Board of Health.

Any other application for a building permit, or 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 CEO may require for a clear understanding of the case.

Section 704 Fees

Refer to the Fee Schedule as determined by the Town Board of the Town of Peru for all site plan, use, or other permit fees.

Section 705 Violations and Penalties

1. Compliance orders. The CEO is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of this Zoning Law. Upon finding that any such condition or activity exists, the officer shall issue a compliance order. The compliance order shall:
 - a. be in writing;
 - b. be dated and signed by the CEO;
 - c. specify the condition or activity that violates this Zoning Law;
 - d. specify the provision or provisions of this Zoning Law which is/are violated by the specified condition or activity;
 - e. specify the period of time which the CEO deems to be reasonably necessary for achieving compliance;
 - f. direct that compliance be achieved within the specified period of time; and
 - g. state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

The CEO shall cause the compliance order, or a copy thereof to be served on the owner of the affected property, preferably by hand, or by registered or certified mail. If served by mail it shall be sent to the address to which the most recent tax bill was mailed by the Town. The CEO shall be permitted, but not required, to cause the compliance order, or a copy thereof; to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by registered or certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

2. Appearance tickets. The CEO is authorized to issue appearance tickets for any violation of the Zoning Law.
3. Civil penalties. In addition to those penalties proscribed by State law, any person who violates any provision of this Zoning Law, or any term or condition of any certificate of occupancy stop work order, or other notice or order issued by the CEO pursuant to any provision of this Zoning Law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted by the Town of Peru.
4. Criminal penalties and enforcement. Any violation of the Zoning Law is hereby declared to be an offense punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; upon conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350.00, nor more than \$700.00, or imprisonment for a period not to exceed six months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700.00, nor more than \$1,000.00, or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon the Courts and judicial officers generally, violations of the Zoning Law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
5. Injunctive relief. An action or proceeding may be instituted by the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Zoning Law, or any term or condition of any certificate of occupancy, compliance order, or other notice or order issued by the CEO pursuant to any provision of this Zoning Law. In particular, where a violation exists, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this Article shall be commenced without the appropriate authorization from the Town Board.

Section 706 Inspection

The CEO is authorized to enter, inspect, and examine any building or premises with the consent of the landowner. If the landowner, tenant, or occupant does not provide such consent, and the CEO has probable cause to believe that a violation of this law is occurring, he/she is authorized to obtain an administrative search warrant to have such entry, inspection, or examination conducted.

Section 707 Zoning Board of Appeals

A. Establishment.

1. A Zoning Board of Appeals (ZBA) is hereby established in accordance with Article 16, Section 267 of the Town Law. It shall consist of seven members appointed by resolution of the Town Board, each to serve for a term of seven years. The term of office of the members of the ZBA and the manner of their appointment shall be in accordance with the provisions of Article 16, Section 267 of the Town Law. A member of the ZBA shall not at the same time be a member of the Town Board. Vacancies occurring in said Board shall be filled for such unexpired period only.
2. The Town Board shall designate its chairperson and shall provide for such expenses as may be necessary and proper. In the absence of a chairperson, the ZBA may designate a member to serve as acting chairperson. The Town Board may appoint one or more alternates to the ZBA.
3. The Town Board shall have the power to remove any member of the ZBA only for cause and after public hearing.

B. Powers

1. The ZBA shall have the duties, rights, powers and functions conferred upon it by Section 267 of Article 16 of the Town Law and any other provisions of the Town Law and any other provisions of law or ordinance applicable thereto in connection with appeals to review any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of this Local Law, generally the CEO.
2. Hearing appeals. The jurisdiction of the ZBA shall be appellate and shall include hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the CEO. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town.

C. Conduct of Business

1. The ZBA may employ such clerical or other staff as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes.
2. Meetings, minutes, records. Meetings of the ZBA shall be open to the public to the extent provided in article seven of the public officer's law. Such ZBA 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.
3. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the ZBA shall be filed in the office of the town clerk within five business days and shall be a public record.
4. Assistance to ZBA. Such 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. Further, the ZBA shall have the authority to call upon any professional to assist in its review of applications. Expense for such professional may be borne by the applicant.
5. The ZBA shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this local law, all of which must be in compliance with Local, State and Federal law.
6. All meetings of the ZBA shall be held at the call of the chairperson and at such other times as the Board may determine. All meetings of the ZBA shall be open to the public.
7. Time of appeal.
An appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the CEO, by filing with such officer and with the ZBA, a notice of appeal, specifying the grounds thereof and the relief sought on forms prescribed by the ZBA. Such application shall refer to the specific provision of this Local Law involved and shall specify the grounds for the variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision or determination of an administrative official. The CEO shall transmit to the ZBA all the papers constituting the record upon which the action appealed from was taken.
8. Agricultural Data Statement. Any application for a use variance requiring review by the ZBA, that would occur on property within an Agricultural District containing a farm operation or on a property with boundaries within 500 feet of a farm operation located within an Agricultural District, shall include an agricultural data statement. The ZBA shall evaluate and consider the

agricultural statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. Upon receipt of an application for a use variance meeting the conditions above, the ZBA shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of the mailings shall be borne by the applicant. The content of an agricultural data statement shall comply with Article 16, Section 283-A of the Town Law.

9. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the CEO certifies to the ZBA, 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 ZBA 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.
10. Hearing on appeal. The ZBA shall fix a reasonable time for the hearing of the appeal or other matter referred to it after receipt of a complete application. The ZBA shall 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, or a reasonable fee relating thereto, may 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, and/or by agent and/or by attorney. In addition to the public notice of a hearing, the Town shall make a good faith effort to provide notice to all property owners of the land included in such proposed change, and the land immediately adjacent extending one hundred (100) feet therefrom, and the land directly opposite thereto extending one hundred (100) feet from the street or highway frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the town. Upon the hearing, any party may appear in person and/or by agent and/or by attorney. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken.
11. Notice to County Planning Board. At least five days before such hearing, the ZBA shall mail notices thereof to the County Planning Board as required by Section 239-m of the General Municipal Law. This notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of Section 239-m of the General Municipal Law. No action shall be taken on variances referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt

of the full statement of the proposed variance, unless the County and Town agree to an extension beyond the 30-day requirements for the County Planning Board's review. A majority-plus-one vote shall be required to approve any variance which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

12. Time of decision on appeal. The ZBA shall decide upon the appeal within sixty-two days after the conduct of said hearing. The time within which the ZBA must render its decision may be extended by mutual consent of the applicant and the board.
13. Voting requirements.
 - a. Decision of the ZBA. Every motion or resolution of the ZBA shall require for its adoption the affirmative vote of a majority of all the members of the ZBA as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the County Planning Board the voting provisions of Section 239-m of the General Municipal Law shall apply.
 - b. Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the ZBA is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the CEO within the time allowed by subdivision (c) (12) of this section, the appeal is denied. The ZBA may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in Section (c) (16) of this section.
14. Filing of decision and notice. The decision of the ZBA on the appeal 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.
15. Compliance with State Environmental Quality Review Act (SEQRA). The ZBA shall comply with the provisions of the SEQRA under article eight of the environmental conservation law and its implementing regulations as codified in title six, part 617 of the New York codes, rules and regulations.
16. Rehearing. A motion for the ZBA to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the ZBA. A unanimous vote of all members of the board then present, with a quorum in place, is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the ZBA may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the ZBA finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

D. Permitted action by ZBA.

1. Orders, requirements, decisions, interpretations, determinations. The ZBA 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 CEO charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the CEO from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. Use variances.
 - a. The ZBA, on appeal from the decision or determination of the CEO charged with the enforcement of such ordinance or local law, shall have the power to grant use variances. Use variance is defined as an exception to a zoning restriction which allows for the establishment of a land use that is not otherwise permitted within a particular zoning district.
 - b. No use variance shall be granted by a ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant must meet the requirements of Town Law Section 267-b, which as of the date of adoption of this zoning law requires the following: The applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district 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; and
 2. the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; and
 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. The ZBA, 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.

3. Area variances.

- a. The ZBA shall have the power, upon an appeal from a decision or determination of the CEO charged with the enforcement of such zoning law, to grant area variances. Area variance is defined as an exception to a zoning restriction which allows for the placement of a building or structure on a lot in a manner which is not otherwise allowed by dimensional or physical requirements of the zoning law.
 - b. In order to grant an area variance, the applicant must meet the requirements of Town Law Section 267-b, which as of the date of the adoption of this zoning law requires the following: In making its determination, the ZBA 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 ZBA 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 ZBA, but shall not necessarily preclude the granting of the area variance.
 - c. The ZBA, 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.
4. Imposition of conditions. The ZBA 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. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

E. Court Review of Board Decisions

1. Any person or persons jointly or severally aggrieved by any decision of the ZBA may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules and § 267-c of the Town Law.
2. Expiration of appeal decision. Unless otherwise specified by the ZBA, a decision on any appeal shall expire if the appellant fails to obtain any necessary building permit within 12 months of the date of such decision.
3. Grant of Variance. The grant of a variance shall serve as authorization for the CEO to issue a project permit, provided that the project complies with all applicable provisions of this local law and other applicable regulations.

Section 708 Planning Board

A. Establishment.

1. A Planning Board is hereby established in accordance with Article 16, Section 271 of the Town Law. It shall consist of seven members appointed by resolution of the Town Board, each to serve for a term of seven years. The term of office of the members of the Planning Board and the manner of their appointment shall be in accordance with the provisions of Article 16, Section 271 of the Town Law. A member of the Planning Board shall not at the same time be a member of the Town Board. Vacancies occurring in said Board shall be filled for such unexpired period only.
2. The Town Board shall designate the chairperson for the Planning Board and shall provide for such expenses as may be necessary and proper. In the absence of a chairperson, the Planning Board may designate a member to serve as acting chairperson.
3. The Town Board shall have the power to remove any member of the Planning Board only for cause and after public hearing.

B. Powers

1. The Planning Board shall have the duties, rights, powers and functions conferred upon it by Section 271 of Article 16 of the Town Law and any other provisions of the Town Law and any other provisions of this zoning law.
2. Site Plan Review. The Planning Board shall have the authority to review and approve, approve with modifications, or disapprove site plans prepared to specifications set forth in this zoning law. The Planning Board may impose

such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan.

3. Cluster Development Review. The Planning Board shall have the authority to review and approve Cluster Development applications prepared to specifications set forth in this zoning law.
4. Recommendations to Town Board. The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction by this zoning law or any other statute, or under any local law or ordinance of the Town.
5. Recommendations on Comprehensive Plan. The Planning Board may review and make recommendations on the Town Comprehensive Plan or amendment thereto.

C. Conduct of Business

1. The Planning Board may employ such clerical or other staff as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes.
2. Meetings, minutes, records. Meetings of the Planning Board shall be open to the public to the extent provided in article seven of the public officer's law. The Planning Board 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.
3. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Planning Board shall be filed in the office of the town clerk within five business days and shall be a public record.
4. Assistance to the Planning Board. Such 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. Further, the Planning Board shall have the authority to call upon any professional to assist in its review of applications. Expense for such professional shall be borne by the applicant.
5. The Planning Board shall have the power to promulgate written rules of procedure, by-laws, and forms in order to fulfill its responsibilities under this local law.
6. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as the Board may determine. All meetings of the

Planning Board shall be open to the public.

7. Voting requirements. Every motion or resolution of the Planning Board shall require for its adoption the affirmative vote of a majority of all the members of the Planning Board as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the Clinton County Planning Board the voting provisions of Section 239-m of the General Municipal Law shall apply.
8. Agricultural Data Statement. Any application for site plan approval that would occur on property within an Agricultural District containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district shall include an agricultural data statement. The Planning Board shall evaluate and consider the agricultural data statement in its review of possible impacts of the proposed project upon the functioning of farm operations within the Agricultural District. If an agricultural data statement has been submitted, the Planning Board shall, upon receipt of the site plan review application, mail written notice of the application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.
9. Notice to County Planning Board. The Planning Board shall mail notice of site plan review application to the County Planning Board as required by Section 239-m of the General Municipal Law. This notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of Section 239-m of the General Municipal Law. No action shall be taken on site plan reviews referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the site plan review application, unless the County and Town agree to an extension beyond the 30-day requirements for the County Planning Board's review. A majority-plus-one vote shall be required to approve any variance which receives a recommendation of disapproval from the County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.
10. Compliance with State Environmental Quality Review Act (SEQRA). The Planning Board shall comply with the provisions of the SEQRA under article eight of the environmental conservation law and its implementing regulations as codified in title six, part 617 of the New York codes, rules and regulations.
11. Rehearing. A motion for the Planning Board to hold a rehearing to review any order, decision or determination of the board not previously reheard 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 reheard order, decision or determination will not be prejudiced thereby.

E. Court Review of Board Decisions

1. Any person or persons jointly or severally aggrieved by any decision of the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules and § 267-c and § 282 of the Town Law.

ARTICLE VIII AMENDMENTS

Section 801 Procedure for Amendments

The Town Board may from time to time on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this law after public notice and hearing pursuant to the provisions of Article 3 of the Municipal Home Rule Law.

1. Action by Planning Board. The Planning Board may initiate amendments to this Local Law, including the Zoning Maps. However, only the Town Board can approve zoning amendments.
2. Public. Members of the public may initiate amendments to this Zoning Law through petition. The procedure for petitioning the Town to amend this Zoning Law is as follows:
 - a. The petition shall be in writing.
 - b. If the petition affects a particular property, the petition shall contain a description and a map of the property affected.
 - c. The petition shall include the names and addresses of all owners on the Tax Map of the Town who own property within 500 feet of the property affected or any other contiguous property of the applicant in the same ownership.
3. Referral to Planning Board. The Town Board shall refer to the Planning Board for an advisory report on any proposed amendment, and the Planning Board shall file its report with the Town Board within 60 days after the proposed amendment is delivered or mailed to the Chairman of the Planning Board. Should the Planning Board fail to file such report within said 60 days, the Town Board may, at its discretion, hold a public hearing on the proposed amendment without the report of the Planning Board, and absence of such a report shall not be due cause for adjournment of the public hearing.
4. Town Board procedure.
 - a. Public Notice and Hearing. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as follows:
 1. By publishing a notice at least ten (10) calendar days prior to the time of such hearing in the official newspaper of the Town, specifying:
 - (i) the nature of the proposed amendment;
 - (ii) the specific land or land use district affected; and

- (iii) the date, time and place where the public hearing shall occur.
5. A written notice of any proposed amendment or change affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional State Park Commission having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.
 6. A written notice of any proposed amendment or change affecting property within 500 feet of the boundaries of any city, village, town or county shall be given to the clerk of such municipality or county and to the County Planning Board at least 10 days prior to the date of such hearing.
 7. Required referral. The Town Board shall transmit a full statement of any proposed amendment to the Clinton County Planning Board in accordance with Sections 239-L and 239-m of the General Municipal Law. No action shall be taken by the Town Board until a review has been received from the Clinton County Planning Board or thirty (30) calendar days have elapsed.
 8. Compliance with SEQRA. The Town Board, in its adoption of the amendment to the Zoning Law, shall be required to comply with the provisions of SEQRA.
 9. Town Board decision. The Town Board may approve an amendment of this zoning law by a majority vote of said Board. In the event that the Clinton County Planning Board recommends modification or denial thereof within the applicable time period, the Town Board shall not act contrary to such determination except by the vote of a majority plus one (1) of all the members after the adoption of a resolution fully setting forth the reasons for such contrary action. Within thirty (30) calendar days after such final action, the Town Board shall file a report of its final action with the County Planning Board.
 10. In case, however, of a protest against such change with signed petition by the owners of twenty percent or more of the area of land included in such proposed change, or of that area immediately adjacent to the area affected, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

ARTICLE IX MISCELLANEOUS

Section 901 Interpretation, Conflict with Other Laws

In their interpretation and application, the provisions of this law shall be held to be minimum requirements, adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of this law are at variance with the requirements of any other lawfully adopted rules, regulations, laws, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Section 902 Validity

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

Section 903 Repealer

This zoning law shall replace all other zoning laws or zoning ordinances currently in effect in the Town of Peru. All formal zoning requests, applications and actions submitted prior to the effective date of this law shall continue to be enforced by the old ordinance.

Appendix A

Use Schedule

Any use not listed in Appendix A (Use Schedule) shall be considered to be prohibited.

P=Permitted by Right

SPR=Permitted with Site Plan Review

| | |
|--------|--------------------------------|
| APA | Adirondack Park District |
| APA LK | Adirondack Park Lake District |
| COM | Commercial District |
| H | Hamlet District |
| IC | Industrial Commercial District |
| LK COM | Lake Commercial |
| NC | Neighborhood Commercial |
| RES | Residential District |
| RR | Rural Residential District |
| R | Rural District |
| HO | Historic Overlay |
| MHO | Manufactured Home Overlay |
| PDO | Planned Development Overlay |
| RWO | Reservoir Watershed Overlay |

Appendix B

Model Conservation Easement

Deed of Conservation Easement

THIS CONSERVATION EASEMENT ("Easement") is granted this ____ day of _____ 201__, by _____ ("Grantor") to the Town of Peru ("Grantee"), a New York municipal corporation having a mailing address of 3036 Main Street, Peru, NY 12972.

WHEREAS:

- A. The Grantor, owner in fee of real property located in the Town of Peru, New York known and designated on the tax map for the Town of Peru (*insert tax map information*) comprising approximately (*insert number of acres*) and more particularly described in EXHIBIT A and depicted in EXHIBIT B, both attached hereto and incorporated herein by reference, hereinafter known as the "Property"; and
- B. The Grantee, Town of Peru, is a municipal corporation and has the authority pursuant to Section 247 of the General Municipal Law and Article 49, Title 3 of the New York Environmental Conservation Law (the "ECL") to acquire conservation easements; and
- C. The Property consists primarily of productive agricultural land, and the Town of Peru believes that it is important to protect agricultural lands for the inherent value that these lands provide for food production, and natural, open space and scenic resources. It is the purpose of this article to provide a locally-initiated mechanism for the protection and enhancement of the Town of Peru's agricultural lands as a viable segment of the local and state economies and as an economic and environmental resource of major importance; and
- D. Article 14, Section 4 of the New York State Constitution states that "the policy of this State shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products"; and
- E. In Section 49-0301 of the ECL, the Legislature of the State of New York found and declared that "in order to implement the state policy of conserving, preserving and protecting its environmental assets and natural and man-made resources, the preservation of open spaces, and the preservation, development and improvement of agricultural and forest lands..., is

fundamental to the maintenance, enhancement and improvement of...balanced economic growth and the quality of life in all areas of the state”: and

- F. The conservation values of the Property are documented in a Baseline Documentation Report, attached hereto as EXHIBIT C, which includes an inventory of the relevant conservation values, maps, photographs, and other documents that provide an accurate representation of the Property at the time of the execution of this conservation easement, and which is intended to provide objective baseline information for purposes of future monitoring and enforcement; and
- G. It is the intention of the Grantor to convey to the Grantee the right to preserve and protect the conservation values described herein by encumbering the Property with a conservation easement pursuant to the provisions of New York Conservation Law, Article 49, Title 3; and
- H. The Grantor agrees to accept this conservation easement and to honor the intentions of the Grantee as stated herein and to preserve and protect the Property in perpetuity according to the terms of this easement for the benefit of this and future generations; and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, terms, conditions and restrictions contained herein, the Grantor hereby grants and conveys to Grantee a conservation easement, an immediately vested interest in real property defined by Article 49, Title 3 of the ECL of the nature and character described herein, for the benefit of the general public, which Easement shall run with and bind the Property in perpetuity. Grantor will neither perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants contained herein.

1. Purpose

The primary purpose of this easement is to conserve viable agricultural land and soil resources by preventing uses of the Property that will significantly impair or interfere with the Property’s agricultural and forestry viability and productive capacity.

All other purposes listed below shall be secondary and none shall conflict with or significantly diminish the primary purpose of this Easement. The Secondary Purposes of this Easement include: to conserve and protect the Property’s open space resources, and their associated unique and special natural features.

2. Implementation

This Easement shall be implemented by limiting and restricting the development and use of the Property in accordance with its provisions. The Property remains subject to all applicable local, state and federal laws and regulations. This Easement and administration of its provisions shall not unreasonably restrict or regulate farm operations in contravention of the purposes of Article 25-AA of the Agriculture and Markets Law.

3. Definitions

- (a) **“Grantor”** or “owner” includes the original Grantor, its heirs, successors and assigns, all future owners of any legal or equitable interest in all or any portion of the Property, and any party entitled to the possession or use of all or any part thereof.
- (b) **“Grantee”** includes the original Grantee and its successors and assigns.
- (c) **“Residential Dwelling”** means dwellings or structures, together with accessory improvements that comprise single-family, multi-family, apartments, “in-law” apartments, guest houses and farm labor housing, whether or not the structure(s) are used as the primary residence of a farm owner.
- (d) **“Farm Labor Housing”** means dwellings or structures, together with accessory improvements used to house seasonal and/or full-time employees where such residences are provided by the farm landowner and/or operator, the worker is an essential employee of the farm landowner and/or operator employed in the operation of the farm and the farm worker is not a partner or owner of the Farm Operation. For instance, a structure used as the primary residence of a farm owner is not “farm labor housing”.
- (e) **“Farm Operation”** shall be defined as “the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise” in accordance with Section 301 of the New York State Agriculture and Markets Law (“Agriculture and Markets Law”), or such successor law as enacted or amended.
- (f) **“Impervious Surfaces”** are defined as structures or improvements that permanently cover soil resources. Impervious Surfaces do not include permeable surfaces such as gravel roads and parking areas, structures whose principal purpose is to protect soil and water resources, such as manure storage areas, and structures and improvements lacking permanent foundations.
- (g) **“Sound Agricultural Practices”** is defined as those practices necessary for on-farm production, preparation and marketing of agricultural commodities, provided such practices are legal, necessary, do not cause bodily harm or property damage off the farm, and achieve the intended results in a reasonable and supportable way. If necessary, to determine if a practice is “sound,” Grantee or Grantor may request that the New York State Department of Agriculture and Markets initiate a sound agricultural practice review pursuant to Section 308 of the New York State Agriculture and Markets Law, or any successor law as enacted or amended.

4. Prohibited, Restricted and Allowed Uses

Any activity on or use of the Property inconsistent with the purpose of this conservation easement is prohibited. Without limiting the generality of the foregoing provision, the following

restrictions specifically apply to the property:

(a) Development: All development that is not consistent with the agricultural use of the Property is prohibited unless otherwise specifically allowed under this Easement. More specifically, the following restrictions shall apply:

- 1) Impervious Surfaces:** Impervious surfaces may be constructed or placed on the Property up to a maximum of 10% of the Property.
- 2) Fences:** Existing fences may be repaired, removed and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock and wildlife, safety and general management and to prevent trespassing on the Property.
- 3) Agricultural Structures and Improvements:** Any existing or subsequent agricultural structures and improvements may be repaired, removed, enlarged and replaced at their current locations, subject to the Impervious Surface coverage limitations set forth above. Grantor may construct new buildings, structures and other improvements with impervious surfaces, including asphalt and concrete roads and parking areas to be used primarily for purposes related to a Farm Operation and for such other agricultural purposes as (i) the production, storage, marketing or sale of farm products or by-products, or processing of farm products or by-products, (ii) the storage of equipment used for agricultural production, and (iii) the keeping of livestock or other animals.
- 4) Residential Dwellings:** Existing residential dwellings, as defined herein, if any, may be repaired, removed, enlarged and replaced at their current locations. Subject to the Impervious Surface coverage limitations set forth above, Grantor may construct on the Property new Farm Labor Housing together with accessory structures and improvements, necessary to satisfy the needs of the Grantor's farm operations, subject to any applicable local, state or federal laws and regulations.
- 5) Recreational Improvements:** Subject to the Impervious Surface coverage limitations set forth above, Grantor may enlarge existing or construct or place new permanent, recreational improvements on the Property up to an aggregate of 1,000 square feet in size. All recreational structures and improvements shall be compatible with the Purpose of this Easement, subordinate to the agricultural use of the Property and located in a manner that minimizes the impact to prime or statewide important soils.
- 6) Utility Services and Septic Systems:** Wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, or other utility services to or from the improvements permitted in this Easement may be installed, maintained, repaired, removed, relocated and replaced, and Grantor may grant easements over and under the Property for such purposes. Septic or other underground sanitary systems serving the improvements permitted herein may be installed, maintained, repaired or improved. All such services and systems shall be compatible with the Purpose of this Easement, subordinate to the agricultural use of the Property and located in a manner that minimizes the impact to prime or statewide important soils.
- 7) Alternative Energy and Communications Structures and Improvements:** Structures and improvements necessary to undertake alternative energy and communications activities such as wind, solar, methane and other similar energy

generation activities as well as cell towers or 911 communications towers may be constructed on up to 1% of the Property provided they are compatible with the Purpose of this Easement, subordinate to the agricultural use of the Property and located in a manner that minimizes the impact to prime or statewide important soils.

- (b) Mining and Mineral Extraction:** Exploration for, or development, storage and extraction of minerals on or from the Property by any method are permitted only under the following conditions. Grantor may remove sand and gravel on the Property, provided said removal: (a) is limited and localized in impact, affecting no more than one acre of the Property; (b) is compatible with the Purpose of this Easement; (c) is reasonably necessary and exclusively for the Farm Operation; and (d) minimizes the impact to the prime and statewide important soils.

Prior to determining the location of a site for exploration, development or extraction activities, the Grantor shall notify the Grantee to give the Grantee an opportunity to participate in an onsite meeting to review proposed location. Grantor shall agree to comply with the New York State Department of Agriculture and Markets guidelines for agricultural mitigation for construction of such structures and related extractive activities.

- (c) Dumping of Trash:** The dumping, land filling, burial, application, injection, or accumulation of any kind of garbage, trash or debris on the Property is prohibited, other than agriculturally-related waste or biodegradable material as described below. Grantor may 1) store, compost, apply or inject agriculturally-related waste or biodegradable material; 2) store old farm equipment to be used for parts; 3) temporarily store trash or household waste in receptacles for periodic off-site disposal and 4) compost or re-use biodegradable materials generated off the Property for use on the Property or commercial use or sale. All such activities shall be conducted in accordance with Sound Agricultural Practices and in a manner consistent with all applicable local, state or federal laws and regulations.

- (d) Recreational Activities:** Grantor shall be allowed to use the Property for otherwise lawful personal or commercial recreational uses, including, but not limited to, hunting, fishing, cross-country skiing, camping, horseback riding and snowmobiling, subject to the limitations set forth in this Easement. In all cases, such recreational uses must be compatible with the Purpose of this Easement and subordinate to the agricultural use of the Property. Under no circumstances shall golf courses and/or ranges be allowed in the Farm Area.

- (e) Rural Enterprises:** Certain non-agricultural uses, referred to in this Easement as Rural Enterprises, shall be allowed to take place on the Property, with such uses including: professional offices within the home, repair of farm machinery, bed and breakfasts, crafts production, and firewood cutting, provided that no new buildings or structures are built specifically for these activities. In all cases, such uses and any necessary structures or improvements, shall be compatible with the Purpose of this Easement and subordinate to

the agricultural use of the Property.

- (f) Maintenance and Improvement of Water Sources:** Grantor may use, maintain, establish, construct, and improve water sources, water courses and water bodies within the Property for the uses permitted by this Easement. Grantor may alter the natural flow of water over the Property in order to improve drainage of agricultural soils, reduce soil erosion and/or flooding, provide irrigation for the Property or improve the agricultural or forest management potential of the Property, provided such alteration is consistent with Sound Agricultural Practices and the Purpose of this Easement and is carried out in accordance with applicable local, state and federal laws and regulations.
- (g) Water Rights:** Grantor may use any appurtenant water rights sufficient to maintain the agricultural productivity of the Property in accordance with applicable local, state and federal laws and regulations. Grantor shall not transfer, encumber, lease, sell or otherwise sever such water rights from title to the Property itself.
- (h) Subdivision:** The Property may not be further partitioned or subdivided. Mortgages, or other non-possessory interests in land do not constitute subdivisions for the purpose herein, provided such interests encompass the whole parcel.
- (i) Forest Management:** Grantor may clear forested areas for conversion to farmland, harvest wood for use on the Property including heating or construction of buildings and improvements, manage forested areas for wildlife habitat and recreation, and remove trees that are fallen, dead, diseased or invasive, so long as such activities are consistent with generally accepted forest best management practices. Grantor may commercially harvest timber and other wood products, conduct timber stand improvements and construct, maintain, remove, and repair unpaved access roads and “staging areas”, those areas where logs are temporarily stored for transport necessary for such activities. All such activities shall be in accordance with generally-accepted forestry best management practices. Such commercial timber harvests and timber stand improvements shall be carried out in accordance with a forest management plan and harvest plan prepared by a forester who is certified by the Society of American Foresters or such successor organization as is later created, a Cooperating Consulting Forester with the New York State Department of Environmental Conservation or a qualified forester approved by Grantee.
- (j) Road Construction:** Subject to the Impervious Surface coverage limitations set forth above, Grantor may construct roads for residential driveways, barnyards, farm markets or other improvements necessary to provide access to, and parking for, permitted buildings or improvements, or to conduct other activities permitted by this Easement. Roads shall be located in a manner that minimizes impacts to the prime and statewide important soils.

5. Reserved Rights Retained by Grantor

As the owner of the Property, Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all customary rights and privileges of ownership, including

the right of exclusive use, possession and enjoyment of the Property, the rights to sell, lease, and devise the Property, as well as any other rights consistent with the Purpose set forth in Section 1 (“Purpose”) and not specifically prohibited or limited by this Easement.

However, nothing in this Easement relieves Grantor of any obligation with respect to the Property or restriction on the use of the Property imposed by law and nothing in this Easement shall require Grantor to take any action to restore the condition of the Property after any Act of God or Force Majeure.

(a) Right to Use Property for Agricultural Uses. Grantor has the right to produce crops, livestock and livestock products and use the Property as a Farm Operation, which includes but is not limited to the right to establish, reestablish, maintain, and use cultivated fields, orchards, pastures and woodlands. Said farming practices shall be carried out in accordance with Sound Agricultural Practices. Grantor and Grantee recognize that changes in economic and environmental conditions, in agricultural technologies, in accepted farm management practices and in the Farm Operations of Grantor may result in changes in the agricultural uses of the Property. It is the intention of this Easement to maintain Grantor’s discretion to employ their choices of farm uses and management practices so long as those uses and all farming operations are conducted in accordance with Sound Agricultural Practices.

(b) Right to Protect Health, Safety of the Public. Notwithstanding any other restriction contained herein, the owner of the Property (or any relevant part thereof) or the Grantee may take such actions with respect to the Property as are necessary to protect the health and safety of the public and the persons using the Property; provided that if any such action is contrary to a restriction contained herein, the action shall be limited to the minimum variation necessary to afford the required protection.

(c) Right to Prohibit Public Access to Property. Nothing contained in this Easement shall give or grant to the public a right to enter upon or to use the Property or any portion thereof where no such right existed in the public immediately prior to the execution of this Easement.

(d) Right to Use Property for Other Purposes. Grantor has the right to use the Property for all other purposes allowed in Section 4(a) – (j) above.

6. Rights Conveyed to Grantee

To accomplish the purposes of this Easement, the following rights are conveyed to the Grantee by this Easement:

(a) Right to Inspect the Property. Grantee shall have the right to enter upon the Property with forty-eight (48) hours advance notice to Grantor for the purpose of inspecting for compliance with the terms of this Easement. Such inspection shall be conducted between the hours of 9 a.m. and 7 p.m. on a weekday that is not a legal holiday recognized by the State of New

York or at a date and time agreeable to the Grantee and Grantor. In the instance of a violation or suspected violation of the terms of this Easement which has caused or threatens to cause irreparable harm to any of the agricultural or other resources this Easement is designed to protect, no such advance notice is required.

(b) Right to Prevent Activities Inconsistent with this Easement. Grantee shall have the right to prevent any activity on, incursion into, or use of the property that is inconsistent with the purposes of this Easement, and to require the restoration of such areas or features of the Property that are damaged by any inconsistent activity or use pursuant to the remedies set forth in Section 10 “Enforcement.”

7. Ongoing Responsibilities of Grantor and Grantee

Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any obligations of Grantor as owner of the Property, including, but not limited to, the following:

(a) Taxes. Grantor shall be solely responsible for payment of all taxes and assessments levied against the Property.

(b) Upkeep and Maintenance. Grantor shall be solely responsible for the upkeep and maintenance of the Property, to the extent required by law and this Easement. Grantee shall have no obligation for the upkeep or maintenance of the Property.

(c) Liability and Indemnification. Grantor agrees to indemnify and hold Grantee harmless from any and all costs, claims or liability, including but not limited to reasonable attorneys fees arising from any personal injury, accidents, negligence or damage relating to the Property, or any claim thereof, unless due to the negligence of Grantee or its agents, in which case liability shall be apportioned accordingly.

(d) Permits and Approvals. Grantor shall remain solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this easement, and all such construction and other such activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Grantor shall keep the Property free of all liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

8. Extinguishment of Development Rights

Except as otherwise reserved to the Grantor in this Easement, all non-agricultural development rights appurtenant to the Property are hereby released, terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield of the Property or any other property.

9. Baseline Documentation

By its execution of this Easement, Grantee acknowledges that the present uses of, and related structures and improvements on the Property are permitted by this Easement. In order to evidence the present condition of the Property so as to facilitate future monitoring and enforcement of this Easement, a Baseline Documentation Report, including relevant maps and photographs, describing such condition at the date hereof, has been prepared and subscribed by both parties, and a copy thereof has been delivered to Grantor and a copy is attached as EXHIBIT C. The Report may be used by Grantee to establish that a change in the use or character of the Property has occurred, but its existence shall not preclude the use by Grantee of other evidence to establish the condition of the Property as of the date of this Easement.

10. Enforcement

- a. Notice.** If Grantee determines that a violation of this easement has occurred or is threatened, Grantee shall give written notice to Grantor of such violation and demand that corrective action sufficient to cure the violation be taken. Where the violation involves injury to the Property resulting from any use inconsistent with the terms or the purpose of this conservation easement, Grantee shall demand that Grantor restore the Property to its prior condition in accordance with a plan approved by the Grantee.

- b. Injunctive Relief.** If Grantor fails to cure the violation within 30 days after receipt of notice of a violation from Grantee, or, where the violation cannot reasonably be cured within a 30 day period, Grantor fails to begin curing such violation within a 30 day period, or Grantor fails to diligently continue to cure such violation until it is cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this easement, to enjoin the violation by temporary or permanent injunction, and to require the restoration of the property to the condition that existed prior to any such injury.

- c. Damages.** Grantee shall be entitled to recover damages for a violation of the terms of this easement or for injury to any of the conservation values protected by this easement, including, without limitation, damages for loss of agricultural, scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefore, Grantee may, in its sole discretion, apply any damages recovered to the costs of undertaking any corrective action on the Property.

- d. Emergency Enforcement.** If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its remedies under Section 6 ("Rights Conveyed to Grantee") without prior notice to Grantors or without waiting for the period for cure to expire.

- e. Costs of Enforcement.** All reasonable costs of enforcing the terms of this easement against Grantor, including but not limited to the costs and expenses of legal action, reasonable attorney's fees, and any costs involved in the restoration of the Property resulting from Grantor's violation of the terms of this easement, shall be borne by Grantor unless Grantor ultimately prevails in judicial enforcement, in which case each party shall

bear its own costs.

f. Forbearance. Forbearance or delay by Grantee in the exercise of any of its rights to enforce this easement or to exercise any right granted to it under this easement shall not be deemed a waiver of such rights or of any of the terms of the Easement. Grantors hereby waive any defense of laches, estoppel or prescription.

g. Acts Beyond Grantor's Control. Grantee shall have no cause of action under this easement against Grantor for injury or damage to the property which is beyond Grantor's control, including, without limitation, flood, fire, wind, storms, or earth movement, or from any prudent action taken by Grantor, under emergency conditions, to prevent, abate, or mitigate significant injury to the Property or adjacent properties from such causes.

11. Dispute Resolution

If a dispute arises between the Grantor and the Grantee concerning the consistency of any proposed use or activity with the purposes of this Easement or any of the specific provisions contained herein, and Grantor agrees not to proceed with the use or activity pending resolution of the dispute, either party may request a meeting between the parties, or refer the dispute to mediation by written request. Within ten (10) days of such request, Grantee shall schedule a meeting or the parties shall select a single trained and impartial mediator knowledgeable about production agriculture to recommend potential resolutions of the dispute. Reasonable costs associated with the mediation process shall be determined by the impartial mediator. Nothing in this clause shall diminish Grantee's rights under Section 10 ("Enforcement").

12. Transfer of Easement

Grantee shall have the right to transfer this Easement to any private non-governmental organization or public agency that, at the time of transfer is a "public body" or "not-for-profit conservation organization" as defined by Article 49 of New York State Environmental Conservation Law or "qualified organization" under Section 170(h) of the Code, provided the transferee expressly agrees to assume the responsibility imposed on Grantee by this Easement. If Grantee ever ceases to exist or qualify under Article 49 of New York State Environmental Conservation Law and Section 170(h) of the Code, a court of competent jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibilities imposed by this Easement.

13. Transfer of Property

Any subsequent conveyance, including, without limitation, transfer, lease or mortgage of the Property, shall be subject to this Easement, and any deed or other instrument evidencing or effecting such conveyance shall contain language substantially as follows: "This {conveyance, lease, mortgage, easement, etc.} is subject to a Conservation Easement which runs with the land and which was granted to the Town of Peru by instrument dated _____, and recorded in the office of the Clerk of Clinton County at Instrument Number ____." Grantor shall notify Grantee in writing at least thirty (30) days before conveying the Property, or any part thereof or interest therein, to any third party. The failure to notify Grantee or to include said language in

any deed or instrument shall not, however, affect the validity or applicability of this Easement to the Property or limit its enforceability in any way.

14. Amendment of Easement

This Easement may be amended only with the written consent of Grantee and current Grantor. Any such amendment shall be consistent with the Purpose of this Easement and shall comply with the Environmental Conservation Law or any regulations promulgated thereunder, and shall not unreasonably restrict or regulate farm operations in contravention of the purposes of Article 25-AA of the Agriculture and Markets Law or such successor law as enacted or amended. Any such amendment to the Easement shall be duly recorded.

15. Extinguishment of Easement

At the mutual request of Grantor and Grantee, a court with jurisdiction may, if it determines that conditions surrounding the Property have changed so much that it becomes impossible to fulfill the Purpose of this Easement described in Section 1 (“Purpose”), extinguish or modify this Easement in accordance with applicable law. The mere cessation of farming on the Property shall not be construed to be grounds for extinguishment of this Easement.

Notwithstanding the foregoing, if condemnation by exercise of the power of eminent domain makes it impossible to continue use of all or a portion of the Property for the Purpose of this Easement as described in Section 1 (“Purpose”) herein, the restrictions may be extinguished as to any such portion so condemned by judicial proceeding.

Upon any subsequent sale, exchange or involuntary conversion by the Grantor, the Grantee shall be entitled to that portion of the proceeds equal to the proportionate value of the conservation restrictions as provided immediately below. For such purposes only, Grantor agrees that the donation/conveyance of this Conservation Easement to Grantee gives rise to a property right, immediately vested in Grantee, with a fair market value that is equal to the proportionate value that the conservation restrictions hereby created at the date hereof bears to the value of the Property as a whole at the date hereof (subject to reasonable adjustment to the extent permissible under Section 170(h) of the Internal Revenue Code for any improvements which may hereafter be made on the Property). Grantee agrees to use its share of such proceeds in a manner consistent with the conservation purposes of this conservation easement.

16. Title

The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid Easement; that the Property is free and clear of any and all mortgages not subordinated to this Easement, and that the Grantee shall have the use of and enjoyment of the benefits derived from and existing out of the aforesaid Easement.

17. Subsequent Liens on Property

No provisions of this Easement should be construed as impairing the ability of Grantor to use this Property, or a portion thereof encompassing entire separately deeded parcels, as collateral for a

subsequent borrowing. Any subsequent liens on the Property must be subordinate to this Easement.

18. Subsequent Encumbrances

The grant of any easements or use restrictions is prohibited, except with the permission of Grantee. Any future encumbrances shall be consistent with the primary Purpose of this Easement and shall not unreasonably restrict or regulate farm operations in contravention of the purposes of Article 25-AA of the Agriculture and Markets Law.

19. Grantor's Representations and Warranties

Grantor represents and warrants that, after reasonable investigation and to the best of its knowledge:

- a. No substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, or polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment exists or has been released, generated, treated, stored, used, disposed or, deposited, abandoned, or transported in, on, from, or across the Property;
- b. There are not now any underground storage tanks located on the Property, whether presently in service or closed, abandoned, or decommissioned, and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state, and local laws, regulations, and requirements;
- c. Grantors and the Property are in compliance with all federal, state, and local laws, regulations and requirements applicable to the Property and its use;
- d. There is no threatened or pending litigation in any way affecting, involving, or related to the Property;
- e. No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that the Grantors might reasonable expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders; and
- f. If at any time there occurs, or has occurred, a release in, on, or about the Property of any substance now, or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or to the environment, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by the Grantee, in which case the Grantee shall be responsible

therefore. Grantor hereby promises to indemnify Grantee against, and hold Grantee harmless from, any and all loss, cost, claim (without regard to its merit), liability or expense (including reasonable attorneys' fees) arising from or with respect to any release of hazardous waste or violation of environmental laws.

20. Duration of Easement

Except as expressly otherwise provided herein, this Easement shall be of perpetual duration, and no merger of title, estate or interest shall be deemed effected by any previous, contemporaneous, or subsequent deed, grant, or assignment of an interest or estate in the Property, or any portion thereof, to Grantee, it being the express intent of the parties that this Easement not be extinguished by, or merged into, any other interest or estate in the Property now or hereafter held by Grantee.

21. Interpretation

This Easement shall be interpreted under the laws of the State of New York, or federal law, as appropriate. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed to affect the Purpose of this Easement. If any provision in this Easement is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

22. Successors

Every provision of this Easement that applies to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and other successors in interest, and shall continue as a servitude running in perpetuity with the Property.

23. Severability

Invalidity of any of the covenants, terms or conditions of this Easement, or any part thereof, by court order or judgment shall in no way affect the validity of any of the other provisions hereof which shall remain in full force and effect.

24. Notices

Any notice required or desired to be given under this Easement shall be in writing and shall be sent by (i) personal delivery, (ii) via registered or certified mail, return receipt requested, or (iii) via Federal Express or other private courier of national reputation providing written evidence of delivery. Notice shall be deemed given upon receipt in the case of personal delivery or upon delivery by the U.S. Postal Service or private courier. All notices shall be properly addressed as follows: (a) if to Grantee, at the address set forth above; (b) if to Grantor, at the address set forth above; (c) if to any subsequent owner, at the address of the Property or set forth in the office of the Clinton County Real Property. Any party can change the address to which notices are to be sent to him, her or it by duly giving notice pursuant to this Section.

25. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings and agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section 14 (“Amendment of Easement”).

26. Waiver

No waiver by Grantee of any default, or breach hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default or breach hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. No waiver shall be binding unless executed in writing by Grantee.

27. Binding Effect

The provisions of this Easement shall run with the Property in perpetuity and shall bind and be enforceable against the Grantor and all future owners and any party entitled to possess or use the Property or any portion thereof while such party is the owner or entitled to possession or use thereof. Notwithstanding the foregoing, upon any transfer of title, the transferor shall, with respect to the Property transferred cease being a Grantor or owner with respect to such Property for purposes of this Easement and shall, with respect to the Property transferred, have no further responsibility, rights or liability hereunder for acts done or conditions arising thereafter on or with respect to such Property, but the transferor shall remain liable for earlier acts and conditions done or occurring during the period of his or her ownership or conduct.

IN WITNESS WHEREOF, Grantor and Grantee, intending to be legally bound hereby, have hereunto set their hands on the date first above written.

Grantor: _____

(type name of Grantor or Grantors; Make sure that the person signing has the authority to encumber the property)

Grantee:

By: _____
Town of Peru

State of New York)
County of), ss:

On the ____day of _____ in the year 201_ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name (s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature/office of individual taking acknowledgement

State of New York)
County of), ss:

On the ____day of _____ in the year 201_ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual (s) whose name (s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature/office of individual taking acknowledgement

Conservation Easement

EXHIBIT A

CONSERVATION EASEMENT DESCRIPTION

The Property subject to this conservation easement is described below.

(Insert a legal description of the Property here, and reference a land survey if such survey exists.)

END OF LEGAL DESCRIPTION

Conservation Easement

EXHIBIT B

CONSERVATION EASEMENT MAP

(Attach a land survey of Property, if existing, or in the absence of a land survey, a copy of the applicable Real Property Tax map depicting Property.)

(See Next Page)

(Attached a copy of land survey or Map of Property here.)

Conservation Easement

EXHIBIT C

BASELINE DOCUMENTATION REPORT

(Insert a detailed description of the Property at the time of conveyance of the Conservation Easement, including: total acres; extent of Property used for growing of crops; all buildings and structures existing on the property, including use of the buildings; and extent of internal roads and/or driveways existing on property. If possible, include a map and/or aerial photograph depicting the features described above.)