

The Records and Law Bureau of the State of NY Department of State has notified the Town Clerk that they have received and filed Local Law 4 of 2010, for the Town of Marcy on 10/19/10. Note: The zoning ordinance will contain these amendments as highlighted items until it can be revised.

NOTICE OF ADOPTION OF AMENDMENTS
TO THE TOWN OF MARCY
ZONING ORDINANCE

NOTICE IS HEREBY GIVEN that the Town Board for the Town of Marcy, Oneida County, New York on September 23, 2010, by Local Law, adopted amendments to the Town of Marcy Zoning Ordinance as follows:

- (1) Amending section 4 entitled “Definitions” so as to include a definition for “Enclosed Accessory Building”;
- (2) Amending Section 5 entitled “Establishment of Districts” and Section 8 entitled “OD Overlay District” so as to change the name “OD-Overlay District” to “Conservation Overlay District”, and to include reference to a new Zoning District entitled “MU-Mixed Use Overlay District”;
- (3) Amending Section 7 entitled “General Regulations” verifying the site plan review protocol for special uses;
- (4) Amending Section 15 so as to establish a “MU-Mixed Use Overlay District” and to establish regulations with respect thereto;
- (5) Amending Section 17 entitled “CG Commercial – General District” so as to clarify combinations of allowed uses be considered as one use;
- (6) Amending Section 22 entitled “Planned Development Regulations” so as to delete a requirement of two street connections in the case of twenty or more dwellings, and reference to minimum distance between parallel streets; and
- (7) Amending Sections 22.3 and 22.4 regarding “Planned Development Regulations” so as to permit an applicant for Planned Development to request approval in phases if the area of the parcel to be rezoned is equal to twenty acres rather than forty acres and to include modifications regarding an applicant’s burden when a proposed Planned Development varies substantially from the typical development requirements of the Town; and
- (8) Amending Section 25 so as to more identify issues relating to “Visibility” along streets and/or right of ways;
- (9) Amending Section 26 entitled “General Requirements” so as to clarify there shall be a single use per lot with the exception of PD zones; that residential lots shall have only one principal building; and that in all zoning district site plan review is required under certain circumstances regarding non-building structures; and
- (10) Amending Section 27 relating to “Maximum Size” so as to incorporate a chart establishing the maximum size that an accessory building or structure shall not exceed in a particular zoning district; and
- (11) Amending Section 51 entitled “Non Conforming Use of Land” so as to clarify construction actions that may be taken on non conforming lots and the regulations pertaining thereto.

The aforementioned Local Law has been submitted to the Secretary of State for filing.

PLEASE TAKE FURTHER NOTICE, that the aforementioned amendments become effective upon the filing of the Local Law with the Secretary of State and after publication of this notice of adoption.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF MARCY

Dated: Marcy, New York September 23, 2010

TOWN OF MARCY

Gina M. Schillaci
Town Clerk

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Posted to Town of Marcy official sign board 10/01/2010

Posted to website www.townofmarcy.org 09/30/2010

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ZONING REGULATIONS

TOWN OF MARCY

COUNTY OF ONEIDA

STATE OF NEW YORK

AN ORDINANCE regulating and restricting the location, construction, alteration and use of buildings and land in the Town of Marcy, Oneida County, New York pursuant to the zoning provisions of Article 16 of the Town Law of the State of New York.

THE TOWN OF MARCY TOWN BOARD, by virtue of the power and authority vested in it by law, does hereby ordain and enact as follows:

ARTICLE I – TITLE

Section 1 - Title

This ordinance shall be known and may be cited as “The Town of Marcy Zoning Ordinance”.

ARTICLE II – PURPOSES

Section 2 - Purpose

This ordinance is enacted for the following purposes:

1. To lessen congestion in the streets;
2. To secure safety from fire, flood, panic, and other dangers;
3. To promote health, and the general welfare;
4. To provide adequate light and air;
5. To prevent overcrowding of land;
6. To avoid undue concentration of population;
7. To facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements;
8. To conserve the value of buildings;
9. To encourage the most appropriate use of land throughout the Town;
10. To avoid the pollution of air and water.

ARTICLE III – DEFINITIONS

Section 3 – General Term Usage

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Words used in the present tense shall include the future. The singular number includes the plural, and the plural, the singular.

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

The word “lot” includes the word “plot” or “parcel”.

The word “used” or “occupied” as applied to any land or building shall be constructed to include the words “built, arranged, or designed to be used or occupied”.

The word “shall” is mandatory.

Doubt as to the precise meaning of any word used in this Ordinance shall be clarified by the Board of Appeals under its power of interpretation.

Section 4 - Definitions

A

ACCESSORY APARTMENT. An accessory apartment is a second residential unit that may be contained within an existing single-family home, garage, or carriage house. An accessory apartment is usually required to be a complete housekeeping unit that can function independently with separate access, kitchen, bedroom, and sanitary facilities.

ACCESSORY BUILDING. An accessory building is a secondary building that is subordinate, incidental to, and customarily found in connection with the principal use allowed on a lot by the zoning law. A detached garage is incidental to the principal use of a lot as a single-family residence and customarily found on a single-family parcel.

ACCESSORY USE. An accessory use is the use of land that is subordinate, incidental to, and customarily found in connection with the principal use allowed on a lot by the zoning law. A family garden is an agricultural use that is incidental to single-family residence and customarily found on a single-family parcel. An accessory building is an accessory use.

ACTION. An action is, under the State Environmental Quality Review Act, any project or physical activity that is directly undertaken, funded, or approved by a state or local agency that may affect the environment. Actions include planning and policy-making activities and the adoption of rules and regulations that may affect the *environment*.

ADULT USE. An adult use is a business that provides sexual entertainment or services to customers. Adult uses include: X-rated video shops and bookstores, live or video peep shows, topless or fully nude dancing establishments, combination book/video and "marital aid" stores, non-medical massage parlors, hot oil salons, nude modeling studios, hourly motels, body painting studios, swingers clubs, X-rated movie theaters, escort service clubs, and combinations thereof.

AESTHETIC RESOURCES. Natural resources such as open vistas, woods, scenic viewsheds, and attractive man-made settings, whose appearance is an important ingredient in the quality of life in a community.

AGENCY. An agency, under the State Environmental Quality Review Act (SEQRA), is any state or local agency, including zoning boards of appeals, local legislatures, planning boards, and, under certain circumstances, even building inspectors, that make discretionary decisions that may affect the environment.

AGRICULTURAL OPERATION: A parcel of land containing at least five (5) acres which is used for the raising of agricultural, livestock or dairy products including necessary farm structures within the prescribed limits and the storage of equipment used on the premises. Such term does not include a commercial stable, kennel, or animal pound or hospital.

AGRICULTURAL DISTRICT: The boundary of a farm operation located within an Agricultural District, as defined by Article 25-AA of the Agricultural and Markets Law.

ALLEY: A narrow strip of land intended for vehicular traffic which has a minimum width of twelve (12) feet and a maximum width of twenty (20) feet, and is designed to give access to the side or rear of properties whose principal frontage is on another street.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts, or in the entrance and exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

APPROVAL. An approval is a discretionary decision made by a local *agency* to issue a permit, certificate, license, lease, or other entitlement or to otherwise authorize a proposed project or activity.

AREA VARIANCE. This is a variance that allows for the use of land in a way that is not permitted by the dimensional or physical requirements of the zoning law. This type of variance is needed when a building application does not comply with the setback, height, lot, or area requirements of the zoning ordinance. For example, if an owner wants to build an addition to a house that encroaches into the side-yard setback area, an area variance by the Zoning Board of Appeals is required.

AS-OF-RIGHT. An as-of-right use is a use of land that is permitted as a principal use in a zoning district. In a single-family district, the construction of one single-family home is an as-of-right use of the lot.

AUTOWASH: A building or portion thereof, the use of which is devoted to the washing of automobiles.

B

BASEMENT: Classified a full story with the height partly below grade and having at least one-half of its clear floor-to-ceiling height above the average grade of the adjoining ground. (See also *Cellar*)

BUFFER. A buffer is a designated area of land that is controlled by local regulations to protect an adjacent area from the impacts of development.

BUILDING: Any roofed structure intended for the shelter, housing, or enclosure of persons, animals, and property.

BUILDING AREA. The building area is the total square footage of a parcel of land that is allowed by the regulations to be covered by buildings and other physical improvements.

BUILDING CODE. The building code consists of the Codes of New York State – a collection of 8 volumes (Building Code of New York State, Energy Conservation Construction Code of New York State, Fire Code of New York State, Fuel Gas Code of New York State, Mechanical Code of New York State, Plumbing Code of New York State, Property Maintenance Code of New York State, and Residential Code of New York State) currently in effect. This code governs the construction details of buildings and other structures in the interests of the safety of the occupants and the public. A local building inspector may not issue a building permit unless the applicant’s construction drawings comply with the provisions of the building code.

BUILDING, DETACHED: A building surrounded by open space on all sides on the same lot.

BUILDING, FLOOR AREA: The sum of the gross horizontal area of the several floors of a building and its accessory buildings, including garage, on the same lot, including basement areas devoted to residential occupancy and the areas of bays, dormers, roofed porch and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING HEIGHT. The building height is the vertical distance from the average elevation of the proposed finished grade along the wall of a building or structure to the highest point of the roof, for flat roofs, or to the mean height between eaves and ridge, for gable, hip, and gambrel roofs.

BUILDING INSPECTOR. The local administrative official charged with the responsibility of administering and enforcing the provisions of the building code.

BUILDING LINE: A line parallel with the front, side and rear property lines, respectively, beyond which any structure may not extend as specified in this Ordinance.

BUILDING PERMIT. A building permit must be issued by a town agency or codes officer before activities such as construction, alteration, or expansion of buildings or improvements on the land may legally commence.

BUILDING, PRINCIPAL: A building in which the main use of the lot is conducted.

BULK REGULATIONS. Bulk regulations are the controls in a zoning district governing the size, location, and dimensions of buildings and improvements on a parcel of land.

BULK VARIANCE. See *Area Variance*.

BUSINESS SERVICE AND SUPPLY SERVICE ESTABLISHMENT: Any building wherein the primary occupation is the provision of services or supplies principally to the business, commercial, industrial or institutional community, but not including retail sales to the general public.

C

CAPITAL BUDGET. The capital budget is the municipal budget that provides for the construction of capital projects in the community.

CAPITAL PROJECT. Capital projects are construction projects including public buildings, roads, street improvements, lighting, parks, and their improvement or rehabilitation paid for under the community’s capital budget.

CELLAR: That space of a building which is partly or entirely below grade, which has more than half its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

CELLULAR FACILITIES. An individual cell of a cellular transmission system that includes a base station, antennae, and associated electronic equipment that sends to and receives signals from mobile phones.

CERTIFICATE OF OCCUPANCY. A certificate of occupancy is a permit that allows a building to be occupied after its construction or improvement. It certifies that the construction conforms to the building code and is satisfactory for occupancy.

CHANNEL: Natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of the defined channel.

CLINIC: Office building used by members of the medical professions for the diagnosis and outpatient treatment of human ailments.

CLUB, PRIVATE: Building or use catering exclusively to club members and their guests for recreational purposes, and not operated primarily for profit.

CLUSTER SUBDIVISION. Cluster subdivision is the modification of the arrangement of lots, buildings, and infrastructure permitted by the zoning law to be placed on a parcel of land to be subdivided. This modification results in the placement of buildings and improvements on a part of the land to be subdivided in order to preserve the natural and scenic quality of the remainder of the land.

CODES OFFICER, CODES ENFORCEMENT OFFICER. Person who performs some or all of the duties of the *Building Inspector* and *Zoning Enforcement Officer*.

COMMERCIAL EXCAVATION/MINING: A parcel or part thereof used for the purpose of extracting stone, sand, gravel or topsoil as a commercial product but exclusive of the process of grading a lot preparatory to the location of a building or use for which application for a Permit under this ordinance has been made.

COMMUNITY CENTER: Any public or private meeting hall place of assembly, museum, art gallery, auditorium, theater, library, place of further education, religious institution, not operated primarily for profit.

CONDITION. A condition is a requirement or qualification that is attached to a reviewing board's approval of a proposed development project. A condition must be complied with before the local building inspector or department can issue a building permit or certificate of occupancy.

CONSERVATION EASEMENT. A conservation easement is a voluntary agreement to restrict the development, management, or use of the land under the easement. The holder of the easement is empowered to enforce its restrictions against the current landowner and all subsequent owners of the land.

CONSERVATION OVERLAY ZONES. Areas with more stringent standards than those contained in the underlying zoning districts as necessary to preserve identified resources and features in need of conservation or preservation.

CONSTRUCTION AND DEMOLITION DEBRIS: Wastes resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include but are not limited to bricks, concrete and other masonry materials, soil, rock and lumber, road spoils, paving material and tree and brush stumps.

CONSTRUCTION EQUIPMENT: Vehicles and motorized equipment used for construction operations.

CONTRACTORS YARD: Any area accessory to and on the same lot with a construction project and used on a temporary basis for the storage or processing of materials and supplies used in the actual construction of buildings within a project. Includes contractors' office with storage buildings to enclose all equipment and materials.

CONVENTIONAL ENERGY SYSTEM: Any energy system, including supply elements, furnaces, burners, tanks, boilers, related controls and energy distributed components, which uses any source(s) of energy other than solar or wind energy.

CRITICAL ENVIRONMENTAL AREA (CEA). A CEA is a specific geographic area designated by a state or local agency as having exceptional or unique environmental characteristics.

D

DEBRIS LANDFILL: A disposal site utilized exclusively for the deposition of construction and demolition debris as defined herein. At no time, however, shall anything of a hazardous nature, as defined herein, be allowed.

DECISION. A decision is the final determination of a local reviewing body, or administrative agency or officer regarding an application for a permit or approval.

DEED RESTRICTIONS. A deed restriction is placed in a deed and restricts the use of the land in some way. These are often imposed to insure that the owner complies with a condition imposed by a land use body.

DENSITY. Density is the amount of development per acre on a parcel permitted under the zoning law. The density allowed could be four dwelling units per acre or 40,000 square feet of commercial building floor per acre, for example.

DETERMINATION. A determination is a decision rendered by an officer or administrative body on an application or a request for a ruling.

DISH ANTENNA SYSTEMS: Consists of three main components – the antenna itself, often called a dish; a low noise amplifier (LNA); and a receiver. The antenna and LNA are generally located outdoors and are connected by coaxial cable to the receiver, which is usually placed indoors.

DISTRICT. A district is a portion of a community identified on the locality's zoning map within which one or more principal land uses are permitted along with their accessory uses and any special land uses permitted by the zoning provisions for the district.

DORMITORY USE: Uses include but not limited fraternity, sorority, nurses' home, college dormitory.

DRIVE-IN RESTAURANT OR REFRESHMENT STAND: Any place or premises used for sale, dispensing, or serving food, refreshments, or beverages to persons in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises or those primarily of a pick-up or carry-out service nature.

DRIVEWAY: That space or area of a lot which is specifically designated and reserved for the movement of motor vehicles from the lot to a public street.

DUMPSTER: A receptacle for holding garbage, trash, debris, as approved by the Marcy Sanitation Department and including an approved enclosure surrounding the dumpster.

DWELLING, ATTACHED: A structure containing a self-contained dwelling unit attached by one or two party walls to one or two other self-contained dwelling units.

DWELLING, ONE FAMILY: A detached building other than a mobile home or any temporary structure, designed for exclusive year-round occupancy by one family only.

DWELLING, TWO FAMILY: A detached building other than a mobile home or any temporary structure, designed for exclusive year round occupancy by two families living independently of each other.

DWELLING, MULTIPLE FAMILY: A building designed for year-round occupancy by more than two families, including apartment houses and group houses, but excluding hotels, motels and rooming houses.

DWELLING UNIT. A dwelling unit is a unit of housing with full housekeeping facilities for a family.

E

EASEMENT. An easement involves the right to use a parcel of land to benefit an adjacent parcel of land, such as to provide vehicular or pedestrian access to a road or sidewalk. Technically known as an easement appurtenant.

ENCLOSED ACCESSORY BUILDING: Same as Accessory Building.

ENERGY STORAGE FACILITY: Equipment consisting of containers, heat exchangers, piping and other transfer mechanisms (including fluids, gases or solids), controls and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.

ENVIRONMENT. The environment is defined broadly under the State Environmental Quality Review Act to include the physical conditions that will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, resources of agricultural, archeological, historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, existing community or neighborhood character, and human health.

ENVIRONMENTAL ASSESSMENT FORM (EAF). An EAF, as used in the State Environmental Quality Review Act process, is a form completed by an applicant to assist an agency in determining the environmental significance of a proposed action. A properly completed EAF must contain enough information to describe the proposed action, its location, purpose, and potential impacts on the environment.

ENVIRONMENTAL IMPACT STATEMENTS (EIS). An EIS is a written "draft" or "final" document prepared in accordance with the State Environmental Quality Review Act. An EIS provides a means for agencies, project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives, and mitigation strategies. An EIS facilitates the weighing of social, economic, and environmental factors in the planning and decision-making process. A draft EIS (DEIS) is the initial statement prepared by either the project sponsor or the lead agency and circulated for review and comment before a final EIS (FEIS) is prepared.

ENVIRONMENTAL QUALITY REVIEW. The process that reviewing boards must conduct to determine whether proposed projects may have a significant adverse impact on the environment and, if they do, to study these impacts and identify alternatives and mitigation conditions that protect the environment to the maximum extent practicable.

ENVIRONMENTAL REVIEW. The State Environmental Quality Review Act requires local agencies that review applications for land use approvals to take a hard look at the environmental impact of the proposed projects. Where the proposed project may have a significant negative impact on the environment the agency must prepare an environmental impact statement before approving the project.

EXCAVATION: Any activity that removes or significantly disturbs rock, gravel, sand, soil, or other natural deposits.

F

FAMILY. One or more persons occupying a dwelling as a single housekeeping unit.

FILLING: Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds or watercourses.

FINAL PLAT APPROVAL. The final plat approval is the approval by the authorized local reviewing body of a final subdivision drawing or plat that shows the subdivision, proposed improvements, and conditions as specified in the locality's subdivision approval of the preliminary plat.

FINANCIAL INSTITUTION: Any building wherein the primary occupation is concerned with such state regulated businesses as banking, savings and loans, loan companies and investment companies.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of streams, rivers or other inland areas of water.

FLOOD, 100 YEAR: The highest level of flood that, on the average, is likely to occur once every 100 years (i.e. that has one (1) percent chance of occurring each year).

FLOOD HAZARD AREA: A land area adjoining a river, stream, watercourse or lake, which is likely to be flooded during a 100-year flood as depicted by the Federal Emergency Management Agency and/or the NYS Department of Environmental Conservation and as shown on the floodplain map.

FLOODPLAIN. A floodplain is the area on the sides of a stream, river, or watercourse that is subject to periodic flooding. The extent of the floodplain is dependent on soil type, topography, and water flow characteristics.

FLOOR AREA RATIO (FAR). FAR is the gross floor area of all buildings permitted on a lot divided by the area of the lot. In zoning, the permitted building floor area is calculated by multiplying the maximum FAR specified for the zoning district by the total area of the parcel. A permitted FAR of 2 would allow the construction of 80,000 square feet of floor space on 40,000 square feet of land ($40,000 \times 2 = 80,000$).

FLOOR AREA NET: Sum of the gross horizontal area of those parts of the floors or a building which are designed to be used for the direct service of customers or clients, or the sum of the gross horizontal area of those parts of a building which are designed to be used as offices where the office function is the principal use of the building.

FLOOR AREA OR ROOM, HABITABLE: Floor area of rooms in a dwelling unit used for bedrooms, living room, dining room, kitchen, hallways and bathrooms.

FRESHWATER WETLANDS REGULATION. These are laws passed by federal, state, and local governments to protect wetlands by limiting the types and extent of activities permitted within wetlands. These laws require landowners to secure permits before conducting many activities, such as draining, filling, or constructing buildings.

FRONTAGE. The width of a lot along a dedicated street. A 100-foot frontage requirement means that a lot must have 100 linear feet on the side of the parcel that fronts on a street.

G

GARAGE, PRIVATE: A roofed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises.

GARBAGE: Putrescible solid waste including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking or serving of foods. Garbage originates primarily in the home kitchens, stores, markets, restaurants and other places where food is stored, prepared or served.

GASOLINE STATION: Buildings and premises wherein the primary use is the supply and dispensation at retail of gasoline, oil, grease, batteries, tires and motor vehicle accessories, and where in addition, the following services may be rendered and sales made, but only as accessory and incidental to the primary use:

1. Sales and servicing of spark plugs, batteries, and distributors, and distributor parts;
2. Tire servicing and repair but not recapping or regrooving;
3. Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
4. Washing and polishing, and the sale of automotive washing and polishing materials;
5. Greasing, lubrication and radiator flushing;
6. Minor servicing and repair of carburetors, fuel pumps, water pumps, and lines and minor motor adjustments not involving removal of the head or crankcase or racing the motor;
7. Emergency wiring repairs;
8. Adjusting and repairing brakes;
9. Sales, limited to service station customers of soft drinks, packaged foods, and tobacco products from machines; and
10. Provision of road maps and other information materials to customers and provision of restroom facilities.

Uses permissible at a service station shall not include motor vehicle sales, major mechanical and body work, repair of transmissions or differentials, straightening of body parts, painting, welding or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations.

GRANDFATHER CLAUSE: The general principle by which any pre-existing *nonconforming* use or development is allowed to continue as prescribed in the ordinance.

GRADING: The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.

GROUP HOME. Group homes are residences for a variety of special populations in need of supervised living facilities.

H

HAZARDOUS WASTE: Hazardous Waste is defined in 6NYCRR Part 371. By definition, hazardous waste is solid waste, but not all solid waste is hazardous waste. This Zoning Ordinance does not address the management or disposal of hazardous waste.

HEAVY EQUIPMENT SALE, RENTAL AND SERVICE ESTABLISHMENT: Buildings and premises for the sale, rental and servicing of farm and construction machinery or equipment, vehicles with a carrying capacity of more than three-quarter (3/4) ton, or vehicles designed for more than eleven (11) passengers.

HOME OCCUPATION: Any non-residential activity or use, done for hobby or profit as an incidental and secondary use of a residential property and which does not alter the exterior of the property or affect the residential character of the neighborhood.

HOSPITAL: A building or structure for the diagnosis and medical or surgical care of human sickness or injury.

HOSPITAL, ANIMAL: A building or structure for the diagnosis and medical or surgical care of sick or injured animals, including facilities for the temporary housing of such animals.

HOTEL OR MOTEL: A building or group of buildings where transient guests are lodged for compensation, but excluding rooming houses.

I

INFRASTRUCTURE. Infrastructures include utilities and improvements needed to support development in a community. Infrastructure includes water and sewage systems, lighting, drainage, parks, public buildings, roads and transportation facilities, and utilities.

INVOLVED AGENCY. An agency that has jurisdiction by law to fund, approve, or directly undertake an action, but does not have the primary responsibility for that action as is with the lead agency under the State Quality Environmental Review Act.

J

JUNK YARD: A lot or area of land, or structure, or part thereof, used for the collecting, storage and/or sale of waste or discarded materials; or for the collecting, dismantling, storage and salvaging of junk machinery or vehicles, and for the sale of parts thereof. It shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles, not in present condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom; or reclaiming for the use of some or all of the materials therein, whether metal, glass, fabric or otherwise; or disposing of the same; or for any other purpose. Such shall include any place of storage or deposit for any such purposes of used parts of waste materials from motor vehicles which, taken together, equal in bulk, one or more such junk vehicles.

JUNK/UNREGISTERED/UNINSPECTED VEHICLES: Any motor vehicle, trailer, semi-trailer, motorized construction equipment, etc. which is inoperable and/or by virtue of its condition cannot be economically restored may be presumed to be a junk vehicle when:

1. Valid license plates are not displayed or license plates have been expired for more than sixty (60) days; or
2. Valid state inspection stickers, as required for the use of the vehicle are not displayed or have been expired for more than sixty (60) days; or
3. The vehicle remains in an inoperable condition for more than ninety (90) days.

K

KENNEL: Land or building used for harboring five (5) or more dogs over six (6) months old.

L

LAND TRUST. A land trust is a not-for-profit organization, private in nature, organized to preserve and protect the natural and man-made environment by, among other techniques, creating conservation easements that restrict the use of real property.

LAND USE LAW. Land use law encompasses the full range of laws and regulations that influence or affect the development and conservation of the land, including federal, state, regional, and local statutes.

LAND USE REGULATION [LOCAL]. Town land use regulations are laws enacted by the Town Board for the regulation of any aspect of land use and community resource protection, including zoning, subdivision, or site plan regulation, or any other regulation that prescribes the appropriate use of property or the scale, location, or intensity of development.

LAUNDROMAT: A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

LEAD AGENCY. The lead agency is the "involved agency" under the State Environmental Quality Review Act that is principally responsible for undertaking, funding, or approving an action.

LOADING SPACE: Off-street space used for the temporary location of one (1) licensed motor vehicle, such space being at least twelve (12) feet wide and forty (40) feet long, not including access driveway, and having direct access to a street or alley.

LOT. A lot is a portion of a subdivision, plat, tract, or other parcel of land considered as a unit for the purpose of transferring legal title from one person or entity to another.

LOT AREA. Lot area is the total square footage of horizontal area included within the property lines.

LOTS, BUILDABLE: A lot that is configured so that it is possible to construct a building and required accessory uses in compliance with the Zoning Ordinance.

LOT, CORNER: A lot located at the intersection of and fronting on two or more intersecting streets, and having an interior angle at the corner of an intersection of less than one hundred thirty-five (135) degrees.

LOT, COVERAGE: The percentage of the lot area that is occupied by the ground floor area of a building and its accessory buildings.

LOT, DEPTH: The mean horizontal distance between the front and rear of lot lines, measured in the general direction of the side lot lines.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINES: The property lines bounding the lot, including:

1. Front Lot Lines – The lot line separating the lot from the street right-of-way.
2. Rear Lot Lines – The lot line opposite and most distant from the front lot line.
3. Side Lot Lines – Any lot line other than the front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.

LOT, THROUGH: A lot having frontage on two (2) approximately parallel, or converging streets other than a corner lot.

LOT, WIDTH: The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified by the district. Where the front lot line is curvilinear in shape, the lot width shall be measured as the cord of the arc.

M

MAUFACTURED HOME: A home bearing a seal signifying conformance to the design and construction requirements of Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR Part 3280. (See also *Mobile Home* and *Modular Home*.) For the purpose of this Ordinance, a manufactured home shall not be deemed a one-family dwelling unit.

MITIGATION CONDITIONS. Conditions imposed by a reviewing body on a proposed development project or other action to mitigate its adverse impact on the environment.

MIXED USE. A parcel of land with multiple principal uses.

MOBILE HOME: A home constructed in a factory prior to June 15, 1976 with or without a label certifying compliance with NFPA, ANSI or a specific state standard. (See also *Manufactured Home* and *Modular Home*.) For the purpose of this Ordinance, a mobile home shall not be deemed a one-family dwelling unit.

MOBILE HOME COURT: A parcel of land containing at least ten (10) acres which has been planned and improved for the placement of two (2) or more mobile homes or manufactured homes for non-transient use. The term shall include mobile home court, mobile home park, or other planned and/or improved for two (2) or more mobile homes.

MODULAR HOME: Factory manufactured dwelling units conforming to applicable provisions of this code and bearing insignia of approval issued by the Department of Housing & Community Renewal (DHCR). (See also *Manufactured Home* and *Mobile Home*.) For the purpose of this Ordinance, a Modular Dwelling Unit installed on a site built permanent foundation shall be deemed a one-family dwelling unit.

MORATORIUM. A moratorium suspends the right of property owners to obtain development approvals while the town takes time to consider, draft, and adopt land use regulations or rules to respond to new or changing circumstances not adequately dealt with by its current laws.

MOTOR VEHICLE SALES/DEALER: See Vehicle Sales, Rental and Ancillary Service Establishments.

MOTOR VEHICLE SALES SHOWROOM: Enclosed establishment for the display and sale of new and used motor vehicles, trailers, mobile homes, and boats.

MULCHING: The application of a layer of plant residue or other material for the purposes of effectively controlling erosion.

MULTIFAMILY HOUSING. Buildings with three or more dwelling units, such as garden apartments or multiple story apartment buildings.

N

NEGATIVE DECLARATION ("NEG DEC"). A "neg dec" is a written determination by a lead agency, under the State Environmental Quality Review Act, that the implementation of the action as proposed will not result in any significant adverse environmental impacts. A "neg dec" concludes the environmental review process for an action under the State Environmental Quality Review Act.

NONCONFORMING BUILDINGS. A building that was constructed prior to the on the effective date of this ordinance or its applicable amendment which is not in accordance with the dimensional provisions, such as building height or setback requirements.

NONCONFORMING LOT: Any lot which does not conform with the minimum area or dimensions required in the district in which it is situated or with the characteristics normally required of lots in the district where located and which existed legally on the effective date of this ordinance or it's applicable amendment.

NONCONFORMING USE. A nonconforming use is a land use that would not be permitted by this ordinance but which already existed on the effective date of this ordinance or its applicable amendment.

NON-RESIDENTIAL USE: All uses of buildings, structure, or land except one family dwellings, two family dwellings, multiple family dwellings, mobile homes, and mobile home parks.

NURSING HOME: A facility for the accommodation of convalescent or other persons who require skilled nursing care and related medical services which are prescribed by or performed under the direction of a person or persons licensed to provide such care or services in accordance with the laws of the State of New York.

O

OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood-hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or which is placed where the flow or water might carry the same downstream to the damage of life or property.

OFFICIAL MAP. The official map is the adopted map of the town showing streets, highways, parks, drainage, and other physical features. The "Official Map" is final and conclusive with respect to the location and width of streets, highways, drainage systems, and parks shown thereon and is established to conserve and protect the public health, safety, and welfare.

OPEN DUMP: The consolidation of random wastes from one or more sources at a central disposal site which does not comply with the provisions of 6NYCRR 360, Solid Waste Management Facilities.

OVERLAY ZONE. An overlay zone is a zone or district imposed over existing zoning districts and containing provisions that are applicable in addition to those contained in the zoning law.

P

PARCEL. A piece of property. See *Lot*.

PARKING SPACE: Off-street space used for the temporary location of one licensed motor vehicle.

PASSIVE SOLAR ENERGY SYSTEM: A solar energy system that uses natural and architectural components to collect and store solar energy without using any external mechanical power.

PERSONAL SERVICES ESTABLISHMENT: Any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. For the purpose of this Ordinance, personal service establishments shall include but not be limited to barber shops, beauty parlors, hair stylists, laundering, cleaning and other garment servicing establishments, tailors, dressmaking shops, shoe cleaning or repair shops and other similar places of business. The term “personal service establishment” is not to be construed to include offices of physicians, dentists, and veterinarians, or dry-cleaning plants, or laundries containing more than 3,000 square feet of net floor area or linen or diaper service establishments.

PLANT NURSERY: An area establishment where trees, shrubs, or plants are grown for transplanting, for use as stocks for building and grafting or for sale.

PLAT. This is a site plan or subdivision map that depicts the arrangements of buildings, roads, and other services for a development.

POSITIVE DECLARATION ("POS DEC"). A positive declaration is a written determination by a lead agency, under the State Environmental Quality Review Act, that the implementation of the action as proposed is likely to have a significant adverse impact on the environment and that an environmental impact statement will be required.

PRELIMINARY PLAT APPROVAL. Preliminary plat approval is the approval by the authorized local administrative body of a preliminary subdivision drawing or plat that shows the site conditions, subdivision lines, and proposed improvements as specified in the locality’s subdivision regulations.

PRINCIPAL USE. A principal use is the primary use of a lot that is permitted under the district regulations in a zoning law. These regulations may allow one or more principal uses in any given district. Unless the district regulations allow mixed uses, only one principal use may be made of a single lot, along with uses that are accessory to that principal use.

PRIVATE CLUB. See *Club, Private*

PROFESSIONAL RESIDNCE/OFFICE: Attorney, Architect, Engineer, Accountant, and similar services.

PUBLIC HEARING. These hearings afford citizens affected by a reviewing board’s decision an opportunity to have their views heard before decisions are made.

PUBLIC SERVICES. Public services are those services provided by the municipal government for the benefit of the community, such as fire and police protection, education, solid waste disposal, street cleaning, and snow removal.

PUBLIC UTILITY: Includes distribution facilities of gas, electricity, water, sewage, telephone, wireless, and telegraph service companies and incidental accessory uses. Normal office and storage facilities are considered commercial uses of the appropriate type.

Q

QUICK SERVICE FOOD STORE: Any food store selling convenience items in a retail establishment of less than 5,000 square feet of net floor area, and/or dispensing of retail gasoline.

R

RECREATION, COMMERCIAL INDOOR: Includes such uses as bowling alley, theater, table tennis and pool hall, skating rink, gymnasium, swimming pool, hobby workshop, and similar places of indoor commercial recreation open to the public for a fee.

RECREATION, COMMERCIAL OUTDOOR: Includes such uses as golf driving range, golf pitch and putt course, par three golf course, outdoor amusement park, go-cart track, motor-cross course, batting range, and similar places of outdoor commercial recreation open to the public for a fee.

RECREATION, PRIVATE OUTDOOR: Includes such uses as privately owned and operated yacht club, golf course, and swimming pool, skating rink, riding stable, park, lake and beach, tennis court, recreation stadium, and skiing facility.

RECREATION, PUBLIC OUTDOOR: Includes such uses as publicly owned and operated playground, play field, park, open space, and swimming pool.

RECREATIONAL VEHICLE: A mobile recreational unit including travel trailer, motor home, pick-up camper, converted bus, tent trailer, tent or similar device used for temporary portable housing.

RECREATIONAL ZONING. Recreational zoning is the establishment of a zoning district in which private recreational uses are the principal permitted uses. The types of recreational uses permitted include swimming, horseback riding, golf, tennis, and exercise clubs open to private members who pay dues and user fees or to the public on a fee basis.

REGULATORY TAKINGS: A regulatory taking is a regulation that is so intrusive that it is found to take private property for a public purpose without providing the land owner with just compensation.

RELIGIOUS INSTITUTION: Includes church, temple, parish house, convent seminary, retreat house, and schools affiliated with religious sects.

RESIDENTIAL USE: Includes one family dwelling, two family dwelling, multiple family dwelling, mobile home in a mobile home park, and professional residence office.

RESTRICTIVE COVENANT: An agreement in writing and signed by the owner of a parcel of land that restricts the use of the parcel in a way that benefits the owners of adjacent or nearby parcels. *See* "Conservation Easement."

RETAIL STORE SERVICE: Includes enclosed restaurant, store for the sale of retail goods, personal service shop, and department store; and shall exclude any drive-up service, free standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service.

REVIEWING BOARD: The administrative body charged with responsibility for reviewing, approving, conditioning, or denying applications for a specific type of land use such as variance, site plan or subdivision approval.

REZONING. An act of the town board that changes the principal uses permitted on one or more parcels of land or throughout one or more zoning districts. Rezoning includes the amendment of the zoning map, as well as the use provisions in the district regulations applicable to the land that is rezoned.

ROOMING HOUSE, TOURIST HOME: A dwelling in which overnight accommodations are provided for transient or non-permanent guests or lodgers for compensation.

S

SANITARY LANDFILL: A land disposal site employing an engineered method of disposing of solid wastes on land in a manner that minimizes environmental hazards and meets the design and operation requirements of 6 NYCRR Part 360, Solid Waste Management Facilities.

SCHOOL: Includes parochial, private, public and nursery school, college and university; and shall exclude commercially operated school of beauty culture, business, dancing, driving, music, and similar establishments.

SCOPING. A process under the State Quality Environmental Review Act by which the lead agency identifies the potentially significant adverse impacts related to the proposed use and how they are to be addressed in an Environmental Impact Statement (EIS).

SCREENING. The act of placing landscape features, such as trees, bushes, shrubs, or man-made screens, such as fences or berms, to reduce the impact of development on nearby properties.

SEQR, SEQRA. See *State Environmental Quality Review Act*

SERVICE AREA: Includes those parts of a lot which are used primarily to provide access for servicing the uses on the lot, including land used for delivery of goods, storage, and collection of waste.

SETBACK. A setback restriction requires that no building or structure is located within a specified number of feet from a front, side, or rear lot line.

SHOPPING CENTER: Any group of two (2) or more commercial uses which:

1. Are designed as a single commercial group, whether or not located on the same lot;
2. Are under common ownership or management;
3. Are connected by common party walls, partitions, canopies, or other structural members to form one continuous structure, or if located in separate buildings, are interconnected by logical walkways and accessways designed to facilitate customer interchange between the uses;
4. Share a common parking area; and
5. Otherwise present the appearance of one (1) continuous commercial area.

For the purpose of this Ordinance, the term Shopping Center shall be construed to include the terms Mini-Mall and Shopping Plaza.

SIGN: Any writing, letter work, numerical or pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag banner or pennant or any other device, figure or similar character which:

1. Is used to announce, direct attention to, identify, advertise or otherwise make anything known;
2. Is visible from the public right-of-way or from adjoining property.

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

SIGN, BUILDING MOUNTED: Any sign attached to and deriving its major structural support from a building, and including but not limited to the following: arcade sign, awning sign, canopy sign, cornice sign, façade sign, marquee sign, parapet sign, plaque sign, projecting sign, wall sign, and window sign.

SIGN, BUSINESS: A sign which indicates the name of an individual commercial or industrial business or any corporation with which it is affiliated, but which does not indicate the products, services or entertainment offered by that business.

SIGN, EXEMPT: A sign which may be placed without a Permit but which shall otherwise comply with the applicable provisions of this Ordinance. Such signs shall include official traffic signs, posting or trespass notices, and official flag, emblem or insignia of a nation, state or municipality other than in connection with a commercial use. A temporary political sign is exempt.

SIGN, FLASHING: An illuminated sign on which the artificial light is not maintained stationary or at a constant intensity and/or color at all times when such is in use. For the purpose of this Ordinance any revolving, illuminated sign shall be considered a “flashing sign”.

SIGN, FREESTANDING: Any sign supported by upright structural members or by braces on or in the ground and not attached to a building, including, but not limited to the following: Bulletin board sign, outdoor advertising sign, pole or pylon sign or ground sign.

SIGN, IDENTIFICATION: A sign indicating the name and/or address of an occupant. Such sign may be wholly or partly devoted to a readily recognized symbol, trademark or logo.

SIGN, OUTDOOR ADVERTISING (ALSO BILLBOARDS): Any sign on which information is portrayed which directs attention to a business, commodity, service or entertainment not related to other uses existing or permitted on the lot upon which the sign is located.

SIGN, PORTABLE: Any sign not permanently affixed to the ground nor to a building including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, political event, service product, or entertainment when the vehicle is operated or parked so as to attract the attention of the motoring or pedestrian traffic.

SIGN, REAL ESTATE: Any sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed.

SIGN REGULATION. Local laws that regulate the erection and maintenance of signs and outdoor advertising with respect to their size, color, appearance, movement, illumination, and placement on structures or location on its ground.

SIGN, SHOPPING CENTER: A freestanding sign that identifies only the name of the shopping center and the individual enterprises.

SIGN, TEMPORARY: Any sign intended to be displayed for a limited period of time and not to be permanently affixed, attached, implanted, or placed on a building, pole, or in the ground.

SIGN, WINDOW: Any sign attached to the glass area of a window or placed behind the glass of a window so that it can be read from outside.

SITE PLAN: A site plan shows the proposed development and use of a single parcel of land consisting of a map and all necessary supporting material.

SOLAR COLLECTOR: A device, or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

SOLAR ENERGY: Radiant energy (direct and/or reflected) received from the sun.

SOLAR ENERGY SYSTEM: A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

SOLAR SKYSPACE: The space between a solar energy collector and the sun which must be free of obstructions that shade the collector to an extent which precludes its cost-effective operation.

SOLAR SKYSPACE EASEMENT: A right, expressed as an easement, covenant, condition, or other property interest in a deed or other instrument executed by or on behalf of any landowner, which protects the solar skyspace of an actual, proposed, or designated solar energy collector at a prescribed location by forbidding or limited activities or land uses that interfere with access to solar energy. The solar skyspace must be described as the three dimensional space in which obstruction is prohibited or limited, or as the times of the day during which direct sunlight to the solar collector may not be obstructed, or as a combination of the two methods.

SOLID WASTE: Solid Waste is defined in Section 360-1.2 of 6 NYCRR 360. It may generally be defined as any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, of 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 irrigation return flows or industrial discharges that are point sources subject to permit under other authority.

SOLID WASTE MANAGEMENT FACILITY: Solid Waste Management Facility means any facility employed beyond the initial solid waste collection process and managing solid waste. The term includes all structures, appurtenances, and improvements on the land used for the management of solid waste disposal.

STABLE: A building or structure for the shelter and feeding of domestic animals, especially horses and cattle.

STATE ENVIRONMENTAL QUALITY REVIEW ACT: A state regulation requiring local agencies to consider, avoid, and mitigate significant environmental impacts of the projects that they approve, the plans or regulations they adopt, and the projects they undertake directly.

STOCK YARD: A large fenced yard in which cattle, horses, sheep, pigs, and other animals of commercial value are temporarily kept until they are slaughtered or shipped elsewhere (Also Feed Lot).

STORY: The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it. Shall also include a BASEMENT and/or CELLAR where the height is an average of four (4) feet above ground elevation.

STORY, HALF: The part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five (5) feet clear headroom shall not be considered as floor area.

STREET: Public way for vehicular traffic which affords the principal means of access to abutting properties.

STREET FRONTAGE: Lot lines that abut a public street or public right-of-way.

STREET GRADE: Officially established grade of the street upon which a lot fronts. If there is not officially established grade, the existing grade of the street at its center line shall be taken as the street grade.

STREET, LINE: Right-of-way line of a street as dedicated by a deed or record. Where the width of the street is not established, the street line shall be considered to be thirty (30) feet from the center line of the street pavement.

STRIPPING: Any activity that removes or significantly disturbs trees, brush, grass or any other kind of vegetation.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground, or attachment to something located on the ground, except a wall or fence on a farm.

STRUCTURAL ALTERATION: Any change to the supporting members of a building such as bearing walls, columns, beams or girders.

SUBDIVISION PLAT. See *Plat*.

SUBDIVISION. The subdivision of land involves the legal division of a parcel into a number of lots for the purpose of development and sale. The subdivision and development of individual parcels must conform to the provisions of local zoning which contain use and dimensional requirements for land development.

SUBSTANTIAL IMPROVEMENT/ALTERATION: Any repair, reconstruction or improvement of a structure, the cost of which exceeds fifty (50) percent of the market value of the structure either:

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored before the damage occurred.

“Substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure.

SWIMMING POOL: A private, outdoor pool designed and built for swimming purposes as an accessory use on the same parcel as the principal use, for use primarily by the occupants or tenants of said property. Such pool shall include any permanent under or above ground pool and any portable pool more than three (3) feet in height and fifteen (15) feet in length or diameter.

T

TELECOMMUNICATIONS FACILITY: Any commercial equipment used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, and are regulated by the Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other federal laws. A Telecommunication Facility shall include monopole, guyed, or latticework tower(s), as well as antenna(s), switching stations, principal and accessory telecommunication equipment and supporting masts, wire, structures, and buildings.

THEATER, OUTDOOR: An open lot or part thereof with its appurtenant structures and facilities devoted primarily to the showing of motion pictures or theatrical productions on a paid admissions basis.

TOPSOIL: The natural surface layer of soil, usually darker than subsurface layers, to a depth of at least six (6) inches within an undisturbed area of soils.

U

USE DISTRICTS. See *Zoning District*.

USE VARIANCE. A variance that allows landowners to put their land to a use that is not permitted under the zoning law. This type of variance may be granted only in cases of unnecessary hardship. To prove unnecessary hardship, the owner must establish that the requested variance meets statutorily prescribed conditions. If a parcel of land is zoned for single-family residential use and the owner wishes to operate a retail business, the owner must apply to the zoning board of appeals for a use variance.

V

VARIANCE. This is a form of administrative relief that allows property to be used in a way that does not comply with the literal requirements of the zoning ordinance. There are two basic types of variances: *use variances* and *area variances*.

VEHICLE LIGHT SERVICE ESTABLISHMENT: Buildings and premises wherein the primary use is in the sales, servicing, repair and/or installation of motor vehicle accessories. Uses permissible at a vehicle light service establishment shall not include major mechanical and body work, repair of transmissions and differentials, straightening of body parts, painting, welding or other work not normally associated with a *Gasoline Station*.

VEHICLE MAJOR SERVICE ESTABLISHMENT: Buildings and premises wherein major mechanical and body work, repair of transmissions and differentials, straightening of body parts, painting, welding or other similar work is performed on vehicles. Vehicle light service establishments may be permitted as an ancillary use, however, vehicle major service establishments shall not be deemed to include *Heavy Equipment Sale, Rental and Service Establishments*.

VEHICLE SALE, RENTAL AND ANCILLARY SERVICE ESTABLISHMENTS: Any use of land where the sale, rental and ancillary service of two (2) or more vehicles displayed in one (1) month and or seven (7) vehicles sold/displayed in one (1) year, in operating conditions such as an automobile, motorcycle, truck, trailer, taxicab, recreational vehicle or boat. For the purposes of this Ordinance, vehicle sale, rental and ancillary service establishments shall not be deemed to include *Heavy Equipment Sale, Rental and Service Establishments*.

W

WAREHOUSE: A building or structure and any part thereof utilized for the storage of goods and merchandise including wholesale establishment, discount house, bulk storage, bulk sales outlet and distribution.

WATERSHED. A geographical area within which rain water and other liquid effluents seep and run into common surface or subsurface water bodies such as streams, rivers, lakes, or aquifers.

WETLAND. Wetlands may be either freshwater or tidal. They are typically marked by waterlogged or submerged soils or support a range of vegetation peculiar to wetlands. They provide numerous benefits for human health and property as well as critical habitat for wildlife and are generally regulated by federal, state, or local laws.

Y

YARD, FRONT: An open space extending across the principal street side of a lot measured between the side lot lines, the depth of which yard is the minimum horizontal distance between the front lot line and the main building or any projection thereof other than steps and unenclosed balconies, not extending more than six (6) feet from the front of the building, except as otherwise provided in this Ordinance.

YARD, REAR: An open space extending across the rear of a lot measured between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projection thereof other than steps and unenclosed balconies not extending more than six (6) feet from the rear of the building, except as otherwise provided in this Ordinance. On both corner and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard. On through lots the required rear yard dimension shall be equal to the required front yard dimension specified for each district.

YARD, SIDE: An open space from the front yard to the rear yard between the building and the nearest side lot line unoccupied and unobstructed from the ground upward, except for steps and as otherwise specified in this Ordinance. Side yard requirements for a corner lot shall be the same as for the front yard on any yard adjacent to a street.

Z

ZONING DISTRICT. A zoning district is a portion of the community designated by the local zoning ordinance for certain kinds of land uses and density, such as single-family homes on lots no smaller than one acre in size or neighborhood commercial uses. Only these primary permitted land uses, their accessory uses, and any special uses permitted in the zoning district may be placed on the land in that portion of the community.

ZONING ENFORCEMENT OFFICER. This is the local administrative official who is responsible for enforcing and interpreting the zoning code. Land use applications are submitted to the zoning enforcement officer who determines whether proposals are in conformance with the use and dimensional requirements of the zoning law.

ZONING LAW OR ORDINANCE. State law allows city councils and town boards to adopt zoning provisions by local law or ordinance. Since 1974, village boards of trustees have not had the authority to adopt legislation by ordinance, only by local law. Technically, zoning regulations adopted by villages are zoning laws. Only city and town legislatures may adopt zoning ordinances. Zoning regulations, however, are often referred to as zoning ordinances regardless of these technical distinctions.

ZONING MAP. This map is approved at the time that the local legislature adopts a zoning ordinance. On this map, the zoning district lines are overlaid on a street map of the community. This map divides the community into districts. Each district will carry a designation that refers to the zoning code regulations for that district. By referring to this map, it is possible to identify the use district within which any parcel of land is located. Then, by referring to the text of the zoning code, it is possible to discover the uses that are permitted within that district and the dimensional restrictions that apply to building on that land. The zoning map, implemented through the text of the ordinance, constitutes a blueprint for the development of the community over time.

ARTICLE IV – DISTRICTS AND BOUNDARIES

Section 5 -Establishment of Districts

The Town of Marcy is hereby divided into the following zoning districts:

AG - Agricultural	CG - General Commercial
R16 - Residential 16,000	CN - Neighborhood Commercial
R20- Residential 20,000	IN - Industrial
RM - Multiple Residential	PD - Planned Development
MU - Mixed Use Overlay	FP - Floodplain
OD - Conservation Overlay District	

The location and boundaries of the zoning districts hereby established are shown on a map entitled “Official Zoning Map”. The Official Zoning District Map and all notations, references and other information shown thereon are hereby declared to be a part of this Ordinance and are available for viewing at the Town Clerk’s Office and the office of the Codes Enforcement Officer. The Zoning Map Guide, Appendix D, is an unofficial map for reference purposes only. The Town Clerk shall delineate on the Zoning Map all amendments to the district boundaries authorized by this Ordinance immediately upon the effective date of such amendments, indicating the title and date of the amendment.

Section 6 - Interpretation of District Boundaries

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

1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.
3. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
4. Where the boundary of a district follows a stream, or other body of water, said boundary line shall be deemed to be the center line of the stream or body of water unless otherwise indicated.
5. Where the district boundary lines are indicated to be approximately parallel to a street or highway, they will be considered to be parallel to and at such distance from the center line of the pavement as is shown by dimension on the map, or if the dimension is not shown, then by scaling the distance on the map.
6. If after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine and fix the location of said lines.

ARTICLE V – USE REGULATIONS

Section 7 - General Regulations

All uses identified hereinafter as permitted, site plan review of special uses shall comply with the requirements established for each district and identified in Schedule A. Each lot shall be subject to one **primary** use **unless specifically allowed otherwise.**

Section 8 - OD **Conservation Overlay District**

In all Overlay Districts, **OD**, the following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance.

1. Agricultural operation
2. Private Club
3. Wildlife Refuge
4. Public and/or Private outdoor recreation
5. Reservoir
6. Public utility structure
7. Accessory use
8. Parking lot or special temporary event
9. Cemetery
10. Active and/or passive solar energy system(s)
11. Commercial excavating/mining

The Overlay District, **OD**, in its significance, addresses the land conservation issue in a detailed review process. For proposed actions, additional review and submission requirements may be deemed necessary by the Planning Board, referring to FEMA flood insurance maps, DEC wetland maps, Corps of Engineers data on flood elevations, and other appropriate sources.

In making its determination, the Planning Board shall review the natural features of the land, such as, but not limited to: floodplains, wetlands, stream corridors, ravines, rock outcropping overlooks, unique settings, and areas immediately adjacent to such features.

Section 9 - AG Agricultural District

In all Agricultural Districts, AG, the following uses are permitted:

1. Agricultural and forest uses (except hog farm, commercial poultry farm and cattle feed lots)
2. One family dwelling
3. Private Club***
4. Public and/or private outdoor recreation***
5. Wildlife refuge/Nature preserve
6. Stable***
7. Accessory use

8. Accessory apartment***
9. Accessory building

***The applicant and/or Codes Enforcement Officer may request preconceptual review by a Review Panel comprised of the Codes Enforcement Officer and the Chairperson of the Planning Board and Zoning Board of Appeals.

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance.

1. Home occupation
2. Professional residence/office
3. Commercial excavation/mining
4. Airport or aircraft landing strip
5. Veterinary hospital (located at least five hundred (500) feet from any residential district or use)
6. Hog farm, commercial poultry farm or cattle and/or horse feed lot (located at least five hundred (500) feet from any residential district or use)
7. Active and/or passive solar energy systems
8. School
9. Religious Institution
10. Community Center
11. Hospital/Clinic

Section 10 - R20 Residential 20,000 District

In all Residential 20,000 districts, R-20, the following are permitted:

1. One family dwelling
2. Accessory building, use
3. Accessory apartment***

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance:

1. Home occupation
2. Professional residence/office
3. Golf Course
4. Public utility substation
5. Active and/or passive solar energy systems
6. School
7. Religious Institution
8. Community Center
9. Public outdoor recreation

***The applicant and/or Codes Enforcement Officer may request preconceptual review by a Review Panel comprised of the Codes Enforcement Officer and the Chairperson of the Planning Board and Zoning Board of Appeals.

Section 11 - R16 Residential 16,000 District

In all Residential 16,000 Districts, R-16, the following uses are permitted:

1. One family dwelling
2. Public outdoor recreation***
3. Accessory building use
4. Accessory apartment***

***The applicant and/or Codes Enforcement Officer may request preconceptual review by a Review Panel comprised of the Codes Enforcement Officer and the Chairperson of the Planning Board and Zoning Board of Appeals.

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance:

1. Home occupation
2. Public utility structure
3. Active and/or passive solar energy systems
4. Professional residence/office
5. School
6. Religious Institution
7. Community Center
8. Two family dwelling

Section 12 - RM Multiple Residential District

In all Multiple Residential Districts, RM, the following uses are permitted:

1. One family dwelling
2. Two family dwelling***
3. Public outdoor recreation***
4. Accessory use
5. Accessory apartment***

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance:

1. Multiple family dwelling
2. Home Occupation
3. Boarding home, tourist home
4. Private club

5. Community Center
6. Active and/or passive solar energy systems
7. Dormitory use
8. Professional residence/office
9. School
10. Religious Institution

***The applicant and/or Codes Enforcement Officer may request preconceptual review by a Review Panel comprised of the Codes Enforcement Officer and the Chairperson of the Planning Board and Zoning Board of Appeals.

Section 13 - Reserved

Section 14 - Reserved

Section 15 - MU Mixed Use Overlay District

The Mixed Use Overlay District, MU, is intended to allow development consistent with the objectives of the Town Comprehensive Plan to be considered in areas where the appropriate zoning revisions have not been implemented.

In all Mixed Use Overlay Districts, MU, the following uses are permitted:

1. Any use allowed in the underlying zoning district.

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance and such additional criteria as included below:

1. Any use allowed with site plan review in the underlying zoning district.
2. Personal service,
3. Retail store,
4. Business office,
5. Professional office,
6. Diner, café, coffee shop, provided no drive thru operation,
7. Parking lot,
8. Home occupation ,
9. Multiple family dwelling,
10. Mixed use with non-residential use in front of building or on first floor and residential use in rear of building or on upper floor(s).
11. Other neighborhood commercial uses upon review and approval of the Planning Board. Such uses must be in keeping with the general character of neighborhood uses

In making its determination, the Planning Board shall review the compatibility of the proposed development with the existing neighborhood and consistency with the intent of the applicable Comprehensive Plan Character Area. Any commercial uses shall be of a residential

neighborhood scale (typically no larger than 3,000 SF) with activities that are not intrusive to the neighbors during evening hours.

All Mixed Use Overlay District, MU, site plan reviews shall have a public hearing. Additional review and submission requirements may be deemed necessary by the Planning Board based upon public comment.

Section 16 - CN Commercial - Neighborhood District

In all Neighborhood Commercial Districts, CN, the following uses are permitted:

1. Personal Service***
2. Public outdoor recreation***
3. Private Club***
4. Accessory use
5. Single family dwelling

***The applicant and/or Codes Enforcement Officer may request preconceptual review by a Review Panel comprised of the Codes Enforcement Officer and the Chairperson of the Planning Board and Zoning Board of Appeals.

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance:

12. Active and/or passive solar energy systems
13. Retail store, service
14. Business office
15. Financial Institution
16. Religious Institution
17. Community Center
18. Mortuary, funeral home, but not including crematoriums
19. Other neighborhood commercial uses upon review and approval of the Planning Board. Such uses must be in keeping with the general character of neighborhood uses (i.e. Nursing Home)
20. Parking lot
21. Home occupation
22. Multiple family dwelling

Section 17 - CG Commercial - General District

In all General Commercial Districts, CG, the following uses are permitted:

1. Personal Service***
2. Private Club***
3. Enclosed Accessory use

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance:

1. Shopping Center
2. Motor vehicle, mobile home, boat, farm, and contractor equipment sales
3. Sale of new products, produce goods, and equipment
4. Wholesale distribution service
5. Freight or trucking terminal
6. Drive-in service
7. Gasoline service station
8. Car Wash
9. Single family dwelling
10. Active and/or passive solar energy systems
11. Retail store, service
12. Business office
13. Business service and supply
14. Financial Institution
15. Restaurant, Bar
16. Hotel, Motel
17. Indoor recreation
18. Community Center
19. Mortuary
20. Other commercial uses of similar character
21. Parking/Motor Vehicle Repair

In the CG district, combinations of allowed uses can be considered as one use provided that they are contained within a single compliant building or set of architecturally consistent buildings such as a shopping center.

***The applicant and/or Codes Enforcement Officer may request preconceptual review by a Review Panel comprised of the Codes Enforcement Officer and the Chairperson of the Planning Board and Zoning Board of Appeals.

Section 18 - IN Industrial District

In all Industrial Districts, IN, the following uses are permitted:

- a) Those uses permitted by right in CG District
- b) Accessory use

The following uses are permitted only after the review and approval of a site plan by the Planning Board pursuant to Section 20 of this Ordinance:

1. Those uses permitted by the site plan review in CG District
2. Gasoline Station, Car Wash
3. Aviation landing field, Heliport
4. Quarry

5. Active and/or passive solar energy systems
6. Enclosed manufacturing industries
7. Enclosed warehouse or wholesale use
8. Public utility
9. Enclosed service and repair
10. Machinery and transportation equipment, sales, service and repair
11. Enclosed industrial processes and service
12. Freight or trucking terminal
13. Contractors yard
14. Garage
15. Other industrial use of similar character upon review and approval of the Planning Board
16. Adult Entertainment

Section 19 - FP Floodplain District

In the Floodplain District, FP, the following uses which have a low flood damage potential and do not obstruct flood flows shall be permitted to the extent that they are not prohibited by any other Ordinance. In the FP District, those regulations dealing with planned unit development shall apply (refer to Section 18). No use shall adversely affect the capacity of the channels or floodways of the Mohawk or any tributary to the Mohawk, drainage ditch, or any other drainage facility or system.

Development and land use in the Floodplain District is also governed by Local Law No. 1 of 1987 – “Flood Damage Prevention”; the provisions and procedures of this Local Law (or as it may be modified in the future), must be followed as well as the provisions of this Section. In a case of conflict, the more restrictive provisions shall apply:

1. General farming; crops; grazing, etc.
2. Golf courses
3. Picnic areas
4. Fishing and hunting areas
5. Swimming areas
6. Nature preserves
7. Horticulture
8. Driving ranges
9. Archery and skeet ranges
10. Hiking, Biking, Horseback trails
11. Boat launching areas

The following uses may be permitted upon approval of a site plan by the Planning Board:

1. Existing uses
2. Necessary public utilities and highways
3. Extraction of sand and gravel and other materials
4. Temporary amusement enterprises
5. Topsoil farming
6. Marinas

7. Parking

Development standards in the Floodplain District are as follows:

1. **All Uses**

No structure (temporary or permanent), fill (including fill for roads and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed which, acting alone or in combination with existing or future uses, increases flood heights more than one (1) foot. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the river.

2. **Fill**

Any fill to be deposited in the FP District must be shown to have some beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions of the proposed fill or other materials.

Such fill or other materials shall be protected against erosion by riprap, vegetation cover, or bulkheading.

No fill shall be of hazardous or toxic nature.

3. **Structures (Temporary or Permanent)**

Structures shall have a low flood damage potential and should be either flood proofed or have the first floor elevated above the 100-year flood level. The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and so far as practical, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river; and utility and service facilities such as electrical and heating equipment shall be constructed at two (2) feet above the 100-year flood elevation for the particular area or flood-proofed.

4. **Storage of Material and Equipment**

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or which could be injurious to human, animal or plant life is prohibited.

Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific methods of study. Larger floods may occur on

rare occasions or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain district or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Marcy or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 20 - Site Plan Review

The following process is incorporated into this Ordinance as a tool for the Planning Board to evaluate specific uses in certain zoning districts. These uses, termed SITE PLAN REVIEW USES, are noted for each district in Schedule A, and Section 8 – 16 . No building permit or other permit shall be issued and no site work shall begin until after the Planning Board has approved a Final Detailed Site Plan.

Projects subject to site plan review may be implemented in phases if approved by the Planning Board. In order to be eligible for implementation in phases, a project must contain at least twenty (20) acres in lot area or sixty thousand (60,000) square feet of non-residential floor space. If phasing is permitted, the entire project must be completed, with all certificates of occupancy obtained no later than four (4) years after approval of the Final Detailed Site Plan.

The Site Plan Review process has four (4) steps: Sketch Review, Concept Review, Preliminary Site Plan Review and Action, and Final Site Plan Review and Action. Refer to Appendix A of this Ordinance for a flow chart which graphically portrays the process. All plans are to be submitted to the Planning Board Secretary five (5) business days prior to the meeting.

1. Sketch Review by the Zoning/Planning Review Panel

This step does not constitute formal submission of the application. The applicant shall provide the Review Panel with the basic information regarding the proposal. The Panel will advise the applicant of procedural and likely substantive requirements in the formal site plan review process.

2. Concept Review

A meeting shall be held between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the Preliminary Site Plan. The applicant should provide the data discussed below in addition to a statement and rough sketch describing what is proposed.

- a. An area map showing the parcel under consideration for Site Plan Review, and all properties, subdivisions, streets and easements within two hundred (200) feet of boundaries thereof.
- b. A map of site topography at no more than five (5) feet contour intervals. If general site grades exceed five (5) percent or portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided.

After the meeting, the Planning Board shall notify the applicant of the information required to be furnished by the applicant as part of the Preliminary Site Plan Application, of the non-binding estimate of expenses the Planning Board expects to incur for consulting services and other review costs as well as any other requirements or comments.

The required information shall be drawn from the following list:

- Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- North arrow, scale and date;
- Boundaries of the property plotted to scale;
- Existing watercourses;
- Grading and drainage plan, showing existing and proposed contours;
- Location, proposed use and height of all buildings;
- Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- Description of the method of sewage disposal and location, design and construction materials of such facilities;
- Description of the method of securing public water and location, design and construction materials of such facilities;
- Location of fire and other emergency zones, including the location of fire hydrants;
- Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- Location, size and design and construction materials of all proposed signs;
- Location and proposed development of all buffer areas, including existing vegetative cover;
- Location and screening of outdoor storage areas and dumpsters;
- Location and design of outdoor lighting facilities;
- Designation of the amount of building area proposed for retail sales or other uses so as to permit the calculation of required parking and loading;
- General landscaping plan and planting schedule;
- Location and design of traffic control devices supported by a report as required;
- Provision for pedestrian access;
- Soil erosion and sediment control features;
- Brief description of the project including implementation schedule;
- Phasing plan if implementation in phases is requested;
- Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permits for the projects execution.

c) Preliminary Site Plan Review and Action

a. Based on information obtained as a result of the Sketch and Concept Review stages, the applicant shall submit an application for Preliminary Site Plan approval accompanied by:

- The fee as established by the Town Board;
- A check for the expected review costs; the applicant may specify that if this amount is exceeded, the application will be withdrawn;
- The Preliminary Site Plan and other information required by the Planning Board.

b. The Planning Board shall determine whether the application is complete. If it is not complete, the Board shall notify the applicant within sixty-two (62) days. Once the Planning Board has determined the application is complete, the sixty-two (62) day review period begins, unless it is extended by mutual consent. The Planning Board shall hold a public hearing during the review period.

c. Review Criteria

The criteria for the Planning Board may include, but shall not be limited to the following:

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. Twenty (20) or more dwelling units shall have at least two (2) street connections with existing public streets. This shall be a minimum of four hundred (400) feet between parallel streets.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
5. Adequacy of storm water management and drainage facilities. Maintenance agreement will be required for privately owned and operated storm water facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. 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.
8. In the cases of an apartment complex or other multiple dwelling, the adequacy of useable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
10. Adequacy of fire lanes and other emergency zone and the provision of fire hydrants.
11. Special attention to the adequacy of structures, roadways, and landscaping in areas susceptible to ponding, flooding and/or erosion.
12. Relationship to active agricultural land and fallow land to insure that the conversion of agricultural land to nonagricultural uses is minimized and to insure that all potential conflicts with agricultural operations are minimized.
13. Adequacy of the phasing plan to assure that each phase (together with all previous phases if applicable), can function independently of any subsequent phases as far as on-site and off-site improvements are concerned.

14. All roads, buildings, utilities, etc. will be in accordance with the Town of Marcy Subdivision Regulations, Utility and Road Standards and all other applicable regulations.

d) Consultant Review

The Planning Board may consult with the Codes Enforcement Officer, Fire Commissioners, Conservation Council, Commissioner of Public Works, other local and County officials, and its designated private consultants, in addition to representatives of Federal and State agencies including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

e) Planning Board Action on Preliminary Site Plan

The Planning Board shall act on the application within sixty-two (62) days. If no decision is made within said sixty-two (62) day period, the preliminary site plan shall be considered approved. If the preliminary site plan is disapproved, 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.

6. Procedure for Final Site Plan Review and Action

After receiving 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 for approval. Where phasing has been approved, each phase shall be indicated on the plans. If more than six (6) months has elapsed since the time of the Planning Board's action on the Preliminary Site Plan, and if the Planning Board finds 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.

The Final Site Plan shall conform substantially to the approved Preliminary Site Plan. 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 following additional information shall accompany an application for Final Site Plan approval:

- Record of application for and status of all necessary permits from State and County officials;
- Detailed sizing and final material specification of all required improvements; and
- An estimated project construction schedule.

1. Required Referral

Prior to taking action on the Final Site Development Plan, the Planning Board shall refer the plan to the County Planning Department for review and a report in

accordance with Section 239 of the General Municipal Law, where the proposed action is within a distance of five hundred (500) feet from:

- a) the boundary of any City, Village or Town, or
- b) the boundary of any existing or proposed County or State park or other recreation area, or
- c) the right-of-way of any existing or proposed County or State parkway, thruway, expressway, road or highway, or
- d) the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines, or
- e) the existing or proposed boundary of any County or State owned land on which a public building or institution is situated, or
- f) the boundary of a farm operation located within an Agricultural District as defined by Article 25-AA of the Agriculture & Markets Law.

In the case of a phased project, the Preliminary Site Plan shall also be transmitted.

2. Planning Board Action on Final Detailed Site Plan

Within sixty-two (62) days of receipt of an application for Final Detailed Site Plan approval, which is found to be complete by the Planning Board shall render a decision and notify the Codes Enforcement Officer and the applicant. If no decision is made within the sixty-two (62) day period, the Final Detailed Site Plan shall be considered approved unless the sixty-two (62) day period has been extended by mutual agreement. If substantial progress has not been performed within one (1) year after final approval, the Final Site Plan will become null and void.

Section 21 - Reserved

Section 22 - Planned Development Regulations

1. Objectives

The regulations hereinafter set forth in this Section are intended to provide a means for the development of large scale residential, business, commercial, manufacturing, recreational, solar energy system, or mixed use areas in a manner which will foster flexible and imaginative design concepts and permit phased development over a long period of time. These regulations are also intended to provide the Town with adequate supervision and control over such projects, through the Planning Board and the Town Board, to insure that the spirit and intent of these Zoning Regulations will be respected and preserved and to insure that the interests of all parties to the development process – the Town, School District, County, State, and developer are considered and balanced.

No specific requirements are established with respect to minimum lot sizes within the district, lot coverage, building height, yard dimensions, off street parking or density of **development.**

2. General Description of the Process

The process of approval of a planned development consists of two (2) steps:

- a. Change of zoning of land to a PD – Planned Development District, based on an approved Preliminary Development Plan; and
- b. Approval of Final Development Plans in one step or in phases, if applicable and selected by the applicant.

3. Applicability of Approval of Final Development Plans in Phases

An applicant for rezoning of a parcel of land to PD – Planned Development may, at his option, request approval of Final Development Plans in phases if either the area of the parcel(s) to be rezoned is equal to **twenty (20)** acres or more, or the proposed development calls for at least 120,000 gross square feet of new non-residential floor space.

The **twenty (20)** acre parcel, in order to qualify, must be one reasonably compact piece of land not divided by any highway, road or railroad; the non-residential floor space must be on a single reasonably compact piece of land, undivided by any highway, road or railroad. A parcel of land may consist of one or more Tax Map parcels, providing all owners certify that a single legal entity make application to the satisfaction of the Town Board as recommended by the Town Attorney.

4. Procedure for Adoption of Zoning Change and Approval of Preliminary Development Plan

- A. Before submission of a formal application, the applicant is encouraged to meet informally with the Town Board and the Planning Board.
- B. The formal application for a change to PD – Planned Development District is filed with the Town Clerk at least five (5) days before the date of the meeting at which it is to be received by the Town Board.
- C. The application shall consist of, or be accompanied by:
 1. Petition requesting the zoning change;
 2. Proof of full legal and beneficial ownership of the property or proof of an option or contractual right to the purchase property;
 3. Proposed preliminary development plan showing approximate locations of:
 - a. Boundaries of the site and ownership within two hundred (200) feet of boundaries.
 - b. All existing roads, easements, structures, utilities and other improvements on or within two hundred (200) feet of the property.
 - c. Proposed development, including such information as location, size and use of buildings, areas to be devoted to different uses, roads, drives, parking areas, landscaped areas or areas to be left in their natural state.
 - d. Off-site improvements to utility and highway systems and other public facilities or buildings.
 - e. Tentative delineation of areas for implementation by phasing, if applicable.
 4. Written description of the proposal including:
 - a. Planning assumption used.
 - b. Proposed tentative implementation schedule.
 - c. Alternatives considered.
 - d. Reports on traffic, utility systems, cultural resources and other topics, as appropriate.

- e. Proposed on-site and off-site improvements and mitigating measures, including how they are to be financed and maintained, and their implementation schedule.
 - f. Proposed design guidelines.
 - g. Discussion of how, in the opinion of the applicant the proposal does or does not satisfy each of the review criteria the Planning Board will consider (see Sub-Section 22-4-E below).
 - h. Discussion of any substantial variance from the street, utility, lot, building, or landscape layout that would otherwise be allowed. The applicant bears the burden of making a convincing case for how the proposed design meets the intent of protection of the public health, safety and welfare for the community.
 - i. Proposed limits on flexibility for permitting variations between the Preliminary Development Plan and the Final Development Plan for each phase, if applicable.
5. A check for the fee as established by the Town Board.
 6. An agreement to reimburse the Town for actual reasonable cost of reviewing or preparing any reports deemed necessary by the Town. The applicant may stipulate a “not to exceed” lump sum or reserve the right to review costs at any stage and break off the application process at any point rather than incur additional costs.

Items 1, 2 and 6 are to be submitted in duplicate; Items 3 and 4 in five (5) copies.

- D. The Town Board will review the application and, if it finds it is complete, will refer it to the Planning Board for report and recommendation.
- E. The Town Board will schedule a joint public hearing with the Planning Board on the application after consulting on its date with the Planning Board. This public hearing will be noticed, scheduled and conducted in such a manner that it will satisfy the regulations of Town Law and any other law.
 1. The Planning Board shall make a report and recommendation to the Town Board within sixty-two (62) days of referral of the application or within thirty (30) days of the public hearing, whichever is later. The report shall be in writing and a copy shall be sent to the applicant at the same time.
 2. The report shall address the points listed below and for each recommendation, shall give reasons which shall be based, where appropriate, on the review criteria of (3) below. The report shall cover the following points:
 - a. Whether the boundaries of the proposed PD – Planned Development District should be approved as requested, enlarged or reduced, or whether the application should be denied.
 - b. Whether the mix of uses should be approved or modified.
 - c. Whether the proposed Preliminary Development Plan and the design guidelines should be approved or modified.
 - d. Whether proposed off-site improvements or mitigating measures, their implementation schedule and the plans for financing and maintaining them should be approved or modified.
 - e. Whether any other proposal in the application should be approved or modified.
 - f. What conditions should be attached to any approval; these will include, as applicable, stipulations concerning the delineation of individual phases as compared to the approved Preliminary Development Plan, and assurance that all

on-site and off-site improvements and mitigating measures are executed as and when required.

All recommendations for modifications and conditions of approval should be as specific as possible. It is the intent of this subsection (2) to enable the Planning Board to make any recommendation they consider in the public interest.

3. In making its report and recommendations, the Planning Board shall consider whether and to what extent the proposal, as submitted or as modified, satisfies the following criteria:
 - a. Conformance to the Towns long-range plans and development policies.
 - b. Effect on the Town's character in accordance with long-range plans and policies.
 - c. Desirability of the proposed uses in the proposed location and likelihood of successful implementation of the proposal.
 - d. Minimal and insignificant impact on the natural environment and adequacy of mitigating measures if required.
 - e. Protection of the neighborhood and its sound development, including protection of esthetic and cultural resources.
 - f. Adequacy of infrastructure, public utilities and services, the road system on and off the site, and adequacy of proposed improvements.
 - g. Favorable effect on the tax base of the Town, any special districts, the school district and on the likely balance of revenues and expenditures.
 - h. Effect on the economy of the County and Region.
 - i. Adequacy of the proposed design guidelines, the system of open spaces, parking, internal circulation and connections to the street system.

Before making its report, the Planning Board may want to consult with any interested agencies or parties.

- F. If the Planning Board has recommended denial of, or modification to the application, the Town Board may delay action for thirty (30) days after receipt of the Planning Board's report, if requested to do so by the applicant. The applicant may use this time period to submit written comments on the Planning Board's report.

The Town Board may accept the Planning Board's report, modify and accept it, or reject it. If the application is approved or approved with modifications, the resolution acting on the application and the Planning Board report will specifically recite the modifications and conditions of approval attached to the approval of the application for PD – Planned Development District.

5. Procedure for Approval of Final Development Plan or Plans

- A. It is intended to simplify and expedite the approval of Final Development Plans which conform to the approved Preliminary Development Plan and all conditions attached to the approval.
- B. Before a building permit or any other permit can be issued or any actual work undertaken, a Final Development Plan must be approved for the PD District as a whole

or for each phase of implementation by the Planning Board. A Final Development Plan can be either a site plan or subdivision, or a combination of both.

A phase may cover either an area designated as a phase in the approval of the Preliminary Development Plan or some other area if the original approval gives the Planning Board the authority to consider such variation. The boundaries, sequence and improvements of any phase should be such that each phase (together with all previous phases, if any) can function independently of any subsequent phase and that the improvements and mitigating measures completed for any previous phase will satisfy the Preliminary Development Plan.

- C. The application for approval of a Final Development Plan must conform in form to the requirements for approval of applicable, and in addition, it must conform to the requirements imposed by the Town Board in the approval of the zoning change and the Preliminary Development Plan. Documentation and assurances for on-site and off-site improvements and the mitigating measures must accompany the application in such form as to enable the Planning Board to determine that they are in conformance with the Town Board's conditions for approval and all other requirements of the Town of Marcy, documentation must also show the status of all on-site and off-site improvements or mitigating measures required for earlier phases, if implementation is to be phased.
- D. Upon receipt of the application, the Planning Board will determine within sixty-two (62) days whether the application conforms to the requirements of Sub-Section C above. If it does not conform, it shall notify the applicant forthwith, giving the reasons in writing and offering him the opportunity to bring the application into conformance. If the application does conform, the Planning Board will schedule a public hearing to take place within sixty-two (62) days.

Within a further thirty (30) days, the Planning Board will act on the application and may decide to approve, approve with modification, disapprove, or disapprove with a referral to the Town Board for initiation of a new approval process because the present application is beyond the scope of the original approval.

- E. The applicant may appeal a decision by the Planning Board concerning incompleteness of the application, non-conformance of the application to original conditions of approval, or modification or denial of the application to original conditions of approval, or modification or denial of the application to the Town Board and ask to have the matter treated as a completely new application, in which the entire process is begun over again from the very beginning.
- F. In order to take advantage of the phasing provisions of this Section 22, the developer must meet the following schedule:
 - 1. Submission of Final Development Plan for first phase, no later than one (1) year after Planned Development District has been approved; first phase must cover minimum of one-third (1/3) of ultimate development.
 - 2. Completion of first phase (Certificate of Occupancy issued) no later than two (2) years after Planned Development District has been approved unless otherwise approved.

3. The entire project must be completed within five (5) years after Planned Development District has been approved.
 - a. If the above times are exceeded, approvals or permits become void (including building permits for buildings not yet completed) and the process must start from the beginning, unless an extension for good cause is granted by the Town Board on application by the developer and after recommendation by the Planning Board.
 - b. If the schedule in (a) above is met by the developer, the provision of the Preliminary Development Plan, the Design Guidelines, and other provisions of the original approval remain in force even if the relevant provisions of the Zoning Regulations, Subdivision Regulations, or other local laws should change during this time. However, if there are changes in the Building Code or in the Town-wide Construction Standards for Roads, Water Lines, Sewer Lines or other similar improvements, the new standards will apply to new construction; right-of-way widths will not be affected.
 - c. If provisions of Section F, 1 noted above have not been performed within one (1) year after final approval, the Final Site Plan will become null and void.

6. Reversion of PD Designation to prior Zoning

- A. In the event that a Final Development Plan has not been submitted within one (1) year from the date the zoning map amendment establishing the Planned Development District became effective, the Planning Board shall so notify the Town Board. The Town Board may, on its own motion or on request by the Planning Board, initiate a zoning map amendment to return the Planned Development District to its former classification.
- B. In the event that one-third (1/3) of the work has not been completed on the newly proposed project within one (1) year from the date that final approval has been rendered by the Planning Board, the Planning Board shall notify the Town Board. The Town Board, on its own motion or on request by the Planning Board may initiate a zoning map amendment to return the Planned Development District to its former classification.

Section 23 - Required Improvement for Implementation of Project Requiring Site Plan Approval or in Planned Development Districts

Prior to the granting of final approval of a Site Plan or a Final Development Plan by the Planning Board, the applicant shall furnish the Town with an agreement supported by a bond for the installation of all required improvements listed and described in the Planning Board's conditions of approval. The agreement shall specify the manner and the time in which the required improvements shall be made according to the approved plans or conditions of approval.

The amount of bond required shall be based upon the estimated cost of the improvements covered by the agreement which shall be determined by the Town Engineer. The amount of the bond shall be equivalent to 115% of the estimated cost of the improvements. The additional 15% is to cover any Engineering costs, contingencies, and inflationary factors which may be

necessary should the improvements not be completed by the developer within the time frame specified.

The following types of bonds will be accepted as surety by the Town of Marcy:

1. Corporate Bonds: The surety will be furnished by an insurance company with an Attorney-in-fact recorded in the land records of the Town of Marcy, and will guarantee the full amount of the bond.
2. Non-Corporate Bonds: These bonds are supported by a security in one of the following forms:

- a. Cash Escrow: The face amount of the bond will be submitted to the Town Board and deposited in an acceptable banking institution by the Town Clerk.

U.S. Treasury and Federal Agency securities, and cash deposits in the developer's name, controlled by the Town Clerk, by means of a lien or power of attorney, in an acceptable banking institution may be accepted subject to approval of the Town Board.

- b. Letters of Credit: This security, furnished by a bank or savings institution, shall be written in such a manner as to extend six (6) months beyond the agreement completion date. The letters of credit shall contain the condition of automatic renewal, providing that the letter of credit will automatically be extended for additional periods of six (6) months unless the Town Board is notified in writing at least thirty (30) days in advance of the letter's expiration date, that the bank does not intend to extend such letter of credit or unless the Town Board notifies that bank that the letter of credit can be released to the developer.
- c. Set-Aside Letters: This security will be furnished by the developer's lender. It shall be written to the Town Board, executed and agreed to by the developer and the lender and shall be for the full amount of the bond. Three draws will be permitted during the life of the bonds and the draws shall not be allowed more than quarterly. There shall be a fee of \$25.00 for each draw. The amount of the funds available shall never be less than fifty percent (50%) of the original bond amount.

After the Town Engineer has completed the review of the Final Development Plan, established the estimated cost of constructing the required improvements, and reviewed the amount of time estimated by the developer to complete these improvements, a package of documents including copies of the agreement and bond, the Engineer's estimate of the cost of physical improvements and a statement of the amount of bond required, is forwarded to the developer for his review and execution.

Upon approval of the agreement between the developer and the Town, a file is established which is continually updated by the Town Engineer and maintained by the Town Clerk until all construction is completed.

When a developer enters into an agreement with the Town, it is understood that all the necessary physical improvements must be completed within the time frame specified within the agreement. If all the noted improvements are not completed within this period, and no extension has been obtained, or a replacement agreement and bond have not been submitted and approved with a new expiration date, the agreement is considered to be in default.

The developer can make a formal request to the Town Board for an initial extension of the expiration date for a maximum period of six (6) months, if on inspection by the Town Engineer approximately sixty (60) days prior to the expiration of an agreement the indication is that the balance of the work cannot be completed within the remaining sixty (60) days.

The developer shall indicate all reasons and conditions which have inhibited him from completing the required improvements. The developer must also have all sureties consent to the request, including corporate surety companies. All signatures must be notarized. Each extension shall be subject to an "Extension Fee" as established by the Town Board.

When appropriate, the developer may make application for a replacement agreement and bond. A new bond, which cannot be less than fifty percent (50%) of the face amount of the original bond shall be estimated by the Town Engineer. A new bond package is then prepared and handled in the same manner as the original agreement and bond. The developer is required to pay a processing fee as established by the Town Board for the replacement bond.

In the event the developer does indeed default on his agreement, the Town Engineer shall refer the matter to the Town Attorney. In response, the Town Attorney shall take the appropriate legal action to ensure a timely completion of the improvements.

Upon completion of one-hundred percent (100%) of the physical improvements outlined in the agreements, the developer can initiate the process of bond release by submitting a letter to the Town Engineer stating that he has completed the project and wishes to be released from his agreement.

Before the bond is released, a review of all aspects of the agreement and its associated improvements shall be undertaken by the Town Engineer. If after the review is completed, the Town Engineer finds that all improvements have been completed in a satisfactory manner, he shall so inform the Town Board who will authorize the Town Clerk to release the agreement and bond.

No building permit shall be granted for the construction of any building or structure other than as approved by the Planning Board and no improvement shall be constructed at variance with the proposal as finally approved except upon resubmission and approval of the Planning Board.

ARTICLE VI – SUPPLEMENTARY REGULATIONS

Section 24 - Regulations in Schedule A

- A. **Regulations governing lot area and lot width; front, side, and rear yards; building coverage and building height are as specified in Schedule A** are hereby made a part of this Ordinance and subject to the supplementary regulations set forth following. In the case of any conflict between Schedule A and other Sections of this Ordinance, the written text shall prevail over Schedule A.

Section 25 - Additional Areas, Yard and Height Requirements

A. Corner Lot

1. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard for the district. One rear yard shall be provided on each corner lot and the owner shall designate the rear yard on his application for a Permit. The front of the house shall face away from the rear yard.

B. Visibility

1. On a corner lot in any district, no fence, wall, hedge, sign, or other structure or planting shall be erected, placed or maintained so as to interfere with visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points **fifty (50) feet distant from the point of intersection, measured along the center line of the road.**

C. Projecting Architectural Features, Terraces, Porches, Fire Escapes and Solar Energy Equipment

Certain architectural features may project into required yards as follows:

1. Cornices, canopies, eaves or other architectural features may project a distance not exceeding four (4) feet into any front or rear yard, and forty percent (40%) into any side yard to a maximum of four (4) feet.
2. Fire escapes may project a distance not exceeding four (4) feet six (6) inches.
3. Bay windows, balconies, and chimneys may project a distance not exceeding three (3) feet.
4. Apparatus needed for the operation of active and passive solar energy systems, including but not limited to overhangs, moveable insulating walls and roofs, detached solar collectors, reflectors, and piping shall be allowed to project into any required front, side or rear yard as necessary to provide for their effective operation. In addition, such equipment shall not be considered in the determination of lot coverage.
5. A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets, or other form of enclosure exceeding six (6) feet in height.
6. In determining the percentage of building coverage of the size of yards for the purpose of this Ordinance, enclosed porches, or porches open at the side but roofed, shall be considered part of the building.
7. Unenclosed entrance steps or stairways providing access to the first story, cellar or basement of a building may extend into any required yard a distance not to exceed six (6) feet.

D. Utility Poles

1. Privately owned utility poles shall not be located closer than two (2) feet plus height of pole from any front, side or rear lot line.

E. Driveways

1. In any district the off-street parking required by Section 24 of this Ordinance shall be located only within the area of the designated driveway as defined by Article III, Section 4 of this regulation. In no instance shall any portion of this designated driveway be located closer than two (2) feet from any side or rear lot lines.

F. The height requirements set forth in Schedule A shall be applied to the following special situations as described below:

1. The height limitations of this Ordinance shall not apply to barns, silos and other farm buildings, belfries, and church spires. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising devices of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.
2. On through lots one hundred twenty (120) feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than one hundred twenty (120) feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than one hundred twenty (120) feet from that street.

Section 26 - General Requirements

A. **Basements Required** – A full basement or cellar shall be constructed under the first floor living area of all residential buildings. Overhead clearance shall be at least seven (7) feet.

B. Single Use Per Lot

1. Each lot shall have a single use **unless specifically allowed otherwise.** For the purpose of this regulation a Home Occupation is considered a residential accessory use.
2. Residential lots shall have only one principal building.

C. **Review Required** - In all zoning districts, a Site Plan Review is required for any proposed non-building structure with a height greater than the allowed building height or greater than the distance from the edge of the structure to the closest property line.

Section 27 - Accessory Buildings/Uses, Accessory Apartments, and Fence or Walls

A. **Permit** – All accessory buildings or uses shall require a Permit to be issued prior to their initiation as elsewhere required in this Ordinance, except that no permit shall be required for a single accessory building with dimensions that do not exceed a maximum of one hundred forty (140) square feet in size, providing all minimum required yard dimensions are observed.

1. Construction of accessory buildings shall be in compliance with the Building Code and the material shall be in kind to compliment the primary building (i.e. wood, metal, vinyl siding).

2. An accessory building shall not be constructed on a lot without a principal structure, except for a barn or other agricultural building on a working farm in an AG district.
- B. **Number** – There shall be not more than two (2) accessory buildings to the residential lot, except that an agricultural operation shall not be subject to such provisions.
- C. **Height** – Maximum height of accessory building for a residential use shall be one (1) story to twenty (20) feet, whichever is less.
- D. **Location** – Accessory buildings or structures in Residential/AG districts which are not attached to a principal building may be erected within the side or rear yard in accordance with the following requirements:
1. For a small storage building up to one hundred (150) square feet, fifteen (15) feet from side or rear lot line.
 2. In front yard or the street side of a corner lot, the same setback as for the principal building.
 3. Not closer to a principal building or another accessory building than ten (10) feet.
 4. For barn, stable, poultry house, kennel or other animal shelter or farm structure, fifty (50) feet from side or rear lot line.
 5. Location of such use or building on other than side or rear yard shall require approval of the Planning Board prior to permit issuance.
- E. **Maximum Size** – No accessory building or structure shall exceed the sizes listed below (square feet). twelve-hundred (1200) square feet in size. Structures in excess of twelve hundred (1200) square feet these sizes will require an area variance from the Zoning Board of Appeals and Site Plan Review by the Planning Board.

Lots being used for residential purposes:

Agricultural	Gen'l Comm	Neigh.Comm	Industrial	Resid. 16	Resid. 20	Mul. Resid.
1,600	By review *	1,200	By review *	800	1,200	800

Lots being used for non-residential purposes:

Agricultural	Gen'l Commercial	Neighborhood Comm.	Industrial
No size limit for Principle Permitted Use	No size limit for Principle Permitted Use	1,200	No size limit for Principle Permitted Use

- F. **Attached Accessory Buildings in Residential Districts** – When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building.
- G. **Accessory Building in Commercial or Industrial Districts** – Buildings shall comply with front, side and rear yard requirements for the principal building to which they are accessory.
- H. **Swimming Pools** – A private, outdoor swimming pool shall be permitted as an accessory use to a dwelling unit only in accordance with the following regulations:

1. Such pool shall be accessory to a principal residential use and shall be erected only on the same lot as the principal structure.
2. Such pool may be erected or constructed only in the side or rear yard of the lot, with a minimum 15' side and rear yard setback, and shall be not less than fifteen (15) feet distant from any principal or accessory structure.
3. Any in-ground pool shall be enclosed by a fence with a minimum height of four (4) feet in order to assure that it will be used only by those persons having approved entrance in pool. Any above ground pool shall have a ladder with a locking device to secure the ladder in an upright position. Pools less than four (4) feet above ground shall be fenced the same way an in ground pool is fenced.
4. Such pool shall be adequately screened or otherwise situated so as not to be obtrusive from the public right-of-way or to present a nuisance to any adjoining area.
5. Such pool shall not adversely affect the character of any residential neighborhood and all lighting or other appurtenances shall be so arranged as not to interfere with neighboring uses.

In addition, a swimming pool to be constructed or installed as an accessory to a motel, tourist or like accommodation or as part of any commercial or club facility shall be permitted after application to, and issuance of a Permit therefore, by the Codes Enforcement Officer. Such swimming pool shall be so located as not to cause a hazard and shall be designed and located in accord with acceptable engineering standards and any applicable County and State requirements.

I. Accessory Apartments – Accessory apartment units shall be permitted only upon the review and approval of a Site Plan by the Planning Board and provided that:

1. The principal dwelling unit is owner occupied;
2. The accessory unit has a maximum floor area of seven hundred fifty (750) square feet;
3. The accessory unit shall be entirely self contained, with separate cooking, sanitary and sleeping facilities for the exclusive use of the accessory unit's occupant(s);
4. Any exterior changes made to the principal building shall be made on the existing foundation(s);
5. Two (2) off-street parking spaces shall be provided for the accessory unit ;
6. The accessory unit shall conform to all requirements of Building Code;
7. There shall be no more than one (1) accessory unit per lot;
8. The accessory unit shall be located in the principal building.

J. Fences, Walls and Hedges

1. Fences and walls shall be constructed of durable materials, maintained in good condition, and not be allowed to become dilapidated.
2. No barbed wire, electric, or wire fences with sharp points shall be permitted in any R-16, R-20, RM, CN, or PD district. Agricultural operations are exempt.
3. No fence or wall shall exceed six (6) feet in height in any zoning district. No fence, wall or hedge shall be constructed any closer than two (2) feet from any lot line. Front yard fence height shall be a maximum of four (4) feet or a height as determined by an area variance by approval of the Zoning Board of Appeals.
4. In yards abutting a street, the height of the fence or wall shall be determined to be the total effective height measured from the finished grade on the side nearest the street. In

yards not abutting a street, the height shall be the total effective height above finished grade measured on the side nearest the abutting property.

5. No fence or wall shall be constructed any closer to the right-of-way of any road than two (2) feet in any zoning district.
6. No fences, walls or hedges shall be constructed/grown so as to create a situation in which motorists backing out of driveways would have to back into traffic, or nearly into traffic in order to see if there is any oncoming traffic.
7. No changes, alterations, or additions to any nonconforming fence or wall shall be permitted in any zoning district unless the change complies with all the requirements of this Section.
8. Fence material shall be approved by the Codes Enforcement Officer/Review Panel.
9. Fences shall be installed with the finished side towards the neighbor's side. (Posts on installer's side)

Section 28 - Home Occupation

- A. The Home Occupations provisions below allow limited non-residential use of a residential property to the degree it does not infringe upon the general character, land values, and residential qualities of the neighborhood.
- B. Exempt Uses: The following activities are generally considered to be normal accessory uses of residential property and exempt from these requirements:
 1. Hobbies -- Hobbies of a non-commercial nature which do not constitute a nuisance by reason of smoke, odor, vibration, dust, or noise. There shall be no paid employees or assistants.
 2. Yard/Garage Sales -- Yard/garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any ninety-day period.
 3. Receipt of mail and the making and receiving of telephone calls or other routine office work done exclusively by the dwelling unit resident related to an off-site business or organization to the extent that non-resident visitors do not customarily come to the property.
- C. The following activities are generally considered to be accessory uses allowed in agricultural zones and exempt from these requirements:
 1. Farm Stand -- This use includes the sale of firewood or agricultural products predominately grown or produced from products grown on the property.
- D. The following activities are generally considered to be commercial uses not allowed as home occupancies.
 1. Retail Sales -- On-site sales of goods or merchandise contained on the property to members of the general public who come to the property.
 2. Health Practitioner or Beauty Care Provider -- Any medical, dental, hair stylist, or similar service, treatment, or activity that provides services on site to non-resident visitors. The general management office of such a business can be considered a home occupation provided no services are rendered on premise and it meets the other applicable requirements.
- E. A Home Occupation is subject to Site Plan Approval. As part of the Site Plan Review process, the Planning Board shall determine that Home Occupation complies with the following conditions:

1. Home occupations shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes, and shall conform to the regulations and requirements of the applicable zone. The area used for the home occupation shall meet all applicable building codes for habitable space.
2. No person other than a resident of the dwelling unit is engaged as a volunteer or employed on site in the home occupation.
3. No Home Occupation shall require exterior alterations to the primary structure and result in no exterior indication of the home occupation or variation from residential character of the principal building. The home occupation shall not require internal construction modifications of a nature not normally found in residential structures.
4. There are no outside operations, storage or display of materials, products or stock-in-trade.
5. Areas used for the home occupation shall be arranged so that the residential character of the neighborhood is not impacted by doors left open during business operation
6. No hazardous materials shall be used, stored or disposed of on site. No explosive, toxic, combustible, or flammable materials in quantities normally requiring a permit shall be used or stored on the premises.
7. No exterior sign or window display is allowed.
8. Adequate off-street parking and sight-distance are required.
9. Any off street parking required by the home occupation beyond that generally found in the neighborhood shall be provided behind the required front yard and appropriately screened.
10. The home occupation does not displace or impede use of parking spaces required by these Zoning Regulations.
11. Visitors, customers or deliveries do not exceed that normally and reasonably occurring for a residence. The home occupancy shall not cause more than three vehicles (including vehicles used by customers, vendors, or delivery services) to visit per day.
12. No truck deliveries are allowed (except for parcel services such as UPS or Federal Express).
13. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials are used or stored on the site.
14. No equipment or process is used which noise, vibration, smoke, dust, heat, glare, fumes, odors or electrical interference detectable beyond the property line of a detached unit or the party wall of an attached unit.
15. No electrical equipment is utilized which produces visual or audible interference in any radio or television receiver or any communication equipment off the premises, or cause fluctuation in line voltages off the premises.
16. No process is used which is hazardous to public health, safety, morals or welfare.
17. In no case shall there be any detectable activity earlier than 7:00 a.m. or later than 9:00 p.m.
18. The home occupation shall not involve livestock or animals unless it is in an agricultural zone.
19. If the residential address is used in an advertisement, the words "by appointment only" shall be included in the advertisement.
20. The number of home occupations at one address is not limited except the cumulative impact shall not exceed these regulations.

F. An approval for home occupation is non-transferable; any change of home occupation requires a new application.

Section 29 - Off Street Parking and Loading Requirements

A. Applicability

In any zoning district within the Town, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations. When an existing structure or use is expanded, accessory off-street parking shall be provided in accordance with the following regulations for the area or capacity of such expansions.

The provisions of this Section shall not be deemed to apply motor vehicle storage or display parking areas associated with a vehicle sale, rental or ancillary service establishment, except as may be qualified elsewhere in this Ordinance.

B. General Provisions

1. All required off-street parking spaces shall be located on the same lot as the structure or use to which they are accessory or on a lot contiguous thereto which has the same zoning classification and is under the same ownership; provided that where there are practical difficulties or if the public safety and/or public convenience would be better served by a location other than the one on the same lot or on a contiguous lot with the use to which it is accessory, the Planning Board, acting upon a specific application, may authorize such alternative location subject to the following conditions.
 - a. Such required space shall be located on land in the same ownership as that of the land on which is located the use to which such space is accessory or, in the case of the cooperative provision of parking spaces, as provided in Paragraph 4 below, in the ownership of at least one of the participants in the combination; and
 - b. All other requirements of this section are met.
2. Parking spaces are to be a minimum of 9 ½' wide by 18' long with 24' aisles unless specifically approved otherwise by the Planning Board.
3. All parking and loading areas shall be paved unless specifically waived by the Planning Board.
4. All uses where off-street parking spaces are required, except one family dwellings, shall be required to provide off-street parking spaces for handicapped persons. Such parking spaces shall be provided in accordance with the following requirements:
 - a. The number of handicapped parking spaces shall conform to the requirements of the Americans with Disability Act and no less than listed in the following table:

Total Off-Street
Parking Required

Parking for the
Handicapped Required*

1 to 25	1
26 to 50	2
50 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
500 and up	2% of the total

* One in every eight (8) accessible spaces must be van accessible.

- b. In no instance shall the width of any one space and its associated access be less than sixteen (16) feet. Such spaces shall be identified by a sign and suitable permanent marking indicating parking for the handicapped only.
- c. Such spaces shall be the spaces closest to the entrance to the building or use for which they are provided and shall be connected thereto by a paved surface of which no less than eight (8) feet in width is unobstructed and has no point at which the gradient exceeds one (1) foot rise or fall in twenty (20) feet.

- 5. No off-street parking facilities for a structure or use permitted in a CN, CG , or IN district shall be located in a residential district.
- 6. Required off-street parking spaces may be provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Planning Board.

The amount of such combined space shall equal the sum of the amounts required for the separate uses; provided, however that the Planning Board, may reduce the total number of parking spaces required by strict application of the requirements when it can be determined that the same spaces may adequately serve two (2) or more uses by reasons of the hours of operation of such cases.

- 7. All required off-street parking spaces and their appurtenant aisles and driveways shall be deemed to be required space on the lot on which the same are situated and shall not be encroached upon or reduced in any manner except upon approval by the Planning Board, in any of the following circumstances:

- a. Such space may be reduced by the amount to which other space conforming to the provisions of the Section is provided for the use that is involved, or
- b. Such space may be reduced by an amount that is justified by a reduction in the size or change in the use to which such appurtenant.

- 8. Notwithstanding the provisions of Paragraph 5 above, if off-street parking spaces are provided in an amount exceeding the minimum number required by this Section, no reduction in said excess spaces as shown on the approved Site Plan shall be permitted unless expressly approved by the Planning Board in writing.

9. In no event shall the required off-street parking spaces be reduced as permitted in Paragraph 5 above if the additional landscaping is to be located in a required front yard or floodplain and adjacent slopes in excess of fifteen percent (15%) gradient based upon the topography prior to any site preparation.
10. Except as may be qualified elsewhere in this Ordinance, off-street parking spaces may be located in any required yard but not nearer to any lot line than ten (10) feet. Except as may be qualified elsewhere in this Ordinance, parking structures and carports shall be subject to the minimum yard requirements applicable in the zoning district in which the use is located.
11. All off-street parking facilities shall be used solely for parking of vehicles in operating condition by patrons, occupants or employees of the use to which parking is accessory. No motor vehicle work except emergency service shall be permitted in association with any required off-street parking facilities.
12. All off-street parking spaces shall be provided with safe and convenient access to a street. If any such space is located contiguous to a street, the street side thereof shall be curbed, and ingress and egress shall be provided only through driveway openings in the curb of such dimension, location and construction as may be approved by the Town Engineer after consultation with the Planning Board.
13. All off-street parking areas, including aisles and driveways except those required for one family dwellings, shall be constructed and maintained with an all-weather dust-less surface. Off-street parking areas including their related aisles and driveways, may upon approval by the Planning Board, be exempted from this provision if such facilities are for a temporary purpose provided, however, that such areas shall be graveled and maintained in accordance with standards approved by the Board.
14. Parking spaces required on an employed person basis in the Sections that follow shall be based on the maximum number of employees/persons on duty or residing, or both, on the premises at any one time, or the occupancy load of the building, whichever is greater.
15. Where a given use or building contains a combination of uses as set forth in the following Sections, parking shall be provided on the basis of the sum of the required spaces for each use.
16. If there is uncertainty with respect to the amount of parking space required by the provisions of this Ordinance as a result of indefiniteness as to the proposed use of a building or piece of land, the maximum requirement for the general type of use that is involved shall govern.
17. Where the required number of parking spaces is not set forth for a particular use in the following Sections, and where there is no similar general type of use listed, the Planning Board shall determine the basis for the number of spaces to be provided.
18. In R-20, R-16, RM and AG Districts, trucks larger than $\frac{3}{4}$ tons, (except used for on-site farming), motor homes, recreational vehicles, travel trailers, boats and similar conveyances may not be parked or stored in the front yard. No more than one (1) motor home, travel trailer, or recreation vehicle can be parked/stored in a side or back yard. Not more than one vehicle with a business name shall be allowed.

C. Minimum Required Spaces for Residential and Lodging Uses

Minimum off-street parking spaces accessory to the uses hereinafter designated shall be provided as follows:

1. **Dormitory, Fraternity, or Sorority House, and/or other similar types of Residence Hall:** One (1) space per each sleeping accommodations based on the occupancy load of the building, plus one (1) additional for each housemother, manager or employee.
2. **Dwelling, One Family:** Two (2) spaces per unit.
3. **Dwelling, Two Family:** Two (2) spaces per unit.
4. **Dwelling, Multiple Family:** Two (2) spaces per unit.
5. **Hotel, Motel:** One (1) space per rental unit, plus four (4) spaces per fifty (50) Rental units, plus such spaces as are required for eating establishments, assembly rooms and affiliated facilities as determined by the Planning Board.
6. **Housing for the Elderly or Nursing/Convalescent Facility:** One (1) space per four (4) dwelling units, plus one (1) space per one (1) employee or staff member on the major shift, or such greater number as determined by the Planning Board.
7. **Mobile Home:** Two (2) spaces per unit.
8. **Tourist House, Boarding House, Rooming House, Bed & Breakfast:** One (1) space per guest accommodation, plus two (2) spaces for permanent occupant.

D. Minimum Required Spaces for Commercial and Related Uses

Minimum off-street parking spaces accessory to the uses hereinafter designated shall be provided as follows:

1. **Bowling Alley:** Four (4) spaces per alley, plus one (1) space per employee, plus such additional spaces as may be required herein for affiliated uses such as eating establishments.
2. **Business Service and Supply Service Establishment:** One (1) space per 300 square feet of gross floor area.
3. **Car Wash:** Four (4) spaces per bay/stall plus one (1) space* per employee for a self service establishment, or one (1) space per employee, plus sufficient area for ten (10) stacking spaces per bay/stall for automated establishment.
4. **Drive-In Bank:** One (1) space per 250 square feet of net floor area, plus sufficient area for eight (8) stacking spaces for the first drive-in window and two (2) stacking spaces per each additional row.
5. **Eating Establishment or Fast Food Restaurant:** One (1) space per four (4) seats plus one (1) space per two (2) employees where seating is at tables. One (1) space per two (2) seats and/or plus one (1) space per two (2) employees where seating is at a counter.
6. **Fast Food Restaurant (with no eating facilities):** One (1) space per sixty (60) square feet of net floor area with a minimum of ten (10) spaces.
7. **Financial Institution:** One (1) space per 250 square feet of net floor area.
8. **Furniture or Carpet Store:** One (1) space per 500 square feet of net floor area, plus one (1) space for each employee.
9. **Home Professional Office:** As determined by the Planning Board a sufficient number of spaces to accommodate all employees plus the largest number of persons that may be expected at any one time.

10. **Medical or Dental Clinic:** Four (4) spaces per examination or treatment room, plus one (1) space for each doctor and employee.
11. **Medical or Dental Practitioner Office:** Six (6) spaces per practitioner.
12. **Office** (unless otherwise provided for in this Section): Four and one half (4 ½) spaces per 1,000 square feet of net floor area plus one (1) space per company vehicle.
13. **Outdoor Sales/Display Area Other than Vehicle Sale, Rental and Ancillary Service Establishment:** One (1) space per 5,000 square feet of open sales/display area plus one (1) space per employee.
14. **Personal Service Establishment:** One (1) space per 200 square feet of gross floor area.
15. **Quick-Service Food Stores:** One (1) space per 150 square feet of net floor area for the first 1,000 square feet, plus eight (8) spaces per each additional 1,000 square feet.
16. **Recreational Facility:** Other than Theater, Auditorium, Stadium, Bowling Alley or Swimming Pool; One (1) space per three (3) persons based on the occupancy load plus one (1) space per employee.
17. **Retail Sales Establishment:** Except Furniture or Carpet Store; One (1) space per 100 square feet of net floor area for the first 1,000 square feet, plus eight (8) spaces per each additional 1,000 square feet.
18. **Repair Service Establishment:** One (1) space for 200 square feet of gross floor area.
19. **Gasoline Station:** Two (2) spaces per service bay, plus one (1) space per employee but never less than five (5) spaces.
20. **Shopping Center:** One (1) space per 100 square feet of net floor area.
21. **Swimming Pools, Commercial:** One (1) space per four (4) persons lawfully permitted in the pool at one time plus one (1) space per employee.
22. **Theater, Auditorium or Stadium:** One (1) space per four (4) seats or similar vantage accommodation provided plus one (1) space per two (2) employees.
23. **Vehicle Light Service Establishment:** One (1) space per 200 square feet of net floor area, plus two (2) spaces per service bay, plus one (1) space per employee.
24. **Vehicle Major Service Establishment:** Two (2) spaces per service bay, plus one (1) space per employee.
25. **Vehicle Sale, Rental and Ancillary Service Establishment:** One (1) space per 500 square feet of enclosed sales/rental floor area, plus one (1) space per 2,500 square feet of open sales/rental display lot area, plus two (2) spaces per service bay, plus one (1) space per employee, but never less than five (5) spaces.
26. **Vendor/Flea Market:** Five (5) spaces for each Booth/Table/Rental Space.
27. **Wholesale Trade Establishment:** One (1) space per 1.5 employees, plus one (1) space per company vehicle, but with a minimum of one (1) space per 1,000 square feet of gross floor area.

E. Minimum Required Spaces for Industrial and Related Uses

Minimum off-street parking spaces accessory to the use hereinafter designated shall be provided as follows:

1. **Manufacturing Establishment** or establishment for production processing, assembly, compounding, preparation, cleaning, servicing, testing, repair or storage of materials, goods or products, and business offices accessory thereto: One (1) space per company vehicle and piece of mobile equipment.

2. **Heavy Equipment Sales, Rental and Service Establishment:** One (1) space per 500 square feet of enclosed sales/rental floor area, plus one (1) space per 2,500 square feet of open sales/rental display lot area, plus two (2) spaces per service bay, plus one (1) space per employee, but never less than five (5) spaces.
3. **Scientific Research and Development Establishment:** One (1) space per 1.5 employees based on the occupancy load, plus one (1) space per company vehicle.
4. **Warehousing, Storage Yard, Lumber and Building Material Yard, Motor Freight Terminal or Junk yard:** One (1) space per 1.5 employees on major shift, plus one (1) space per company vehicle, plus sufficient space to accommodate the largest number of visitors that may be expected at any one time, but a minimum of one (1) space per 1,000 square feet of gross floor area.

F. Minimum Required Spaces for Other Uses

Minimum off-street parking spaces accessory to the use hereinafter designated shall be provided as follows:

1. **Ambulance Service or Rescue Squad:** Adequate space to accommodate all motor vehicles operated in connection with such use and two (2) additional parking spaces per each such vehicle.
2. **Church, Chapel, Temple, Synagogue or other such place of Worship:** One (1) space per four (4) seats in the principal place of worship; provided that the number of spaces thus required may be reduced by not more than fifty percent (50%) if the place of worship is located within 500 feet of any public parking lot or any commercial parking where sufficient spaces are available by permission of the owner(s) without a charge, during the time of service to make up the additional spaces required.
3. **College or University:** Based on a review by the Planning Board of each proposal including such factors as the occupancy load of all classroom facilities, auditorium and stadiums, the availability of mass transportation, and the availability of areas on-site that can be used for auxiliary parking in times of peak demand, but in no instance less than one (1) space per faculty and staff member and other full time employees, plus a sufficient number of spaces to accommodate the anticipated number of students and visitors who will drive to the institution at any one time.
4. **Culture Center, Museum or Similar Facility:** One (1) space per 300 square feet of gross floor area.
5. **Funeral Chapel, Funeral Home:** One (1) space per four (4) seats in the main chapel or parlor, plus one (1) space per two (2) employees, plus one (1) space for each vehicle used in connection with the business.
6. **Group Day Care Facility, Day Care Center, Nursery School, School or General Education or School or Special Education:** Two (2) spaces per each three (3) employees, plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions.
7. **Hospital:** One (1) space per two (2) beds, plus 1.5 spaces per each emergency room examination table or bed plus one (1) space per employee on the major shift other than doctors, plus one (1) space per doctor assigned to the staff.
8. **Institutions Providing Intensive Special Medical/Mental Care or Welfare Institution:** One (1) space per two (2) patients, based on the occupancy load, plus one (1) space per employee or staff member on a major shift.

9. **Private, Civic, Fraternal Club or Lodge:** One (1) space per three (3) members based upon maximum anticipated membership.
10. **Public Utility Establishment:** One (1) space per 1.5 employees on the major shift, plus one (1) space per company vehicle.
11. **Swimming pool, Community:** One (1) space for every seven (7) persons lawfully permitted in the pool at any one time, plus one (1) space per employee.
12. **Tennis Club:** Four (4) spaces per court, plus such additional spaces as may be required herein for affiliated uses such as eating establishments.

G. Construction Equipment

1. Construction equipment may be parked on premise only during construction. Other parking of construction equipment shall be subject to equipment storage requirements.

H. Off-Street Loading

At least one off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered to have a gross floor area in excess of 5,000 square feet. Space for off-street loading shall be in addition to space for off-street parking.

Each facility shall be subject to the following minimum requirements:

1. Each berth shall not be less than twelve (12) feet wide, thirty-three (33) feet long, and fourteen (14) feet in height if covered.
2. Space for such berth may occupy any part of any required side or rear yard, except no such berth shall be located closer than fifty (50) feet to any residential district or use.

Section 30 - General Sign Regulations

The following regulations shall apply to all signs:

1. No sign shall be erected, altered or reconstructed without the issuance of a sign permit by the Codes Enforcement Officer (refer to Section 35 for permit requirements).
2. All signs shall be constructed in accordance with all the Building Code; shall be maintained in good condition; shall be kept free of defects and hazards.
3. All signs to be of professional quality and design, letters of same size, all aligned, etc. Hand painted signs of amateur quality are not permitted.
4. Signs shall not be erected within the public right-of-way.
5. No sign shall obstruct any fire escape (or door leading thereto) or window, nor shall any sign be attached to a fire escape.
6. All signs shall be plainly marked with the name and address of the sign and/or property owner.
7. Illumination of signs shall be so arranged so as to prevent direction thereof upon a public street or adjacent premises that may constitute a traffic hazard or public nuisance.
8. No sign shall be audible.
9. No free standing sign shall exceed thirty (30) feet in height.

10. Upon the issuance of a sign permit (other than a temporary sign), the applicant shall have a six (6) month period in which to erect, alter, or reconstruct said sign; following the expiration of said period of time, the permit shall be null and void.

11. For all signs which are proposed to have frontage along a State or County roadway, the applicant must first receive approval from the appropriate State or County agency for the placement of such sign prior to making application to the Town for a permit pursuant to Section 35 of this Ordinance. 12.

Signs may only be permitted within the FP, Floodplain District following review and approval by the Planning Board.

13. No signs to be allowed in Residential or Agricultural Districts without approval from the Review Panel or Planning Board except posted political signs and farm identification.

14. Portable signs are to be removed within thirty (30) days or be subject to permit requirements.

15. The location of any temporary signs and product advertising signs outside of a commercial building is subject to the approval of the Codes Officer.

Section 31 - Signs Permitted in All Districts

1. Name plates and Identification Signs

a. In Multiple-Family Residential Districts, for buildings other than dwellings, a single identification sign not exceeding twelve (12) square feet in area and indicating only the name and address of the building and the name of the management may be displayed, except in the case of lots with more than one frontage, in which case one sign for each frontage shall be permitted.

2. Sales or Rental Signs

Signs advertising the sale or rental of the premises upon which they are located may be erected or maintained, provided:

- a. The size of any such sign does not exceed six (6) square feet of area in any residential district;
- b. In any non-residential district the size of such sign does not exceed one hundred (100) square feet in area;
- c. Not more than one sign shall be placed upon a property unless such property fronts on more than one street, in which event one sign may be erected on each frontage; and
- d. Such sign(s) shall be removed within thirty (30) days after the premises has have been sold or rented.

3. Signs Accessory to Parking Area

Signs designating entrances or exits to or from a parking area are limited to one sign for each exit and entrance, said signs to be limited to a maximum size of four (4) square feet, in addition each parking area shall be permitted one sign per street frontage which designates identity and restrictions for parking.

4. Development Signs

Signs may be erected on premises in conjunction with the development thereof pursuant to the following limitations:

- a. A development sign advertising a subdivision comprised of from two (2) to ten (10) dwelling units may be erected at each entrance of said subdivision, said signs shall not exceed thirty-two (32) square feet in sign area.
- b. A development sign advertising a subdivision comprised of from eleven (11) to twenty (20) dwelling units may be erected at each entrance of said subdivision, said signs shall not exceed forty-eight (48) square feet in sign area.
- c. A development sign advertising a subdivision comprised of more than twenty (20) dwelling units may be erected at each entrance of said subdivision, said signs shall not exceed sixty-four (64) square feet in sign area.
- d. All development signs shall be removed by the developer within thirty (30) days from the sale of rental of one-hundred percent (100%) or the total proposed development.

4. Artisan Signs

Signs of carpenters, painters, and other artisans may be erected on the customer’s premises during the period such artisans are performing work on said premises, provided:

- a. The size of said sign shall not exceed twelve (12) square feet in sign area; and
- b. Such signs are to be removed by said artisans immediately upon completion of the work.
- c. Garage sale signs no larger than 12” x 18”, must be removed within twenty-four (24) hours after the sale.

Section 32 - Signs in Non-Residential Districts

1. General Requirements

No business signs in a non-residential district shall project more than six (6) feet from the main wall of the building upon which it is mounted; any such projecting or overhanging sign shall provide not less than ten (10) feet of clearance between the bottom of the sign and the existing ground level (these limitations shall not apply to permanently constructed canopies, arcades, theater marquees, or pedestrian shelters).

No sign shall extend above the roof line of any building(s) within fifty (50) feet of the building. Signs shall be subject to “set back” dimensions, front and sides. For example: Front yard ten (10) feet plus height of sign, side yards, height of sign.

2. Maximum Allowable Sign Area

The following sign area of any business sign shall conform with the following:

<u>Zoning District</u>	<u>Maximum Sq. Ft. of Sign/Linear Feet of Building Frontage</u>
CN	¼ :1
CG	½ :1 *
IN	½ :1 *
FP	¼ :1

* SF can be doubled along River Road frontage from 800' West of Cavanaugh Road to 800' East of Edic Road.

3. Maximum Number of Signs. One (1) sign allowed for each business on the building plus one on free standing pole/post. The total sign area of all the signs shall not exceed the maximum allowed.
4. Only one shopping center identification sign including business tenant's business name only, as defined herein shall be permitted at the main entrance of any shopping center. Additional signs will only be permitted on each tenant's façade (one (1) maximum).
5. Signs one-hundred (100) square feet or more shall have an approved New York State Architects/Engineering Plan when applying.

Section 33 - Outdoor Advertising Signs

Outdoor advertising signs (i.e. bill board) shall be granted a permit only upon compliance with the following provisions:

- a. Outdoor advertising signs (i.e. billboards), shall be permitted in the CN, CG, and IN districts, subject to Site Plan Review by the Planning Board (Section 20); permits shall be for five (5) years, renewable as per (i) below.
- b. Outdoor advertising signs (i.e. bill boards), shall be no closer to one another than one thousand (1,000) feet in any direction.
- c. All outdoor advertising signs shall be a minimum of ten (10) feet from any property line plus the height of the sign and not less than fifty (50) feet minimum for the front yard setback. All other setbacks shall conform to the minimum building setback requirements.
- d. No sign shall extend above the roof line of any building(s) within fifty (50) feet of the sign.
- e. No outdoor advertising sign shall exceed three hundred (300) square feet in sign area.
- f. No outdoor advertising sign shall be mounted on a building's rooftop.
- g. The name of the person(s) erecting and maintaining an outdoor advertising sign shall be plainly marked on such sign.
- h. All applicants for outdoor signs shall be accompanied by a stamped New York State Architect/Engineer approval plan.
- i. A permit shall be renewed by the Codes Enforcement officer for a five (5) year term, provided the sign meets all conditions of these Zoning Regulations and of the permit conditions under which the outdoor advertising sign was erected.
- j. The owner of the property on which an outdoor advertising sign is located, which is in existence on the effective date of these Zoning Regulations, shall, within six (6) months of the effective date of these Regulations, apply for a permit for each sign. Failure to submit a complete application shall constitute a violation of these Regulations. The Planning Board shall issue a permit, subject to appropriate conditions, as if the subject of the application were a new sign. If the sign does not conform, the Planning Board may issue a permit providing for bringing the sign into conformity within a stated period of time or, if that is not possible, for removal of the sign after a reasonable amortization period. The amortization period shall not exceed five (5) years unless the applicant provides dollars-and-

cents proof satisfactory to the Planning Board, that a longer amortization period is required to permit the applicant reasonable time to recoup his/her investment.

Section 34 - Temporary Signs

1. General Requirements

Temporary signs, excluding political posters, banners and promotional devices (i.e. garage sales, yard sales, barn sales, etc.) shall require a permit. Such permit shall expire ninety (90) days after issuance thereof and may not be renewed. Such temporary sign shall not be placed in a position that obstructs or impairs vision of motorists and pedestrians or creates a hazard or nuisance. Permits for such signs in no event shall authorize more than one (1) sign. Excluded signs shall be removed within forty-eight (48) hours after election, sale, etc. Banners and promotional signs are not allowed for a duration greater than 10 days.

2. Removal

In the event such temporary signs have not been removed upon expiration of the permit, the Codes Enforcement Officer shall cause the signs to be removed, the cost of which is to be charged to the applicant.

Section 35 - Sign Permit Requirements

1. General Requirements

- a. No person shall erect, alter, or reconstruct any sign without first obtaining a permit from the Codes Enforcement Officer.
- b. Applications for sign permits shall be made in writing on forms provided by the Enforcement Officer, and shall contain the following information:
 1. Name, address, and telephone number of applicant(s);
 2. Location of structure of real property upon which the sign is to be attached or erected, as well as the location of the public right-of-way line, if applicable;
 3. A drawing (to scale) shall be submitted showing the construction details, lettering and/or pictorial construction details, lettering and other extraneous devices. (Note: This information shall not be required for the erection of a temporary sign); and
 4. Written consent of the owner of the structure or real property upon which the sign is to be attached or erected, in the event the applicant is not the building or property owner.

Section 36 - Unsafe Signs/Signs Not in Use

1. Unsafe Signs

Any sign found to be unsafe or derelict upon inspection by the Codes Enforcement Officer, shall be repaired or made secure by the permit applicant of record. The Enforcement Officer shall give notice by certified mail, return receipt requested to such person to repair or remove such unsafe or derelict sign within five (5) days of receipt of said notice. If the sign is not repaired, made secure, or removed within said time period, or within such additional time as the Enforcement Officer may allow, the permit issued for

said sign shall be revoked and the sign shall be ordered removed by the Enforcement Officer. Said sign shall thereafter be handled in accordance with Section 35.

If a sign is found to be a source of imminent peril to persons or property, the Enforcement Officer shall cause said sign to be immediately removed without notice to the permit applicant of record or property owner.

2. Signs Not In Use

A sign which advertises a defunct business or product so that the content of the sign is no longer appropriate to the purpose(s) for which it was intended shall be removed by the permit applicant of record or the property owner within sixty (60) days. A sign structure not displaying advertisement for a period of ninety (90) days shall be removed.

Section 37 - Enforcement of Sign Regulations

1. Signs & Sign Structure/Post Found to be in Violation

Whenever the Enforcement Officer determines that a violation of Section 30 through 36 has occurred, written notice shall be served upon the permit owner by certified mail, return receipt requested, at their last known address. Such notice shall specify the alleged violation. Such notice of violation shall automatically become a Final Order if the violation is not corrected within the specified time period.

Section 38 - Sanitation

A. General

The requirements and standards set forth in this Section are minimum criteria and wherever any applicable Town, State or County standard shall make additional requirements or establish a higher or more restrictive standard such additional or more restrictive standard shall govern. For more information, refer to Section 29, "Water Supply and Distribution" and Chapter 30,"Sanitary Drainage" of the Residential Code of New York State.

B. Water Supply

1. Potable water from an approved source shall be available at all times in any residential building or dwelling unit and in every building in which plumbing fixtures are installed. Water supply systems shall be installed and maintained so as to provide a supply of water to plumbing fixtures and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily and in a manner that will preclude the possibility of contamination.

2. All new construction containing plumbing fixtures shall be connected to a water supply system whenever the nearest main is no more than one hundred (100) feet from the nearest point of the property and when such connection may

be made lawfully thereto.

3. Any individual or private system or well shall be located at least one hundred (100) feet distant from any tile field or seepage pit, fifty (50) feet from any septic tank and five (5) feet from any lot line.

C. Sewage Disposal

1. Plumbing fixtures shall be drained to a sewage drainage system and such system shall be connected to a public sewer or to an adequate and approved system of sewage disposal.
2. All new construction containing plumbing fixtures shall be connected to a public sewer whenever the nearest sewer is no more than one hundred (100) feet from the nearest point of the property and when such connection may be made lawfully thereto.
3. Where an individual sewage disposal system is necessary, it shall be designed by a licensed professional engineer and be so located, installed, and maintained so as to insure the reception and disposal of sewage and other waste without creating a health hazard or nuisance resulting in obnoxious odors or unsightliness and shall further not be discharged into or on the ground or any waterway until first rendered harmless through subjection to proper treatment.
4. In particular the sludge, discharge or other material pumped or removed on a commercial basis from any septic tank or sewage pit shall be disposed of in a place and in such manner as approved by the Oneida County Board of Health and in accord with any applicable State or County requirements, after a Permit has been applied for and granted for this purpose. No dumping, release or discharge of such septic tank effluent shall be permitted in the Town until the above Permit has been obtained.
5. Any individual sewage disposal system with a capacity of 1,000 gpd or less, shall be designed, located, installed and maintained according to Section 201(1) (1) of the Public Health Law, Appendix 75-A of Part 75 of Chapter II, Title 10 (Health) of NYS CRR and the following procedures.

a. Site Investigation: An investigation of the site including soil and subsurface conditions shall be conducted by a licensed professional engineer, to determine compliance with all applicable New York State or Oneida County requirements, prior to the installation of any individual sewage disposal system. Such inspection shall determine that:

1. Site conditions are such as to provide adequate drainage of surface water;
2. Subsurface conditions are such as to permit the proper installation of any absorption field with a minimum separation of at least two (2) feet above ground water at its seasonal high solid rock formations or impermeable layers;
3. Stabilized percolation rates of less than sixty (60) minutes can be expected in the area where the proposed disposal system is to be located.
4. There is at least ten (10) feet of soil above solid rock formations where both an individual water supply and sewage disposal system are proposed.

Where these conditions cannot be met or where there is substantial doubt on the part of the Codes Enforcement officer that they could be met, an "alternate system" designed and submitted by a design professional in accordance with the design manual *NYSDOH*

Appendix 75-A will be required together with approval by the Oneida County Department of Health.

b. Design, Size and Location of the System

1. Only wastes from plumbing fixtures shall be connected to the sewage disposal system. Surface and subsurface water, including roof, cellar, yard, or road run-off shall not only be excluded from the disposal system, but shall be disposed of so they in no way affect the system.
2. All individual disposal systems shall be designed on the basis of 130 gpd/bedroom for homes using water saving fixtures or 150 gpd/bedroom for homes not using water saving fixtures. No septic tank shall have a liquid capacity of less than 1000 gallons. An additional 250 gallons of capacity is required where garbage grinders are to be used.
3. The house sewer line extending from the outer foundation wall to the septic tank shall be constructed of four or six inch diameter tight-jointed pipe. The sewer line shall be laid on a firm foundation at a minimum grade of one-quarter inch (1/4") per foot without any bends.
4. Septic tanks must be water tight and constructed of durable materials not subject to excessive corrosion, decay, frost damage or cracking and shall have a minimum liquid depth of thirty (30) inches and a maximum liquid depth of five (5) feet.

Metal septic tanks where used must conform to Commercial Standard 177-62 of the U.S. Department of Commerce and have a label indicating corrosion protection complying with underwriters lab, Standard UL-70 or equivalent. Use of metal septic tanks is not encouraged.

In addition:

- a. The top of the tank shall be twelve (12) inches maximum below finished grade with a suitable soil cover and be provided with a suitable manhole.
 - b. Pre-cast concrete tanks shall be placed on a bedding of at least three (3) inches of sand or pea gravel for proper bearing.
5. Absorption fields shall not be constructed under driveways, parts of buildings, under above ground swimming pools or other areas subject to heavy loading and shall be located at least one hundred (100) feet from any source of individual or ground water supply, twenty (20) feet from the foundation walls and ten (10) feet from any property line, and in addition shall:
- a. Be constructed in accord with the dimensions and contour of the lot.
 - b. Have at least two trenches with all trenches approximately equal in length and non in excess of sixty (60) feet.
 - c. Be connected to the distribution box with open jointed tile or perforated pipe on a bed of crushed stone or washed gravel at least six (6) inches in depth and at a grade not greater than one sixteenth (1/16) inch per foot nor less than one thirty second (1/32) inch per foot.
 - d. Be covered with two (2) inches of crushed stone and a suitable membrane to keep out the earth backfill.
 - e. Consist of the following number of lineal feet:

(Table below is from NYSDOH Appendix 75-A)

**TABLE 4A
REQUIRED LENGTH OF ABSORPTION TRENCH
(Based Upon Two (2) Feet Wide Trench)**

Flow Rate (Gals/Day)										
Percolation Rate (Min./Inch)	2 Bdrms		3 Bdrms		4 Bdrms		5 Bdrms		6 Bdrms	
	260	300	390	450	520	600	650	750	780	900
1 - 5	108	125	162	187	216	250	270	312	325	374
6 - 7	130	150	195	225	260	300	325	375	390	450
8 - 10	145	167	217	250	290	333	360	417	433	500
11 - 15	162	188	244	281	325	375	406	469	488	563
16 - 20	186	214	279	321	372	429	464	536	557	643
21 - 30	217	250	325	375	433	500	542	625	650	750
31 - 45	260	300	390	450	520	600	650	750	780	900
46 - 60	290	333	433	500	578	667	722	833	867	1000*
	Dosing Not Required				Dosing or Alternate Design Required					

*Greater than 1000 ft of trench requires Alternate Dosing

6. Where conditions are such that compliance with these standards would place an unusual hardship or where conditions render compliance an impossibility, upon application, a particular standard may be adjusted by the Oneida County Department of Health to ensure that the health and well being of the community is not violated or jeopardized.

7. Notification will be given to the Enforcement Officer when the required installations have been made and before they are covered in order that he may properly inspect them. Such inspection and official notification shall be made within ten (10) days.

D. Surface Drainage

subsurface water shall be appropriately drained to protect buildings structures and to prevent development of stagnant ponds or pools. drainage shall be conveyed to an adequate and approved system of storm disposal. Storm drains shall not discharge onto the sidewalk, street or adjacent property in such a manner as to create a nuisance or hazard.

1. Surface and and
2. Storm water

E. Garbage, Refuse, Pests

1. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse and such facilities shall be in accordance with established sanitary regulations.
2. In multiple dwellings, it shall be prohibited to store or accumulate garbage or refuse in public halls and stairways.
3. Grounds, buildings and structures shall be maintained free from vermin and rodents or similar creatures and methods used for exterminating them shall conform to generally accepted practice.
4. All dumpsters or similar garbage receptacles shall be visually screened either by fencing or some similar form of enclosure, all such receptacles shall have a suitable cover to ensure that garbage and other refuse cannot be blown out of such containers. Receptacles will not be allowed in front or roadside of buildings.
5. Grounds and buildings shall be maintained, free of refuse, junk, debris and other discarded material not used for useful purpose for a period of thirty (30) days. Grounds shall be maintained in a neat and orderly manner. Grass shall not be higher than 10”.
6. Sale items or storage of like items (wood, toys, appliances, etc.) shall not be in front or side yards.

Section 39 - Mobile Home Courts

A. It shall be unlawful for any person to park, store, or utilize a mobile home, for residential or non-residential purposes, on any public or private property in the Town of Marcy, except:

1. In an approved mobile home park.
2. In an approved mobile sales lot.
3. For the reconstruction of an existing residence, by the owner of the subject property, upon approval of both the Planning Board and the Zoning Board of Appeals. Such use may be approved only in such circumstances where, in the opinion of both boards, not to do so would cause a hardship on the property owner.

B. All proposed mobile home courts shall be subject to, and developed according to the Planned Development District procedures, as set forth in Section 22 of this Ordinance.

C. Any addition, expansion or alteration of an existing mobile home court shall comply with the provisions of this Ordinance. Existing courts shall comply in every regard with minimum standards for health, sanitation and cleanliness and they shall be required to obtain an initial and annual operating license.

D. A mobile home court shall have a minimum lot size of ten (10) acres.

E. Each individual mobile home lot shall be a minimum of 9,000 square feet in area, and at least ninety (90) feet wide and one hundred (100) feet in depth, and shall front onto an access driveway or street.

F. Within the mobile home court the minimum distance between individual mobile homes shall be thirty (30) feet. This minimum distance shall be maintained with regard to any additions, and/or structures, and/or any projection from the main building, except that unenclosed steps and awnings are exempt from this thirty foot minimum requirement.

G. Replacement of mobile homes in existing parks will only be permitted where existing clearance limits are maintained or the thirty (30) foot minimum requirement is met, whichever is less.

1. Individual mobile home lots may not be sold.

H. Sanitary Facilities

Sewer: All water supply and sewage disposal systems will comply with standards set forth in Section 38 and the plans shall be approved by the Department of Health or Department of Environmental Conservation as is applicable.

1. Water and
those
State

2. The following shall comply in every regard with those standards set forth in Section 38 of this Ordinance.

- a. Storm and Surface Drainage.
- b. Garbage and Refuse Disposal.

I. Utility and Fuel Installations

1. All electrical wiring, installations, fixtures and appurtenances shall be installed and maintained in accordance with the Building Code and Specifications and regulations of the local utility company. Wherever possible, electrical transmission and other utility lines shall be placed underground.
2. Liquefied Petroleum gas systems designed, installed and maintained in accordance with the Building Code and the National Fire Protection Association, Storage and Handling of Liquefied Petroleum Bases, Number 58, are deemed to meet the requirements of these Zoning Regulations.
3. Equipment for flammable liquids designed, installed and maintained in conformity with the Building Code and the National Fire Protection Association, Flammable & Combustible Liquids Code, Number 30, is deemed to meet the requirements of these Zoning Regulations.

J. Roadways

1. All internal roadways within the mobile home court shall have a right-of-way at least fifty (50) feet wide, even though these internal roads will not be offered for dedication to the Town, and shall have a paved course maintained in a dust free manner, the minimum width of which shall be twenty-four (24) feet.
2. There shall be no dead end streets in any court. A turn around will be provided in accord with those provisions set forth in the Town Subdivision Regulations.
3. No mobile home shall be located within thirty (30) feet of any internal roadway right-of-way. All front yard setbacks shall be in accordance with the requirements of this Ordinance.

K. Off Street Parking

1. A minimum of two off-street parking spaces shall be provided for each mobile home lot in the mobile home court outside the required road and shoulder area.

L. Recreation Area

1. An open space area of at least ten (10) percent of the total land area suitable for recreation and play purposes shall be designated on the Site Plan and shall be an integral part of any proposed mobile home court. No such open space area shall be placed in any designated floodplain or wetland.

M. Buffer Area/Transition Yard

1. A strip of land at least twenty-five (25) feet in width shall be maintained as a landscaped area abutting all mobile home property lines. Building, structures, pools, etc. shall not be allowed in any buffer area.

N. Improvements

1. Each mobile home owner/tenant shall be required to screen the area between the ground and the bottom of the mobile home with a suitable "skirt" properly ventilated, within ninety (90) days after location in the mobile home court. Notification of such requirement shall be the responsibility of the mobile home court operator.

O. Records

1. Each mobile home within the mobile home court shall bear a readily identifiable number.
2. Each mobile home court shall contain an office on the premises in which shall be maintained a book recording the names of each household head, and the mobile home number.
3. The court owner or his agent shall notify the Town Clerk in writing when a mobile home is moved from its location in the court.

P. Permits

1. No mobile home court shall be established in the Town until a Permit has been applied for and granted in compliance with this Ordinance. All permits for the establishment of a mobile home court shall be approved in accordance with the Planned Development Process.
2. Application for a permit for the establishment of a mobile home court shall include all information required in Section 22, and in addition;
 - a. A Site Plan to scale showing elevations, the layout of the court, individual mobile home lots, the roadway system, parking areas, water supply, sewage disposal and recreation area.

- b. A complete statement describing the proposed method of sewage disposal, water supply, electric, utility and other services.
 - c. Approval by the Oneida County or State Health Department with regard to matters under their jurisdiction.
3. The court owner or operator shall not allow a replacement mobile home to be installed without first obtaining a Certificate of Occupancy approved by the Enforcement Officer.

Q. License

1. The court owner shall not permit occupancy of any mobile home in the court, until a license to operate has been issued.
2. After such time that all conditions, specified for the establishment of the mobile home court, have been met and have been approved by the Enforcement Officer, said officer will issue an initial operating license.
3. All licenses shall be effective April 1st of the calendar year of their issuance. An application for a renewable operating license shall be made to the Town Clerk at least thirty (30) days prior to the expiration date of the previous license. Upon recommendation of the Enforcement Officer, the Town Board shall authorize or deny such license in accord with the requirements set forth in this Section and the established fee schedule.
4. Licenses shall not be transferred or reassigned and become void upon the transfer or change of ownership of the property.
5. Revocation: If the Town Board upon inspection finds that such mobile home court is not being maintained in a clean and sanitary condition or that such mobile home court is not being conducted in accordance with the provisions of this Ordinance, it shall serve upon the holder of such license or the person in charge of such mobile home court an order in writing, directing that corrective action with regard to the conditions therein specified be started within five (5) days after the service of such order and completed within thirty (30) days. If after the expiration of such period, such conditions remain unchanged, or are not corrected in accordance with the order of the Board, the Board shall serve notice in writing upon such license holder or person in charge of such mobile home court requiring the holder of such license to appear before the Town Board at a time and place to be specified in such notice, and show cause why such license should not be revoked. The Town Board may after a hearing, revoke such license if the holder has violated the regulations applicable to such mobile home court or has violated any of the provisions of this Ordinance. Upon the revocation of such license, the premises shall forthwith cease to be used for the purpose of a mobile home court and all occupants shall be removed therefrom.
6. Permits: A permit shall be obtained for any structural addition or alteration to any mobile home within a mobile home court, except for a self-contained storage or service building not to exceed ten (10) feet in length by ten (10) feet in width by eight (8) feet in height, and such permit shall include a provision for removing the structural addition at such time as the mobile home may be removed or relocated.

Section 40 - Reserved

Section 41 - Management and Disposal of Solid Wastes (non-Hazardous)

A. General Requirements

1. Enforceability: This regulation is intended to be consistent with the New York State Environmental Conservation Law and associated rules and regulations as stated in 6NYCRR Part 360, Solid Waste Management Facilities. In the event that any one or more of the provisions contained herein should for any reason be held to be unenforceable in any respect of the laws of the State of New York or relevant political subdivision, unenforceability of such provision shall not affect any other provision of this Section, but this Section shall be construed as such unenforceable provision had not been contained herein.

2. Definitions:

- a. Solid Waste: (as defined in Section 360-1.2 of 6NYCRR Part 360.) It may generally be defined as 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 other authority. It is intended that this definition specifically included household trash and refuse.
- b. Solid Waste Management Facility: Means any facility employed beyond the initial solid waste collection process and managing solid waste, including but not limited to: storage areas or facilities; transfer stations; rail-haul or barge-haul facilities; solid waste incinerators; refuse-derived fuel processing facilities; pyrolysis facilities; construction and demolition debris facilities; land application facilities; composting facilities; surface impoundments; used oil storage, reprocessing, and rerefining facilities; recyclables handling and recovery facilities; waste tire storage facilities; and regulated medical waste treatment facilities. The term includes all structures, appurtenances, and improvements on the land used for the management or disposal of solid waste.
- c. Hazardous Waste: Is defined in 6NYCRR Part 371. All hazardous waste activities in the Town must show evidence of compliance with the appropriate State and federal regulations. Such activities shall be restricted to areas zoned as Industrial and shall be subject to the Site Plan Review process.
- d. Disposal: A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air of discharge into groundwater or surface water.

- e. Storage: Means the containment of any solid waste in a manner which does not constitute disposal, as defined above; provided, however, that any accumulation of a solid waste for a period in excess of six (6) months shall be deemed to constitute disposal.
3. Compliance with NYS Rules and Regulations: No site or facility for the disposal or other management of solid wastes shall be established or permitted hereafter that does not meet the design and operation requirements of 6NYCRR Part 360, Solid Waste Management Facilities.
 4. Certificate to Operate (Local): Prior to the establishment of any solid waste management facility, the owner/operator must obtain a Certificate to Operate from the Codes Enforcement Officer. Such Certificate to Operate shall be subject to any and all conditions prescribed below and any other requirements the Board may deem necessary to adequately protect the health and safety of the public.

B. Certificate to Operate Requirements

1. No solid waste management facility Certificate to Operate will be issued by the Codes Enforcement Officer prior to the applicant obtaining a valid operation permit from the New York State Department of Environmental Conservation pursuant to the requirements of 6NYCRR Part 360, Solid Waste Management Facilities.
2. No solid waste management facility shall be sited within 1,500 feet of any existing residence, school, hospital, church, or similar type of use.
3. All applications for Certificates to Operate a solid waste management facilities shall be subject to the provisions of Section 20, Site Plan Review Process, of this Ordinance conducted by the Planning Board, and approval by the Town Board.

Section 42 - Management of Construction and Demolition Debris, Hard Fill and Land Clearing Activities

A. General Requirements

1. Enforceability: This regulation is intended to be consistent with the New York State Environmental Conservation Law and associated rules and regulations as stated in 6NYCRR Part 360, Solid Waste Management Facilities. In the event that any one or more of the provisions contained herein for any reason be held to be unenforceable in any respect of the laws of the State of New York or relevant political subdivision, unenforceability of such provision shall not affect any other provision of this Section, but this Section shall be construed as if such unenforceable provision had not been contained herein.
2. Definitions:
 - a. **Construction and Demolition (C&D) Debris:** (as defined in Section 360-1.2 of 6NYCRR Part 360.) Means uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of utilities, structures and roads; and

uncontaminated solid waste resulting from land clearing. Such waste includes but is not limited to bricks, concrete and other masonry materials, soil, rock, wood (including painted, treated and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles and other roof coverings, asphalt pavement, glass, plastics that are not sealed in a manner that conceals other wastes, empty buckets ten (10) gallons or less in size and having no more than one (1) inch of residue remaining on the bottom, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above. Solid waste that is not C&D debris (even if resulting from the construction, remodeling, repair and demolition of utilities, structures and roads and land clearing) includes, but is not limited to asbestos wastes, garbage, corrugated container boards, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, fluorescent lights, carpeting, furniture, appliances, tires, drums, containers greater than ten (10) gallons in size, any containers having more than one (1) inch of residue remaining on the bottom and fuel tanks

b. C&D Activities: The primary purpose of a C&D operation is for the disposal of waste materials. Such disposal may be permitted as the consequence of another activity, such as excavated pavement and soil from a highway construction project, or masonry and roofing debris from a building demolition project. These regulations are not applicable for general operation of a commercial disposal landfill with the intent of providing this service as a business.

c. Hard Fill Activities: Hard Fill activities refer to the invited placement of fill material generally on a low lying parcel of property for the primary purpose of improving for potential site development. Only materials meeting the definition of C&D debris may be used as Hard Fill.

d. Land Clearing Activities: Land Clearing activities include the removal of vegetative matter, (such as trees, stumps, brush, leaves and wood chips) soil, and rock for the purposes of logging, site preparations, clearing and grubbing, utility line maintenance, or seasonal or storm-related cleanup. Land Clearing activities do not include removal of yard waste from a residential property that has been collected for placement at the curbside.

3. Compliance with NYS Rules and Regulations. No storage, transferring, landfilling, disposal or other management of construction and demolition debris shall be allowed which is not in full compliance with the requirements of 6NYCRR, 360-7, Construction and Demolition Debris Landfills.

4 Registration with the Town for a Filling & Clearing Permit: All C&D disposal, Hard Fill and Land Clearing operations within the Town of Marcy must be registered with the Town, whether or not the operation is exempt from permitting by New York State.

Examples of disposal operation specifically subject to the Registration requirements of the Town of Marcy include but are not limited to the following:

- Filling any portion of a property with landfill including soil, rock or rubble. Such operations may also be subject to state & federal wetland regulations as well as town Stormwater restrictions.

- Commercial and non-commercial logging or pulp harvesting operations.
- Spreading of sludge from a waste treatment facility on agricultural or other open land. Waste will not be allowed within 1,500 feet of any existing residence, school, hospital, church or similar type use.

Registration shall not be required to establish a finish grade for a permitted building or construction activity where such fill is not considered disposal.

B. Registration for Filling & Clearing Permit and Filing Fee

1. Prior to the establishment of any construction and demolition debris landfill, hard fill or land clearing operation, the owner/operator must register the activity and obtain a Filling & Clearing Permit from the Codes Enforcement Officer. The registration information shall include the name and address of the property owner, the person or party responsible for the activity, the reason for the activity, and appropriate mapping as described below. The Permit shall be posted at the site of the proposed activity.
2. Registration by the Town of Marcy for facilities not subject to the permit requirements of 6NYCRR Part 360 is considered a ministerial action for purposes of 6NYCRR Part 617, State Environmental Quality Review. (Environmental Assessment Form not required)
3. C&D debris disposal facilities, Hard Fill, and Land Clearing activities occupying one (1) acre or less and whose operation is for less than twelve (12) months, shall not be subject to any registration fee by the Town. An annual fee of one hundred dollars (\$100) shall be charged to such activities affecting an area of greater than one acre or if the activity is extended over a period of 12 months.
4. Any violation of the Operational Requirements, as stated below will be cause for review and possible suspension or revocation of the Certificate of Registration.
5. C&D debris disposal facilities which operate more than twelve (12) months must submit a semiannual report to the Planning Board providing information including the volume of material received, the source of the material, the composition of the material and the expected duration the facility expects to remain open.
6. A land clearing activity, does not need to register under this Section of the Zoning Ordinance, provided the origin and disposal of such waste occur on the properties under the same ownership and the operation does not involve travel on or along a public road.

C. Operational Requirements for all Filling and Clearing Activities

1. The Owner/ operator must submit a topographical (contoured) site plan of not greater than 1-inch = 50 ft showing the property lines, the surrounding properties within 1,000 feet, the proposed limit of fill or clearing, and other pertinent surface features, including water courses..
2. No fill may be placed within a floodplain or federal wetland; or within one hundred (100) feet of a New York State regulated wetland.
3. No C&D disposal debris may be placed within three hundred (300) feet of a highway right-of-way or property boundary. Hard Fill activities may be allowed up to the highway boundary; however, greater restrictions on the material may be established by the Codes Enforcement Officer.
4. Mud and debris must be prevented from becoming a hazard to off-site travel ways. The road must be swept of any mud or debris at the end of each working day. Failure to

comply may result in a fine being imposed by the Codes Enforcement Officer of not less than \$50 per occurrence.

D. Additional Operational Requirements for C&D Disposal Activities

1. Only uncontaminated C&D debris may be placed in the proposed facility.
2. Dust shall be effectively controlled, so that it does not constitute a nuisance or hazard to health or safety of property.
3. Blowing litter must be controlled and confined to within the facility boundary limits.
4. No objectionable odors shall be emitted from the operation.
5. The entire disturbed area used for disposal purposes must be covered with at least two (2) feet of compacted cover material within thirty (30) calendar days of the acceptance of C&D debris. The top six (6) inches of this cover material must be capable of sustaining vegetative growth.
6. The final slopes of the landfill must not exceed twenty-five (25) percent and must not be less than two (2) percent.
7. No C&D debris operation shall be sited within 1,500 feet of any existing residence, school, hospital, church or similar type use.
8. The facility may only be operated between the hours of sunrise and sunset.
9. A C&D disposal operation is intended for the explicit and private use of the Owner/Operator related to a specific project or demolition effort. No fee or other form of consideration may be charged to other parties for the privilege of using the facility for disposal purposes. If such a fee is charged, the facility may be subject to the full permitting requirements by the NYSDEC.

Section 43 - Establishment of a Junk Yard

A. General Requirements

1. Prior to the establishment of any junkyard, as defined herein, the owner/operator of such a use must obtain an operation permit from the Town Board. Such operation permit shall be subject to any and all conditions as prescribed below and any other requirements the Board may deem necessary to adequately protect the health and safety of the public.
2. Junk vehicles will be permitted only in licensed junkyards.

B. Permit Conditions

1. No junkyard shall be sited within 1,000 feet of any existing residence, school, hospital, church, or similar type of use.
2. All applications for permits to operate a junkyard shall be subject to the provisions of Section 136, General Municipal Law, Local Junkyard Licensing Procedures.
3. All applications for permits to operate a junkyard shall be reviewed and approved pursuant to the provisions of Section 20, Site Plan Review Process, of this Ordinance.
4. All existing, unlicensed junkyards shall make application for such license within ninety (90) days of adoption of this Ordinance.

Section 44 - Solar Energy Systems

A. General

The use of solar energy systems including solar collectors, storage facilities, and distribution components for space heating and cooling, the heating of water, use in industrial, commercial or agricultural processes, and the generation of electricity is a permitted use within any zoning district within the Town subject to the following requirements:

Shading of Solar Collectors Unlawful

When a solar energy collector, whether active or passive in nature, is installed on a lot, structures or vegetation on an abutting lot shall not be constructed so as to block the solar collector's access to solar energy. The portion of a solar collector that is protected is that portion which:

1. Is located so as not to be shaded between the hours of 9:00AM and 3:00PM on December 21st by a hypothetical ten foot wall located on the lot line; and
2. Has an area not greater than one half of the heated floor area of the structure.

Beneficial Use

This Ordinance shall only protect a solar collector which is actually being used for one or more of the following purposes:

1. The heating and/or cooling of a building or structure;
2. The heating of water;
3. Use in industrial, commercial or agricultural processes; or
4. The generation of electricity.

Prior Non-Conforming Uses

Owners or possessors of real property on which a building, trees, shrubs, or other flora were growing at the time this Ordinance became effective and which did cast a shadow during the designated hours greater than that permitted by this Section, shall not be subject to the provisions of this Section except for meeting the limitations specified below.

A prior non-conforming building, tree, shrub, or other flora shall not be excepted from the provisions of this Ordinance after:

1. For buildings: It is destroyed to the extent that its fair market value is reduced by at least fifty percent (50%).
2. For trees, shrubs, or other flora: After it is certified dead by a tree surgeon or a specialist in landscaping.
3. This Subsection shall not be construed to limit other means of terminating or regulating non-conforming uses specified in Section 50 of this Ordinance.

Section 45 - Dish, Tower, and Tower Type Antennas

The following regulations shall apply to all dish or tower type antennas:

1. No dish or tower type antenna shall be erected, altered, or reconstructed without the issuance of a building permit by the Codes Enforcement Officer.
2. Application for such permit shall include construction drawing(s) showing proposed methods of installation. For any antenna more than ten (10) feet tall, the application shall include structural engineering analysis and a site plan depicting all structures and plantings within a circle centered on the proposed site of the antenna and a radius of five times the height.
3. All towers and antennas shall have setbacks equal to or greater than the height of the proposed structure.
4. Distance of any guy anchorage or similar device shall conform to the minimum setbacks and/or rear yard requirements established for the zoning district in which the structure is proposed.
5. The applicant shall present documentation of the possession of any required license by and Federal, State, or Local agency.
6. No structure shall exceed the height limitations established for the zoning district in which it is proposed.
7. Only one such structure shall exist at any one time on any residentially zoned lot or parcel.
8. All commercial installations shall be subject to a Site Plan Review and approval.
9. The owner of such structure shall assume complete liability in case of personal or property damage.
10. No dish or tower type antenna shall be placed in any required front yard.
11. No dish or tower type antenna shall be mounted on or fastened to any building.
12. Towers shall be spaced no closer than 2,500 ft.

1. AUTHORITY

The Planning Board and or the Zoning Board of Appeals of the Town of Marcy is hereby authorized to review and approve, approve with modifications, or disapprove telecommunication facility Site Plans consistent with Article XVI of the Town Law of the State of New York.

2. INTENT

The intent of this ordinance is to promote the health, safety, and the general welfare of the residents of the Town of Marcy; to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunication towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunication towers by requiring careful siting within certain preferred districts, visual impact assessment, and appropriate landscaping. Excluded from this ordinance are those facilities used for law

enforcement, fire control, E911, and medical emergency, and antennas and satellite dishes used solely for residential household television and radio reception.

3. SITE PLAN REVIEW: When required, a Site Plan shall include:

A. Site Plan drawing—An applicant shall be required to submit a drawing showing:

1. Name and address of the applicant and person responsible for the preparation of the drawing.
2. Date, north arrow, and scale no smaller than one (1) inch = forty (40) feet.
3. Boundaries of the property plotted to scale.
4. Existing watercourses.
5. Grading and drainage plan, showing existing and proposed contours.
6. Location, materials and height of all existing and proposed structures and improvements including roads, buildings, tower(s), guy wires and anchors, antennae, parking and landscaping.
7. Provision for water supply and sewage disposal.
8. Location and proposed development of all buffer areas including existing vegetative cover.
9. Location and design of outdoor lighting facilities.
10. The Town, at the expense of the applicant, may employ its own consultant to review the findings and conclusions of safety analysis, visual analysis, or inventory report of alternative site locations, provided by the applicant.

B. Supporting Documentation. The applicant shall submit:

1. A complete EAF.
2. A complete Visual Environmental Assessment Form (visual EAF addendum).
3. Documentation of the proposed intent and capacity of use.
4. Justification for the height of any tower.
5. Justification for any clearing method.
6. A copy of its FCC License.
7. Other elements integral to the proposed facility as considered necessary by the Planning Board, including identification of any State of County permits required for the project's execution.

4. FACILITY REQUIREMENTS

A. General Criteria.

No renewal thereof or modification of a permit relating to a telecommunication facility shall be authorized by the Planning Board unless it finds that such telecommunication facility:

1. Is necessary to meet current or expected demands for service;
2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;

3. Is considered a public utility in the State of New York;
4. Is designed and constructed in a manner in which minimizes visual impact to the extent practical;
5. Complies with all other requirements of this ordinance, unless expressly superseded herein;
6. Is the most appropriate site among those available within the technically feasible area for the location of a telecommunication facility;
7. Is, in the case of tower construction, designed to accommodate future shared use by not more than one (1) other telecommunication service provider.

B. Co-Location.

1. The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing telecommunications facility or upon an existing structure. The application shall include an adequate inventory report specifying existing telecommunications facility sites and structures exceeding seventy-five (75) percent of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
2. The applicant must submit a copy of its policy regarding co-location on the proposed telecommunication facility with other potential future applicants. Such policy should allow co-location under the following conditions.
 - a. The new antenna(s) and equipment do not exceed structural loading requirements nor pose any technical or radio frequency interference with existing equipment.
 - b. The applicant desiring to co-locate pays the owner an appropriate and reasonable sum to co-locate;
 - c. The applicant desiring to co-locate has a similar policy of co-locations as the owner.
3. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one (1) or more of the following reasons:
 - a. The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and planned use for those facilities;
 - b. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
 - c. Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
 - d. Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structures;

- e. The property owner of owner of the existing telecommunications facility or other structure refuses to allow such co-location.

C. Dimensional Standards.

1. A fall zone around any tower constructed as a part of a telecommunication facility must have a radius at least equal to the height of the tower and any antenna(s) attached upon its zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the telecommunication facility. If the facility is attached to an existing structure, relief may be granted by specific permission of the Zoning Board of Appeals on a case-by-case basis.
2. All telecommunication facilities shall be located on a single parcel.
3. All telecommunication facilities shall comply with the setback standards of the underlying zoning district. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. A lot leased or owned for the purpose of construction of a tower as part of the telecommunication facility shall not result in the creation of a non-conforming lot.
4. The frontage requirement of the underlying zoning district shall not apply, provided the telecommunication facility is not proposed on a parcel to be partitioned specifically for the facility and/or is designed for occupancy by staff. In the absence of required frontage, an access way for service vehicles –either through easement, lease or ownership – shall be in accord with paragraph F herein.

D. Lighting and Marking.

1. Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
2. An applicant may be compelled to add FAA-style lighting and marking, if in the judgement of the Planning Board, such a requirement would be of direct benefit to public safety.

E. Appearance and Buffering.

1. The use of any portion of a telecommunication facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
2. The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking, pursuant to paragraphs D.1. and D.2. herein, shall otherwise:
 - a. Have a galvanized finished, or shall be painted gray above the tree line and gray or green below the tree line, as deemed appropriate by the Planning Board, or:
 - b. Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.

3. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
4. The Planning Board may require a State Environmental Quality Review (SEQR) Full EAF (Environmental Assessment Form) for proposed facilities at key viewpoints in the community. A Visual Environmental Assessment Form (Visual EAF), may be required as an addendum to either the Full or Short EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
5. The Planning Board shall require that the facility have appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
6. Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunication facility shall not be stored or parked on the facility site.

F. Access and Parking.

1. Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for telecommunication facilities must be at least twenty (20), but no more than thirty (30) feet wide, and closely follow natural contours to assure minimum visual disturbance and reduce soil erosion potential.
2. The road surface (driveways) shall be centered within access ways and shall not compromise more than sixty percent (60%) of the width of the access way.
3. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
4. Driveways or parking areas shall provide adequate interior turn-around, such that vehicles will not have to back out onto a public thoroughfare.

G. Security.

1. Towers, anchor points or guyed towers, and accessory structures shall each be surrounded by fencing at least eight (8) feet high, the top of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site.
2. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.
3. There shall be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.
4. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

H. Engineering and Maintenance.

1. Site Plans for all telecommunication facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
2. Every facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the Municipal Building Inspector.
3. A safety analysis by a qualified professional must accompany any Special Use Permit or Site Plan application, renewal thereof or modification, for the purpose of certifying that the general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.
4. The Town, at the expense of the applicant, may employ its own consultant to review the findings and conclusions of structural inspection provided by the applicant.

I.. Removal.

1. At the time of submittal of the application for a Site Plan Review for a telecommunication facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Removal of such obsolete and/or unused telecommunications facility shall take place within six (6) months of cessation of use. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
2. At the time of obtaining a building permit, the applicant must provide a financial security bond for maintenance during its lifetime and for removal of the telecommunication facility and property restoration, with the Town as the assignee, in an amount approved by the Planning Board, but not less than one hundred thousand dollars (\$100,000).
3. The owner/applicant shall certify to the Building Inspector on an annual basis by certified letter, that the financial security bond is in full force and effect and that the telecommunication facility is in continuous use for its intended purpose. The owner/applicant shall provide the Town with an address which the Town shall use for all notification required by certified mail under this article.
4. The owner/applicant within thirty (30) days of any change in ownership of the telecommunication facility shall notify the Planning Board by certified mail.
5. At times of renewal or modification of the Site Plan Review, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunication facility and property restoration.

6. Permit Procedure.

All applications must meet the structural requirements of Section H.3. and the removal requirements of Section I, and may require an independent analysis in accordance with Sections 4.A.10.

A. Application for co-location upon an existing telecommunication facility requires a building permit and Site Plan Review.

B. Application for location of a new telecommunication facility in a district in which telecommunication facilities are a principal use requires both a Site Plan and a Building Permit.

C. Application for location of a new telecommunication facility in any other district requires a Site Plan and a Building Permit.

7. Violations and Penalties.

Any permitted telecommunication facility that subsequently does not meet the requirements of that permit, shall have its permit revoked, and the telecommunication facility shall be removed within ninety (90) days of notification by the Town by certified letter to the owner/architect at the last known address.

Section 46 - Adult Entertainment Uses

Please refer to Local Law Number 5 of 1997, as amended.

Section 47 - Landscaping in CN, CG and IN Districts

The following regulations shall apply to all new uses in CN, CG, and IN districts; If a use is changed it shall be required to comply with the regulations, but waivers to specific provisions may be granted by the Planning Board.

1. Site development consideration must include the preservation and supplementation of existing vegetation and the screening of parking and service areas from adjoining residences. The minimum percentage of landscaped area shall be fifteen percent (15%) of the total lot area.
2. Paving, parking or storage shall not be permitted within twenty (20) feet of any side or rear property line. Existing trees and shrubs shall be preserved in this twenty (20) foot buffer zone unless the Planning Board finds this is not feasible, and shall be supplemented as required to produce a dense and effective screen.
3. No parking or paving, except for entrances will be permitted within fifteen (15) feet of any front property line. Where such requirement restricts the effective development of a site, the Planning Board may take the minimum required action it deems necessary to modify these requirements so as to preserve the intent of this

section.

4. All areas of the plot not occupied by buildings, parking, driveways, walkways or storage shall be landscaped attractively with lawn, trees, shrubs and other plant material.
5. All maintained lawns shall not allow grass to exceed more than 12” in height. Lawns to be maintained in character with neighboring lawns. Lawns shall be established within six (6) months of completion of site development.

Section 48 - Cluster Development

In AG, R-20, and R-16 districts, the Planning Board, pursuant to Section 281 of the Town Law, may grant a developer the right to vary the residential density within a tract to be developed (but not necessarily maintained) under single ownership, leaving a substantial area free of building lots. The right to vary the density shall be subject to the following conditions:

1. Said proposed residential development must create an attractive residential environment.
2. Produce a total average density as specified in Schedule A for one-family dwellings for the district in which such development is to be located.
3. Provide aggregate open space to be no less than that required in the district in which it is located.
4. Guarantee permanent retention of “open areas” and insure care and maintenance of open space.
5. The development must be served by public water and public sewers.
6. Development must start within one (1) year of the date of final plat approval and be completed within five (5) years, unless an extension has been requested for good cause by the developer and approved by the Planning Board.
7. Attached dwellings must meet the following requirements:
 - a. **Front Yard:** Fifty (50) feet.
 - b. **Rear Yard:** Fifty (50) feet.
 - c. **Parking:** Two (2) cars per unit, exclusive of garage.
 - d. **Side Yard:** Twenty (20) feet minimum.
 - e. **Height:** Two (2) story maximum.
 - f. **Maximum Length for an Attached Row:** Two hundred (200) feet, but for rows longer than one hundred (100) feet, variation of setback must be at least ten (10) feet, distributed over length of one hundred (100) feet.
 - g. **Spacing Between Rows (Side by Side):** Maximum height of taller building plus difference in grade if grade at lower building is lower, with a minimum of thirty-five (35) feet.
8. Land not contained in lots, streets or parking areas shall be developed or maintained as open space and shall be contiguous and of size and shape as to be usable for recreation or agriculture.

Section 49 - Grading, Erosion and Sedimentation Control

- A. All development proposals shall strive for maximum retention of the natural features and qualities of the site; and development shall seek to enhance these natural features and qualities.
- B. No work shall commence prior to final approval, and payment of fees, bonds, etc.
- C. All grading, excavation, filling or other form of site preparation shall conform to the following standards:
 - 1. Excavation, filling, grading and stripping shall be permitted to be undertaken only in such locations and in such a manner as to minimize the potential of erosion and sediment and the threat to the health, safety and welfare of neighboring property owners and the general public.
 - 2. Site preparation and construction shall be fitted to the vegetation, topography and other natural features of the site and shall preserve as many of these features as feasible.
 - 3. The control of erosion and sediment shall be a continuous process undertaken as necessary prior to, during and after site preparation and construction.
 - 4. The smallest practical area of land shall be exposed by site preparation at any given time.
 - 5. The exposure of areas by site preparation shall be kept to the shortest practical period of time prior to the construction of structures or improvements or the restoration of the exposed areas to an attractive natural condition.
 - 6. Mulching or temporary vegetation suitable to the site shall be used where necessary to protect areas exposed by site preparation and permanent vegetation, which is well adapted to the site, shall be installed as soon as practical.
 - 7. Where slopes are to be revegetated in areas exposed by site preparation, the slopes shall not be of such steepness that vegetation cannot be readily established or that problems of erosion or sediment may result.
 - 8. Site preparation and construction shall not adversely affect the free flow of water by encroaching on, blocking, or restricting watercourse.
 - 9. All fill material shall be of a composition suitable for the ultimate use of the fill, free of garbage, refuse, or rubbish and carefully restricted in its content of brush, stumps, tree debris, rocks, frozen material and soft easily compressible material.
 - 10. Fill materials shall be compacted sufficiently to prevent problems of erosion and where the material is to support structure, it shall be compacted to a minimum of 90% of standard proctor with proper moisture control.
 - 11. All topsoil which is excavated from a site shall be stockpiled and used for the restoration of the site and such stockpiles, where necessary, shall be seeded or otherwise treated to minimize the effects of erosion.
 - 12. Prior to, during and after site preparation and construction, an integrated drainage system shall be provided which at all times minimizes erosion, sediment, hazards of slope instability and adverse effects of neighboring property owners.
 - 13. The natural drainage system shall generally be preserved in preference to modifications of this system, excepting where such modifications are necessary to reduce levels of erosion and sediment effects on neighboring property owners.
 - 14. All drainage systems shall be designed to handle adequately anticipated flows both within the site and from the entire upstream drainage basin.
 - 15. Sufficient grades and drainage facilities shall be provided to prevent the ponding of water, unless such ponding is proposed within site plans.
 - 16. There shall be provided where necessary to minimize erosion and sediment, such measures as benches, berms, terraces, diversions and sediment, debris and detention basins.

17. Drainage system, plantings and other erosion or sediment control devices shall be maintained as frequently as necessary to provide adequate protection against erosion and sediment and to insure that the free flow of water is not obstructed by the accumulation of silt, debris or other material or by structural damage.
18. Stockpiles of soil shall be leveled and seeded within thirty (30) days completion of construction, whether on the project site or elsewhere in town.

ARTICLE VII - NONCONFORMING USES

Section 50 - Non-Conforming Uses

Any non-conforming use, building or structure, which existed lawfully at the time of enactment of this Ordinance may be continued, subject to the regulations which follow in this Article.

Section 51 - Non-Conforming Use of Land

The non-conforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this Ordinance. A non-conforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such non-conforming use at the time of adoption of this Ordinance. A non-conforming use of land shall not be changed to another non-conforming use. If a non-conforming use of land is discontinued for a period of twelve (12) consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

1. Any construction action proposed on a non-conforming lot that would not require an area variance if the same action were conducted on a conforming lot shall not require an area variance, providing it conforms to all the required setbacks, building heights, and other zoning restrictions. (character of neighborhood / environmental impact such as runoff)
2. Any construction action proposed on a lot that is conforming, but has either a primary structure or an accessory building that has a non-conforming setback that pre-existing the Zoning Ordinance or has an approved area variance, such action shall not require an area variance providing it conforms to all the required setbacks, building heights, and other zoning restrictions. (character of neighborhood / environmental impact such as runoff)

Section 52 - Non-Conforming Use of Buildings

1. **Additions:** A non-conforming building shall not be added to or enlarged in any manner, unless such non-conforming building and the use thereof is made to conform to all regulations of the district in which it is located.
2. **Alterations and Repairs:** No structural alterations shall be made to any nonconforming building or structure unless such alterations are required by law. However, such maintenance

and repairs as are required to keep a non-conforming building or structure in sound condition shall be permitted.

3. **Changes:** A non-conforming use of a building may not be changed except to a conforming use. When so changed, the non-conforming use may not be resumed thereafter.
4. **Discontinuance:** A non-conforming use of a building or structure, or a portion thereof, which is discontinued for a period of twelve (12) consecutive months shall not be re-established, and any subsequent use shall conform to the use regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under any of the following conditions:
 - a. Vacancy of a non-conforming use or building or discontinuance of a non-conforming use, for a period of twelve (12) consecutive months.
 - b. Manifestation of a clear intent on the part of the owner to abandon the non-conforming use.
5. **Extension:** a non-conforming use may not be extended to any part of such building.
6. **Restoration:** A building devoted to a non-conforming use destroyed or damaged by fire, wind, explosion, structural failure or other natural cause to the extent of fifty percent (50%) or more of its true market value at the time of such damage, as adjusted from assessed value, based upon State Board of Equalization rates, shall not be substantially improved or rebuilt except in conformity with the provisions of this Ordinance. **Exception:** Any one or two family dwelling unit whose primary use is as a dwelling unit may be restored providing that current setbacks can be met.
7. **Removal:** If any building in which any non-conforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform with the regulations of the district.
8. **Validity of a Permit:** Only a building for which a permit has been lawfully granted, and on which the construction has been started and diligently pursued before the effective date of this Ordinance may be completed.

Section 53 - Buildings Non-Conforming to Yard, Height or Coverage Regulations

Building occupied by a use permit in the district in which they are located, but which do not conform to yard, height, or coverage regulations, may be permitted to be expanded by the Zoning Board of Appeals without a finding of “significant economic injury”, provided the expansion does not involve any dimensional feature which is non-conforming.

Section 54 - Creation of Substandard Lots Prohibited

No lot in existence on the effective date of these Zoning Regulations shall be subdivided or diminished in area in such a way that the lot area, frontage, width, front, side or rear yard, coverage, required parking spaces or green space no longer meet the requirements of these regulations or any permit issued thereunder.

ARTICLE VIII - ADMINISTRATION AND ENFORCEMENT

Section 55 - Enforcement

No building or certificate of occupancy shall be issued except in compliance with the provisions of this Ordinance and any amendment thereto or as directed by the Board of Appeals under the provisions of Article XI. Application for Building Permits and Certificate of Occupancy shall be obtained and filed in the office of the Codes Enforcement Officer.

The Office of the Enforcement Officer is hereby established. The Enforcement Officer shall be appointed by the Town Board. It shall be his duty to enforce the provisions of this Ordinance and of all rules, conditions and requirements adopted or specified pursuant to the same. The Town Board may appoint one (1) or more Deputy Enforcement Officers to exercise any or all of the duties of the Enforcement Officer.

The Enforcement Officer shall maintain files, open to the public, of all applications for Certificates of Occupancy and Building Permits along with plans submitted therewith as well as final certificates and permits.

The Enforcement Officer shall also maintain records, open to the public, of every complaint of a violation of the provisions of this Ordinance as well as action taken as a result of such complaints.

The Enforcement Officer shall submit to the Town Board a monthly and annual written report.

Section 56 - Building Permit

No building shall be erected, moved, structurally altered, added to, enlarged, or a change in its use effected, or a change in the use of a property and no excavation or demolition of any building shall be begun unless and until a Building Permit for each action has been issued by the Enforcement Officer.

Applications for Building Permits shall be submitted in triplicate on a form or forms provided by the Codes Enforcement officer accompanied by three (3) sets of construction drawings prepared and stamped by a N.Y.S. Licensed Professional Engineer or Architect and certified as complying with all applicable provisions of the Building Code. Each application shall set forth the purpose for which the building is intended to be used and a general description of the structure to be erected, and shall be accompanied by a plot plan showing the dimensions of required yards, floor elevations and street and lot grades. In the case of new construction, a current (within past 12 months) site survey map is required showing the proposed building location and the location of field markers allowing easy verification of property boundaries within 100 feet of the proposed building.

The Enforcement Officer may require such additional information including proof of compliance with Section 54 other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use, and the use of the land are in conformity with the provisions of the Ordinance.

The building permit when signed and issued by the Enforcement Officer shall be posted conspicuously on the premises facing the street or road where the permit authorizes the work to be done. A fine of \$50.00/day may be imposed if the building permit card is not posted as above.

A Building Permit for a conforming use shall expire in one (1) year unless the construction authorized by such permit shall have been started and vigorously prosecuted during that time. The Enforcement Officer may extend the Building Permit for a maximum of two six (6) month periods, if in his judgement, the facts in the particular situation warrant such extension. Construction shall be initiated within six (6) months of the date of issuance of the permit. Failure to do so shall nullify the permit and the applicant shall be required to reapply.

A building permit for an accessory building shall expire in six (6) months except for a commercial accessory building shall expire in one (1) year.

The Building Inspector shall inspect the site during construction. The building owner or contractor shall notify the Building Inspector twenty-four (24) hours in advance for scheduling inspections. Scheduled inspections appear on the back of the building permit card.

All construction costing \$10,000 or more requires professionally stamped plans.

Section 57 - Certificate of Occupancy

A Certificate of Occupancy is required for any of the following. No certificate shall be issued unless the work has been substantially completed in accordance with the plans and specifications.

1. Occupation and use of a building hereafter erected, altered, moved or extended.
2. Change in the use of an existing building.
3. Occupancy and use of vacant land, except for agricultural use.
4. Change in the use of land, except for agricultural use.
5. Change of ownership of a commercial or industrial business.
6. Change of tenants.

A Certificate of Occupancy shall be issued only if the proposed use of the building of land conforms with the provisions of this Ordinance. The Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a Certificate of Occupancy has been applied before issuing such certificate. Such inspection and determination shall be made within fifteen (15) days from the date of application, Saturdays, Sundays and legal holidays excepted. Failure to make such inspection and determination within the specified period of time shall not be deemed to be an approval or a disapproval of the application for a Certificate of Occupancy. An affidavit from the contractor and/or architect (engineer) certifying compliance is required. Inspection of existing building for a Certificate of Occupancy shall be performed by a NYS Licensed Architect or Engineer. A copy of the report shall be sent to the Building Inspector. All costs shall be borne by the owner.

Section 58 - Violations and Penalties

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Enforcement Officer. Upon the receipt of a written complaint, the Enforcement Officer shall record the complaint in his files, conduct an investigation, and issue his findings in writing. If the Enforcement Officer finds that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Enforcement Officer shall file copies of any notice of violation with the Town Clerk and the Town Attorney.

Any persons or corporation, whether as owner, or lessee, agent or employee, who shall violate any of the provisions of these Zoning Regulations or who fails to comply with any order or regulation made thereunder, or with the conditions of any permit or approval directed to be made under these regulations; or who erects, alters, moves, or uses any building or uses any land in violation of any detailed statement of plans submitted by him and approved under this provisions of this Ordinance; or who subdivides or diminishes a lot in area in violation of these regulations, shall be guilty of an offense and upon conviction shall be punished by a fine not exceeding \$250.00 or imprisonment not exceeding fifteen (15) days, or both, in accordance with the provisions of Article 16 of the Town Law and any amendments thereto and any other statutes relating thereto. Each week's (seven (7) days) continued violation shall constitute a separate violation.

In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used, or any lot is subdivided or diminished in area in violation of this Ordinance, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action of proceedings to prevent such unlawful erection, construction, alteration, conversion, maintenance or use, to restrain correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such building, structure, or land.

Any violation of the provisions of this Ordinance may be enforced by commencement of an action in Supreme Court of County Court, or any such appropriate forum in accordance with the CIVIL PRACTICE LAW AND RULES, Town Law, General Municipal Law and other such related statutes.

Section 59 - County Referrals

Pursuant to Sections 239-l and 239-m of General Municipal Law of the State of New York, certain classes of zoning actions shall be referred to the Oneida County Department of Planning before final action is taken.

The actions to be referred include the following:

- A. Any municipal zoning regulation or amendment thereof, which would change the district classification of or the regulations applying to real property lying within a distance of five hundred (500) feet from:

1. Any municipal boundary, or
2. The boundary of any existing or proposed County or State Park or other recreation area, or
3. The right-of-way of any existing or proposed County of State parkway, thruway, expressway, road or highway, or
4. The existing or proposed boundary of any County or State owned land on which a public building or institution is situated, or
5. The boundary of an Agricultural District.

B. And, any variance or site plan review affecting such real property within such distance of five hundred (500) feet.

Within thirty (30) days after receipt of such referred matter, the Oneida County Planning Department shall report its recommendation thereon to the referring municipal body. If the County Agency fails to report within such period or within such mutually agreed extension thereof the municipal body may act without such report, but receives recommendation two (2) or more days prior to final action by the referring body, the municipal body shall not act contrary except by a vote of majority plus one of its full membership and after adoption of a resolution fully setting forth the reasons for such contrary action, if the County Agency disapproves the proposal, or recommends modifications thereof.

Section 60 - Zoning/Planning Review Panel

A Zoning/Planning Review Panel has been formed by the Town of Marcy. This Panel is composed of the Zoning Codes Enforcement officer, the Chairperson of both the Zoning Board of Appeals and Planning Board; and or an assigned member of each board as may be required by members of the panel.

The Zoning/Planning Review Panel was established as part of Local Law #3 of 1991 of the Town of Marcy. The Review Panel was established to provide proper direction to all applicants in order to minimize unnecessary action for the applicant and complement the function of the two Boards and the Zoning Enforcement Officer.

Local Law #3 of 1991 mandates all persons making application for action, other than permitted uses, to the Codes Enforcement Officer and/or the Zoning and Planning Boards of the Town of Marcy shall be subject to the Zoning/Planning Review Panel.

Compliance with Local Law #3 of 1991 does not constitute a formal submission of an application for any action under the Town of Marcy Zoning Ordinance or Subdivision Regulations.

Section 61 - Relation to State Environmental Quality Review (SEQR)

The basic purpose of the State Environmental Quality Review Act (SEQR) is to incorporate the consideration of environmental factors into the existing planning, review and decision making

processes of State, Regional and Local Government Agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant effect on the environment, and if it is determined that the action may have a significant effect, prepare or request an Environmental Impact Statement (SEQR 6NYCRR, Part 617, Section 617.1).

ARTICLE IX - BOARD OF APPEALS

Section 62 - Appointment

A Board of Appeals is hereby established in accordance with the provisions of Section 267 of the Town Law. The Board of Appeals shall consist of five (5) members, each to serve for a term of five (5) years. The terms of office shall be in accordance with the provisions of the Town law applicable thereto. Vacancies occurring on said Board shall be filled for such unexpired period only.

Section 63 - Organization

The Board of Appeals shall adopt rules of procedure governing organization of the Board and the conduct of its meeting.

Section 64 - Meetings

Meetings of the Board shall be held as provided in the rules of procedure adopted by the Board. The Board shall keep minutes of its proceedings, showing the vote of each member on each question and shall keep records of its hearings and other official actions. If any member is absent or fails to vote, the minutes shall indicate such fact.

The concurring vote of a majority of the members of the Board shall be necessary to reverse any order or decision of the Enforcement Officer, or to decide in favor of any applicant on any matter over which the Board has jurisdiction. All hearings of the Board shall be open to the public and the minutes of Board meetings and hearings shall be a public record. Every rule or regulation, amendment or repeal thereof, order, requirement, decision or determination of the Board shall be filed immediately with the Enforcement Officer and filed with the Town Clerk within five (5) days and shall be a public record.

Section 65 - Appeals to Board of Appeals

The Board of Appeals shall hear and decide appeals from any order, requirement, decision or determination made by the Enforcement Officer. Appeals must be brought within sixty (60) days after order or determination is filed. It shall also hear and decide all matters referred to it upon which it is required to pass under the provisions of this Ordinance. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse or modify any order, requirement, decision or determination of the Enforcement Officer, or to decide in favor of the

applicant on any matter upon which it is required to pass under this Ordinance. Such appeal may be taken by any person aggrieved, or by any officer, department, board or bureau of the Town.

Such appeal shall be taken within forty-five (45) days or such additional time as shall be prescribed by the Board of Appeals by general rule, by filing with the Enforcement Officer and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Enforcement Officer shall forthwith transmit to the Board all of the papers constituting the record upon which the action appeals from was taken.

Section 66 - Stay of Proceedings on Appeal

An appeal stays all proceedings in furtherance of the action appealed from unless the Enforcement Officer from whom the appeal is taken certifies to the Board of Appeals after the notice of the appeal shall have been filed with him that by reason of acts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Officer from whom the appeal is taken and on due cause shown.

Section 67 - Jurisdiction of Board of Appeals

The Board of Appeals shall have the following power and duties prescribed by statute (see section 267-b of NYS Town Law as may be amended from time to time) and this Ordinance:

Permitted Action by Board of Appeals

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

2. Use variances. (a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

(b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2)

that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

(c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. Area variances. (a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

(b) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

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

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

ARTICLE X - AMENDMENTS

Section 68 - Declaration of Policy

For the purpose of establishing and maintaining sound and stable development and to conserve property values generally, this Ordinance shall not be amended except to correct a manifest error in the Ordinance, or to provide for regulations more appropriate to an area because of changed or changing conditions.

Section 69 - Amendments, How Initiated

The Town Board may from time to time on its own motion, amend, supplement, repeal or change the regulations and district boundaries established by this Ordinance.

Whenever the owner or owners of frontage in any district or part thereof shall present a petition duly signed and acknowledged, to the Town Board, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within ninety (90) days after the filing of the same by the petitioners with the Town Clerk and to notify the petitioners immediately thereafter.

The Planning Board may by resolution, propose an amendment, supplement, change or repeal of the regulations to the Town Board.

Section 70 - Referral of Amendments to Town Planning Board and Oneida County Department of Planning

All proposed amendments, supplements or changes originating by petition, or by motion of the Town Board, shall be referred to the Planning Board for a report and recommendations thereon. The Planning Board shall submit its report within sixty-two (62) days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

Before making its report, the Planning Board may hold a public hearing or may participate in the public hearing held by the Town Board.

In making its recommendations, the Planning Board shall consider, as applicable, the following factors, and, where they are deemed to be significant, refer to them in its report:

1. The purposes in Section 2.
2. The policy statement in Section 68.
3. Suitability of the land for the purposes permitted under the proposed zoning.
4. Town development plan and policies.
5. Impact on the physical and social environment.
6. Impact on water supply, sewage disposal, roads and traffic.
7. Fiscal impact on the Town, School District, and special districts.

The Planning Board may recommend approval, approval with modification, or further study of specific aspects of the proposed zoning amendment.

Whenever any zoning regulation or any amendment would change a district classification, or a regulation applying to real property within a distance of five hundred (500) feet from any boundary line of properties in a neighboring municipality or upon other County or State property said zoning regulations or amendments shall be referred by the Town Board to the Oneida County Planning Department pursuant to Article VIII, Section 59.

Section 71 - Hearing on Proposed Amendment

Before any amendment, supplement, repeal or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law.

In addition to the public notice of a hearing, the applicant requesting the zoning change shall give written notice of the hearing to all property owners on record of the land included in such proposed change and situated within five hundred (500) feet of the boundaries of the land upon which the proposed change is to be made and the land directly opposite thereto extending five hundred (500) feet from the street frontage of such opposite land. Verification of written notice is to be provided to the Town by the applicant. Said notification may be waived by the Town Board when in the Town Board's opinion such individual notice is not practical. Individual written notice is required only for proposed changes in district boundaries, not for amendment, supplement, or repeal of the text of the Zoning Law or Schedule A.

Section 72 - Adoption of Amendment

After the public hearing, referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend the Zoning Ordinance except as described in Section 73, Protest Petitions.

Section 73 - Protest Petitions

If a protest against a proposed amendment, supplement, repeal or change is presented to the Town Board, duly signed and acknowledged by the owners of twenty percent (20%) or more of the land immediately adjacent extending five hundred (500) feet therefrom; or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending five hundred (500) feet from the street frontage of such opposite land, such amendment shall not be passed except by a favorable vote of a majority plus 1 of the members of the Town Board.

Section 74 - Periodic Review of Zoning Ordinance

From time to time, at intervals of not more than five (5) years, the Planning Board shall reexamine the provisions of this Ordinance and the location of district boundary lines and shall submit a report to the Town Board recommending such changes of amendments, if any, which may be desirable in the interest of public welfare, convenience and necessity.

ARTICLE XI - MISCELLANEOUS

Section 75 - Interpretation

In interpreting and applying provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of public health, safety and general welfare. When this Ordinance imposes a greater restriction on the use of buildings or land or on the heights of buildings, or requires larger open spaces, or makes any other greater requirement than is imposed or required by any other ordinance, rule, or regulation, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

Section 76 - Severability

In any section, subsection, or phrase of this Ordinance is declared to be invalid, such invalidity shall not affect any other portion of the Ordinance.

Section 77 - Repeal of Former Zoning Ordinance

The Ordinance entitled Town of Marcy Zoning Ordinance adopted on August 20, 1991 together with all changes and amendments thereto, is hereby repealed.

Section 78 - Effective Date

This Ordinance, adopted on July 12, 2005, and amended on September 23, 2010 shall be in effect ten (10) days after the publication as provided by law.

Section 79 - Public Hearings

All actions requiring public hearings shall include a list of all property owners' names, addresses and telephone numbers within five hundred (500) feet of the subject property affected by the specific action. This information along with other required data, must be supplied to the secretary of the appropriate Board by the applicant five (5) days prior to the Meeting.

Letters to adjacent property owners (list supplied by the applicant and verified by the Planning/Zoning Board of Appeals Secretary) shall be sent by regular mail by the Planning/Zoning Board of Appeals Secretary. All costs borne by the applicant.

Section 80 - Approval of Plats; Conditions for Changes in Zoning Provisions (Section 281) of Town Law

The Town Board is hereby empowered by resolution to authorize the Planning Board, simultaneously with the approval of a plat or plats pursuant to this Article, to modify applicable provisions of the Zoning Ordinance, subject to the conditions hereinafter set forth and such other reasonable conditions as the Town Board may in its discretion add thereto. Such authorization

shall specify the lands outside the limits of any incorporated village to which this procedure may be applicable. The purposes of such authorization shall be to enable and encourage flexibility of design and development of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands, subject to the conditions as outlined in the Town Law.

Section 81 - Review Fees

Applications for reviews of subdivisions, site plans, planned development districts and other miscellaneous reviews wherein the Town Board, Planning Board or Zoning Board of Appeals deems it necessary to require engineering, legal or other professional consulting assistance, shall be accompanied by a fee as set forth in the "Town of Marcy Fee Schedule".

The schedule of fees shall be established by motion of the Town Board and may be reviewed and amended from time to time as the Town Board deems appropriate.

There shall be no fees required for concept reviews.

The fees are to be applied to charges by representative engineers, attorneys, and/or other consultant reviews. In the event the initial fee is insufficient to cover the Town's review costs, the applicant shall deposit additional fees to cover those costs. Such additional funds must be paid within ten days of demand for payment.

Applications will not proceed in the review process unless fee payments are current.

In the event review fees are incurred by the Town, and an applicant fails to reimburse the Town for said fees, the applicant shall bear the cost of collection of unpaid fees bearing interest at the rate of 1% per month plus reasonable attorney fees.

Section 82 - Inspection Fees

A fee in the sum of 2% of the cost of any required improvement, as determined by the Planning Board Representative Engineer, to meet the cost of inspection of required improvements such as roads, sewers, and other utility services, etc. shall be paid by the developer with the developer's application for final approval. This fee is in addition to the required review fees.

SCHEDULE A

AG Agricultural District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side -- Both	Rear
Ag & Forest Uses (Except Hog, poultry farm and cattle feed lots)		2 Acres	200	10			50	50--100	50
One Family Dwelling		40,000	150	15	2	30	50	30--60	50
Stable (Note 2)		2 Acres	200	10	2	30	50	50--100	50
Accessory Use		SAME AS PRINCIPLE USE							
Accessory Apartments		2 Acres	200	10	2	30	50	50--100	50
Enclosed Accessory Building		40,000	150	15	2	20	50	30--60	50
	Home Occupation	SAME AS PRINCIPLE USE							
	Professional Residence /Office	40,000	150	15	2	30	50	30--60	50
	Commercial Excavating /Mining	2 Acres	200	10	2	30	50	50--100	50
	Aircraft Landing Strip	2 Acres	200	10	2	30	50	50--100	50
	Veterinary Hospital (Minimum 500' from any Residential District)	2 Acres	200	10	2	30	50	50--100	50
	Hog Farm, Commercial Poultry Farm or Cattle Feed Lot (Minimum 500' from any Residential District)	5 Acres							
	School	2 Acres	200	10	2	30	50	50--100	50
	Religious Institution	2 Acres	200	10	2	30	50	50--100	50
	Community Center	2 Acres	200	10	2	30	50	50--100	50
	Hospital/Clinic	2 Acres	200	10	2	30	50	50--100	50
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.

B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards.

SCHEDULE A

CG General Commercial District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side - Both	Rear
	Personal Service (Note 2)	30,000	125	30	2	30	75	15--30	50
	Private Club (Note 2)	30,000	125	30	2	30	75	15--30	50
	Enclosed Accessory Use	30,000	125	30	2	30	75	15--30	50
	Shopping Center	2 Acres	125	30	2	30	75	25--50	50
	Motor Vehicle, Farm, Contractor Equipment, Motor Home Sales	30,000	125	30	2	30	75	15--30	50
	Sale of: New Products, Produce Goods, and Equipment	30,000	125	30	2	30	75	15--30	50
	Wholesale Distributing Service	30,000	125	30	2	30	75	15--30	50
	Freight/Truck Terminal	30,000	125	30	2	30	75	15--30	50
	Drive-In Service	30,000	125	30	2	30	75	15--30	50
	Gasoline/Car Wash Station	30,000	125	30	2	30	75	15--30	50
	Retail Store/Service	30,000	125	30	2	30	75	15--30	50
	Business Office	30,000	125	30	2	30	75	15--30	50
	Restaurant, Bar, Hotel, Motel	30,000	125	30	2	30	75	15--30	50
	Single Family Dwelling	30,000	125	30	2	30	75	15--30	50
	Parking								
	Indoor Recreation	30,000	125	30	2	30	75	15--30	50
	Community Center	30,000	125	30	2	30	75	15--30	50
	Financial Institution	30,000	125	30	2	30	75	15--30	50
	Mortuary/Funeral Home	30,000	125	30	2	30	75	15--30	50
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.

B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards

SCHEDULE A

CN Neighborhood Commercial District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side -- Both	Rear
One Family Dwelling		40,000	150	15	2	30	50	30--60	50
Personal Service (Note 2)		40,000	150	15	2	30	50	30--60	50
Public Outdoor Recreation (Note 2)		3 Acres	300	40	2	30	50	50--100	50
Private Club (Note 2)		3 Acres	300	40	2	30	50	50--100	50
Enclosed Acc Building Use		40,000	150	15	2	20	50	30--60	50
	Nursing Home	40,000	150	15	2	30	50	30--60	50
	Business Office	40,000	150	15	2	30	50	50--100	50
	Retail Store, Service	40,000	150	15	2	30	50	50--100	50
	Religious Institution	3 Acres	300	40	2	30	50	50--100	50
	Community Center	3 Acres	300	40	2	30	50	50--100	50
	Mortuary/Funeral Home	3 Acres	300	40	2	30	50	50-100	50
	Financial Institution	40,000	150	15	2	30	50	30--100	50
	Home Occupation	SAME AS PRINCIPLE USE							
	Other Neighborhood Commercial Uses upon review and approval of the Planning Board. Such uses must be in keeping with the general character of neighboring uses. No Drive-In or Motor Vehicle Service shall be permitted.								
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.

B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards

SCHEDULE A

IN Industrial District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side --Both	Rear
Those Uses Permitted by Right in a CG District		30,000	125	35	2	30	75	20--40	50
Accessory Use		30000	125	35	2	30	75	20--40	50
	Parking								
	Those Uses Permitted by Site Plan Review in a CG District	30000	125		2	30	75	20--40	50
	Gasoline Station Car Wash	30,000	125		2	30	75	20--40	50
	Quarry	20000							
	Heliport	5 Acres			2	30	75		
	Enclosed Manufacturing, Industrial, Warehouse Wholesale Uses	30,000	125	35	2	30	75	20--40	50
	Public Utilities	30000	125	35	2	30	75	20--40	50
	Enclosed Service, Repair	30000	125	35	2	30	75	20--40	50
	Machine & Transport, Equipment Sales, Services and Repairs	30000	125	35	2	30	75	20--40	50
	Other Industrial Use of Similar Character upon Review and Approval of Planning Board	30000	125	35	2	30	75	20--40	50
	Enclosed Industrial Process and Service	30000	125	35	2	30	75	20--40	50
	Freight or Trucking Terminal	30000	125	35	2	30	75	20--40	50
	Garage	30000	125	35	2	30	75	20--40	50
	Contractor's Yard	2 Acres							
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.

B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

SCHEDULE A

R-16 Residential District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side --Both	Rear
One Family Dwell		16,000	100	10	2	30	50	15--40	50
Enclosed Acc Building Use		16,000	100	10	2	20	50	15--40	50
Acc. Apts (Note 2)		SAME AS PRINCIPLE USE							
Public Outdoor Recreations (Note 2)		1 Acre	100	15	2	30	50	15--40	50
	Home Occupation	SAME AS PRINCIPLE USE							
	Two Family Dwelling	20,000	125	30	2	30	50	15--40	50
	Public Utility Structure	16,000	100	25	2	30	50	15--40	50
	Professional Residence/Office	16,000	100	25	2	30	50	15--40	50
	School	2 Acres	200	15	2	30	50	50--100	50
	Religious Institution	2 Acres	200	15	2	30	50	50--100	50
	Community Center	2 Acres	200	15	2	30	50	50--100	50
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.

B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards

SCHEDULE A

R-20 Residential District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side --Both	Rear
One Family Dwell		20,000	100	20	2	30	50	15--40	50
Enclosed Acc Building Use		2 Acres	150	15	1	20	50	15--40	50
Acc. Apts (Note 2)		SAME AS PRINCIPLE USE							
	Home Occupation	SAME AS PRINCIPLE USE							
	Professional Residence/Office	20,000	100	20	2	30	50	15--40	50
	Public Outdoor Recreation	2 Acres	150	15	2	30	50	50--100	50
	School	2 Acres	200	15	2	30	50	50--100	50
	Public Utility Substation	20,000	100	20	2	30	50	15--40	50
	Religious Institution	2 Acres	200	15	2	30	50	50--100	50
	Community Center	2 Acres	200	15	2	30	50	50--100	50
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

- A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.
- B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards

SCHEDULE A

RM Multiple Residential District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side -- Both	Rear
One Family Dwelling		16,000	100	25	2	30	50	15--40	50
Two Family Dwelling (Note 2)		20,000	125	30	2	30	50	15--40	50
Public Outdoor Recreation (note 2)		40,000	150	20	2	30	50	30--60	50
Accessory Use		16000	100	25	2	20	50	15--40	50
Accessory Apartments (Note 2)		SAME AS PRINCIPLE USE							
	Multiple Family Dwelling	(Note 3)	120	20	2	30	50	25--50	50
	Dormitory Use	40,000	150	20	2	30	50	30--60	50
	Home Occupation	SAME AS PRINCIPLE USE							
	Home Occupancy In a One Family Dwelling	SAME AS PRINCIPLE USE							
	Boarding/Tourist Home	40,000	150	20	2	35	50	15--60	50
	Private Club	16000	100	25	2	30	50	10--40	50
	Professional Residence/ Office (One Family Dwelling)	16,000	100	25	2	30	50	15--40	50
	School	80,000	200	15	2	35	50	50--100	50
	Religious Institution	80,000	200	15	2	35	50	50--100	50
	Community Center	80,000	200	15	2	35	50	50-100	50
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.

B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards

SCHEDULE A

FP Floodplain District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side --Both	Rear
General Farming	Existing Uses								
Golf Courses / Driving Ranges	Necessary Public Utilities and Highways								
Picnic Areas	Parking								
Fishing, Hunting, Swimming Areas	Marinas								
Nature Preserve									
Horticulture	Top Soil Farming								
Hiking, Biking / Horseback Trails	Temporary Amusement Enterprises								
Boat Launching Areas									
Archery, Skating									
	Extraction of Sand and Gravel								
<p>TO BE DETERMINED</p> <p>BY THE PLANNING BOARD</p>									
<p>Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.</p>									

NOTE 1: For uses having frontage on:

- A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.
- B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards

SCHEDULE A

OD Conservation Overlay District

Principal Permitted Uses	Site Plan Review Uses	Min Lot Size		Max Lot Cov. %	Building Height		Min. Yard Dim. In Feet		
		Area - Sq Ft	Width Ft.		Stories	Feet	Front (Note 1)	One Side - Both	Rear
	Agricultural Operation	80,000	200	5	1	20	50	30--60	50
	Public and/or Private Recreation Wildlife Refuge Nature Preservation	80,000	200	5	1	20	50	30--60	50
	Reservoir	80,000	200	5	1	20	50	30--60	50
	Public Utility Structure	80,000	200	5	1	20	50	30--60	50
	Accessory Use Enclosed Accessory Use	80,000	200	5	1	20	50	30--60	50
	Parking Lot Special Event	80,000	200	5	1	20	50	30--60	50
	Commercial Excavation /Mining	80,000	200	5	1	20	50	30--60	50
	Cemetery	80,000	200	5	1	20	50	30--60	50
Active and/or passive solar energy systems pursuant to requirements of Section 44 of this ordinance.									

NOTE 1: For uses having frontage on:

- A. A roadway classified as "Collector" the setback shall be either eighty (80) feet from the center-line of the roadway or the setback established above, whichever is greater.
- B. A roadway classified as an "Arterial" the setback shall be either one-hundred (100) feet from the center-line of the roadway or the setback established above, whichever is greater.

NOTE 2: The applicant or Codes Enforcement Officer may request pre-concept review by a review panel comprised of the Codes Officer, and the Chairpersons of the Zoning and Planning Boards