

TOWN OF PREBLE



ZONING ORDINANCE

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Cortland County Planning Department

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ARTICLE I
General Provisions

SECTION 101 **TITLE**

The title of this Ordinance is the "The Zoning Ordinance of the Town of Preble" and shall include this text, and zoning map.

SECTION 102 **PURPOSE**

The objectives of this Zoning Ordinance are:

- 1). Protect the Cortland Valley Sole Source Aquifer.
- 2). Protect the open and natural character of the land.
- 3). Provide for planned growth of agricultural, residential, commercial and industrial use of land consistent with the goals and objectives of the Town Development and Land Use Plan and the economic and social needs of the community.
- 4). Provide for more intensive protection of the Town's lakes.
- 5). Preserve the Town's natural resources and habitats.
- 6). Encourage the use of alternative energy systems and protect solar and wind access.
- 7). Promote the health, safety, and general welfare of the Town consistent with the objectives of Town Law Section 263.

SECTION 103 **CONFLICT WITH OTHER LAWS**

Whenever the requirements of this Ordinance are at variance with the requirements of any lawfully adopted rules, regulations or ordinances, the most restrictive or those imposing the higher standards shall govern.

SECTION 104 **VALIDITY AND SEVERABILITY**

If any word, phrase, sentence, part, section, subsection, or other portion of this Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Law or the application

hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board hereby declares that it would have enacted this Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 105 FEES

Permit fees shall be collected and paid according to the fee structure in effect at the time of application.

SECTION 106 VIOLATIONS AND PENALTIES

Any person who violates, disobeys, neglects or refuses to comply with any provision of this ordinance, shall be guilty of an offense and upon conviction, thereof; shall be subject to a fine of not more that \$500.00 or imprisonment for a period not more than fifteen (15) days or both. Each week a violation is continued shall be deemed a separate offense.

SECTION 107 ACTIONS FOR INJUNCTION

The Town may obtain an action to restrain by injunction any violation of this ordinance or any failure to comply with any of the provisions of this ordinance.

SECTION 108 REMOVAL OF VIOLATIONS

Any building or structure erected, or any use conducted without a zoning permit or certificate of compliance, where required, or not in conformity with the provisions of this ordinance may be removed, closed or halted at once by the Zoning Enforcement Officer with the issuance of a stop order, with the assistance, if deemed necessary, of any appropriate Town officer or employee.

SECTION 109 AMENDMENTS

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, change, modify or repeal this Zoning Ordinance in accordance with the applicable provisions of law.

SECTION 110 REPEAL OF PRIOR ZONING ORDINANCE

1. The Town of Preble Zoning Ordinances enacted June 22, 1971, and all the amendments thereto, shall be, and hereby is repealed on and as of the effective date of this Zoning Ordinance.
2. The adoption of this Zoning Ordinance shall not affect or impair any permit granted, any act done, offense committed, or right accrued or

acquired, or liability, penalty, forfeiture or punishment incurred prior to the effective date of this Zoning Ordinance, or under any prior Zoning Ordinance of the Town of Preble; but the same may be enjoyed, ascertained, enforced, prosecuted or inflicted as fully, and to the same extent, as if this Zoning Ordinance had not been adopted.

SECTION 111 EFFECTIVE DATE

This Zoning Ordinance shall take effect in accordance with the provisions of Section 264 of the Town Law. This becomes effective on the date of March 17, 2008, or such earlier date as provided by law.

**ARTICLE II
Definitions**

SECTION 200 WORD TERMS AND DEFINITIONS

For the purpose of these regulations certain terms or words used herein shall be interpreted as follows:

The word "person" means any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Words used in the present tense include the future tense.

The singular includes the plural.

The words "shall" and "must" are mandatory.

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

The word "lot" has the same meaning as the words plot or parcel.

From and after the effective date of Preble Local Law No. 1 of the Year 2014, the words "special permit," "Special permit," and "Special Permit" are hereby deleted everywhere they appear in this Law, and the words "conditional permit," "Conditional permit," and "Conditional Permit" are hereby respectively substituted therefor.

SECTION 210 DEFINITIONS

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure and may include alternate energy systems.

ADULT USE: Any one (1) of the uses defined below shall be considered an adult use. An "adult use" shall always be a primary use and may not be accessory to any other use, including another "adult use". In the case of a combination of "adult uses," each use shall be considered as a separate primary use. All "adult uses," whether or not preexisting, shall obtain certificates of zoning occupancy as an "adult

use" within sixty (60) days of the effective date of this ordinance. No adult physical culture establishment, whether preexisting or new, shall receive a certificate of zoning occupancy.

(A) Adult entertainment business:

- (1) A public establishment which features topless dancers, nude dancers or strippers, male or female.**
- (2) An enclosed building used for presenting, lending or selling motion picture films, video cassettes, cable television, or any other such visual media, or used for presenting, lending, or selling books, magazines, publications, or any other written materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical area" as hereafter defined.**

(B) Specified sexual activities:

- (1) Human genitals in a state of sexual stimulation or arousal; or**
- (2) Acts of human masturbation, sexual intercourse or sodomy; or**
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.**

(C) Specified anatomical areas:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; or**
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.**

(D) Adult physical culture establishment:

- (1) Any establishment which offers or purports to offer massage, whether or not licensed, or other physical contact by members of the opposite sex. Medical offices, electrolysis, karate, judo and dance studios are not "adult physical culture establishments".**

AGRICULTURE: The use of land for agricultural purposes including tilling of the soil, dairying, pasture, agriculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities, and provided further that such uses shall not include the commercial feeding of garbage and offal to swine or other animals. (for more information, see Right to Farm Law and Local Law #1 for 1994)

AGRICULTURAL BUSINESS ESTABLISHMENTS AGRI BUSINESS: A commercial activity characterized by the sale of agricultural products or a business engaged in performing agricultural, animal husbandry, or horticulture services on a fee or contract basis including corn shelling; hay baling and threshing; sorting, grading and packing fruits and vegetables for the grower; agricultural produce milling and processing; horticultural services; crop dusting; fruit picking; grain cleaning; land grading; harvesting and plowing.

AIRPORT: Any commercial or public facility for the purpose of engaging aircraft to flight.

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

ALTERNATIVE ENERGY SYSTEM: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure. Examples include windmills and solar water heaters.

ANIMAL HOSPITAL: A business that treats animals and regularly houses them on the premises overnight and for extended periods for treatment.

ARCADE OR VIDEO ARCADE: A place where coin activated amusements such as video games and pinball machines are available to the public.

AUTOMOBILE GRAVE YARD: Any area used for the storage of two or more unlicensed vehicles not housed by permanent structure.

BED AND BREAKFAST: A single-family dwelling that contains a dwelling unit occupied and used by the owner of such dwelling as his/her principal residence together with not more than four (4) accessory rooms for guests whose stay shall not exceed seven (7) consecutive days, together with the provision of a morning meal.

BUILDING: Any structure which has one or more floors and a roof, and is intended for the shelter, housing or enclosure of person, animals or chattel.

BUILDING HEIGHT: The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks, and similar projections.

BUSINESS, CONVENIENCE: Small commercial establishments catering primarily to nearby residential areas providing convenience goods and services including but not limited to grocery stores (of less than 5,000 square feet in floor area), drug stores, beauty salons, barber shops, carry out dry cleaning and laundry pickup stations.

CAMPING TRAILER: Any vehicle used or arranged for temporary living or sleeping purposes, mounted on wheels and drawn by a power-driven vehicle, or such type vehicle having its wheels removed.

CAMPGROUND: A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

CARPOT: A roofed structure, with two enclosing walls, used for the storage of one or more automobiles.

CERTIFICATE OF OCCUPANCY OR COMPLIANCE: A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with this Ordinance.

CLUB: Any organization catering to members and their guests, or premises and buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing they are not conducting any vending stands, merchandising, or commercial activities except as required for the membership and purposes of such club. For the purpose of this code clubs shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

COMMERCIAL; COMMERCIAL USES -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms “commercial,” “commercial uses,” or any variation thereof, be construed to mean, be, include, or authorize within the Town any Explicitly Prohibited Use.

COMPREHENSIVE PLAN -- any document, styled comprehensive or master plan or otherwise, adopted by the Town Board for the protection, enhancement, growth, and development of the Town, immediate as well as long-range, specifically pursuant to §272-a of the NYS Town Law, together with all other materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, adopted by the Town Board, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the protection, enhancement, growth and development of the Town.

CONDITIONAL PERMIT USE; CONDITIONAL PERMIT: -- A use that because of its unique characteristics requires individual consideration through a procedure of review by the Board of Appeals, in order to determine whether a Conditional Use Permit should be granted, conditionally granted, or denied in accordance with Article IX of this Law.

CONSUMPTIVE USE: The loss of water from a ground-water or surface water source through a manmade conveyance system (including such water that is purveyed through a public water supply system) due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, diversion from the WATERSHED OR RECHARGE AREA, or any other process by which the water withdrawn is not returned to the WATERSHED OR RECHARGE AREA undiminished in quantity. Deep well injection below freshwater aquifers shall not be considered a return to the WATERSHED OR RECHARGE AREA. The preceding sentence is not intended and shall not be construed to authorize ‘deep well injection’ or Underground Injection as legal uses of land within the Town.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DRIVE-IN RESTAURANT: Any place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles, establishments where customers may serve themselves and including those where customers may eat or drink the food, refreshments or beverages on the premises.

DWELLING: Any building or portion thereof designed or used exclusively as a residence or sleeping place of one (1) or more persons, including a mobile home.

SINGLE-FAMILY: A detached residential dwelling designed for and occupied by one family only.

TWO-FAMILY: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

MULTIPLE-FAMILY: A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provide.

SEASONAL HOME: A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including beach cottages, hunting cabins, vacation cottages, summer cottages and vacation lodges.

DWELLING UNIT: One room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities, designed for occupancy by one family.

ESSENTIAL SERVICES: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

EXCAVATION (QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING): A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or topsoil for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved building permit. Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms “excavation,” “excavation or mining,” or any variation thereof contained in this Law, be construed to mean, be, include, or authorize within the Town any Natural Gas And/Or Petroleum Extraction Activities, or any other Explicitly Prohibited Use.

EXPLICITLY PROHIBITED USE(S) -- Shall mean and be the Explicitly Prohibited Uses defined and described in Section 590 of this Law.

FAMILY: One or more persons related to each other by blood, marriage or adoption (or not more than three individuals who are not related), living together as a single housekeeping unit. A group home for not more than twelve (12) persons, seventeen (17) years of age or less who are not related, as above, to the adult occupants of the unit shall be considered a family for this Ordinance when it has an internal structure akin to a traditional (biological unitary) family and an external appearance of a relatively normal, stable and permanent family unit and is operated or supervised by a qualified social services agency.

FARM LABOR CAMP - PRIVATE: A labor camp housing facilities, building or buildings in which people are housed who are employed in the individual farmer's personal farming operation.

FARM LABOR CAMP - COMMERCIAL: Any structure or combination of structures designed or intended to be used for the housing of persons engaged in casual or per diem labor on a profit basis for farmers other than the owner of the camp.

FLOOD HAZARD AREA, SPECIAL: Maximum area of the flood plain that, on the average, is likely to be flooded once every 100 years.

FLOOD PLAIN: A land area adjoining a river, stream, watercourse, pond or lake which is susceptible to flooding.

FLOOD PROOFING: Any combination of structural and non-structural additions, changes or adjustments to properties and structures which significantly reduce or eliminate flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOOR AREA, GROSS: For the purpose of applying the requirements for off-street parking and loading, "gross floor area" in the case of offices, merchandising or service types of uses shall mean the total floor area to be used or intended to be used by tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

FLOOR AREA, HABITABLE: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business.

GARAGES, PRIVATE: An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage of motor vehicles and/or other household items.

GARAGES, PUBLIC: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, including the supply of gasoline or oil.

HAZARDOUS MATERIAL: Any substance found listed in any of 40 CFR 261, 40 CFR 302, 6 NYCRR 371, or 6 NYCRR 597, and, whether or not listed in any of the foregoing regulations, any petrochemicals, petroleum products (such as asphalt, gaseous fuels, liquid fuels, fuel oils, lubricating oils and greases), organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to two (2), alkalis with a pH greater than or equal to twelve point five (12.5), radioactive substances, pathological or infectious wastes or any material exhibiting the characteristics of ignitability, corrosivity, reactivity or EP toxicity.

HOME OCCUPATION: An occupation in a dwelling unit or customary accessory structure provided that:

- (a) No more than one employee other than members of the family residing on the premises shall be engaged in such occupation;
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the building unit shall be used in the conduct of the home occupation.

INDUSTRIAL; INDUSTRIAL USES; INDUSTRY -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "industrial," "industrial uses," "industry," or any variation thereof contained in this Law be construed to mean, be, include, or authorize within the Town any Explicitly Prohibited Use

INJECTION WELL -- A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension of the hole, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.

JUNK YARD: Any area of land, including buildings thereon which is used primarily for the collecting, storage or sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles that are not operable and/or not registered with the New York State Department of Motor Vehicles.

KENNEL: Any lot or premises on which four (4) or more domestic animals more than four (4) months of age are housed, groomed, bred, boarded, trained or sold.

LAND APPLICATION FACILITY -- A site where any Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes are applied to the soil surface or injected into the upper layer of the soil.

LARGE SCALE PROPANE FACILITY -- Subject to the final sentence of this definition, any stationary or movable above ground or subsurface structure, cavern, facility, or complex intended or designed to be capable of holding (whether for transport, wholesale distribution, long-term, short-term or intermittent storage, or

otherwise) *more than* 30,000 gallons (or 111,000 pounds, whichever is less) of propane, whether in a single cavern, container, or vessel (such as, but not limited to, a tank, cylinder, or rail car) or in a group of two or more caverns, containers, or vessels that are connected or stored or located in proximity to one another or otherwise, and whether or not the caverns, containers, tanks, vessels, etc. constitute a 'single process' for purposes of 40 CFR Part 68. Notwithstanding any provision hereof to the contrary, for purposes of this Local Law the term 'Large Scale Propane Facility' is not intended and shall not be construed to mean or include either: (a) any facility (regardless of capacity) used to store propane to be consumed as fuel on the site of such facility; or (b) any propane delivery vehicles (sometimes referred to as 'bobtails') having a maximum capacity of 3,200 gallons (or 12,000 pounds) or less and used to deliver product to retail propane customers.

LOT: A parcel of land located along a public street, road or highway; occupied or capable of being occupied exclusively by one or more principal buildings and/or uses and the accessory buildings or uses to such buildings or uses and having as a minimum, such area, dimensions and other requirements as specified by this Zoning Ordinance.

(a) **CORNER LOT:** A parcel of land fronting on two intersecting streets with two required front yards and two required side yards. No rear yard is required.

LOT DEPTH: The average horizontal distance from the street line of the lot to its rear lot line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The front of a lot shall be construed to be the portion along the public highway. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to highways shall be considered frontage, and yards shall be provided as indicated under "YARDS" in these definitions.

LOT LINE: Any boundary line of a lot.

LOT WIDTH: The width of the lot between side lot lines at the front building line as prescribed by the front yard regulations.

MANUFACTURED HOME: Any portable vehicle with a steel frame which is designed to be transported on its own wheels or those of another vehicle, which is used, designed to be used, and capable of being used as a detached single-family residence; and which is intended to be occupied as permanent living quarters containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities, and plumbing and electrical connections for attachment to outside systems. The definition of mobile home includes all additions made subsequent to installation. This definition does not include modular housing placed on a standard foundation or camping trailer.

MANUFACTURED HOME PARK: Any lot, field, plot, parcel or tract of land on which two (2) or more manufactured homes are parked or located and for which use said premises are offered to the public for a fee. This definition shall not include manufactured homes on a property used for agricultural purposes as living quarters for person employed on said property.

MINING -- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the term “mining” or any variation thereof contained in this Law be construed to mean, be, include, or authorize within the Town any Natural Gas And/Or Petroleum Extraction Activities, or any other Explicitly Prohibited Use.

MIXED USE DWELLING OR PROPERTY: A dwelling or property consisting of a residential use and a non-residential use other than agricultural.

MODULAR HOUSE: A housing unit constructed off-site consisting of more than one segment and designed to be permanently anchored to a foundation, to become a fixed part of the real estate, and which meets all the standards of the International Building Code.

MOTEL: A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily to accommodate the occupants, but open to the general public. The term "motel" includes buildings designated as auto cabins, auto courts, hotels, motor lodges, tourist courts and similar terms.

MOTOR VEHICLE REPAIR SHOP: A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles.

NATURAL GAS -- Methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

NATURAL GAS AND/OR PETROLEUM EXPLORATION ACTIVITIES -- Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, *but only to the extent* that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES -- The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES -- Any of the following in any form, and *whether or not* such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of “industrial waste,” “hazardous,” or “toxic,” and whether or not such substances are generally characterized as waste: (a) natural gas or petroleum

drilling fluids; (b) natural gas or petroleum exploration, drilling, production or processing wastes; (c) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (d) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (e) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (f) drill cuttings from natural gas or petroleum wells; or (g) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as “solid wastes which are not hazardous wastes” under 40 C.F.R. § 261.4(b). The definition of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes *does not include* (i) recognizable and non-recognizable food wastes, or (ii) waste generated by farm use.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES DISPOSAL/STORAGE FACILITY

– Any of the following: (a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES DUMP

-- Land upon which Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

NATURAL GAS COMPRESSION FACILITY

-- A facility constructed or operated to compress natural gas that originates from a gas well or collection of such wells, operating as a midstream facility for delivery of gas from a gas field for entry into the transmission pipeline system; the term shall not include the transmission pipeline itself; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

NATURAL GAS PROCESSING FACILITY

-- Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO₂ separated from natural gas streams.

NON-CONFORMING LOT:

A lot existing at the time of enactment of this ordinance or any amendment thereto, which does not conform to the area regulations of the district or zone in which it is situated.

NON-CONFORMING USE: A structure or use of land existing at the time of enactment of this ordinance and which does not conform to the regulations of the district or zone in which it is located.

ORDINANCE: A systematic statement of a body of law such as this Zoning Ordinance. The word "Ordinance" has been used herein when referring to this Zoning Ordinance.

PARKING SPACE: Space available for the parking of one motor vehicle and having an area of not less than 200 (10 x 20) square feet exclusive of passageways and driveways giving access thereto.

PARKING SPACE, OFF-STREET: An off-street area of berth with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

PERMITTED USE (OR USE OF RIGHT): A land use allowed in the zoning district in question by virtue of Sections 502, 503, 512, 513, 522, 523, 532, 533, 542, or 543, as applicable.

POULTRY HOUSE: The keeping of any number of poultry or chicken.

PROFESSIONAL OFFICES: The office or place of business where professional services are offered and does not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to, doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists and chiropractors.

PROPANE – Any of the hydrocarbon gases (whether or not in liquid or vapor form or otherwise) commonly referred to as liquefied petroleum gas, LPG, LP Gas, or liquid petroleum gas, typically consisting primarily of (or a mixture of) propane or a mixture of propane and butane.

PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS: The words "public and semi-public buildings and grounds", as used in this ordinance are intended to designate but not limited to any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

- A. Churches, places of worship, parish houses and convents.
- B. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
- C. Nursery schools, elementary schools, high schools, colleges or universities.
- D. Golf courses and country clubs, however, not including clubs whose activities include the maintenance, storage or takeoffs or landings of aircraft.
- E. Public libraries and museums.
- F. Not-for-profit fire, ambulance and public safety building.

- G. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged as the same are defined under the Public Health Law of the State of New York, provided that they are duly licensed by the State of New York.
- H. Not-for-profit membership corporation established for cultural, social, or recreational purposes.
- I. Recreational facilities, either for profit or not-for-profit, such as swimming, tennis, platform tennis, bowling, hockey, skiing (cross country or downhill) ice skating or other indoor or outdoor sports.
- J. Day-care centers approved by the New York State Department of Social Services.

PUBLIC UTILITY; PUBLIC UTILITY STATION -- An entity which operates as a monopoly, and whose rates charged to customers are established by a utility commission. A public utility station, structure, or use is a facility, structure, or use which is operated by a public utility, and which provides electric, gas, steam, CATV, telephone or other communication service, water or sewerage directly to the general public.

RECREATION AREA: Recreation area is the sum of all open or covered areas used for commercial recreation purposes.

RESTAURANT: Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or playground or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RIGHT-OF-WAY: Land set aside for use as a street, alley, or other means of travel.

RETAIL GASOLINE OUTLET: Any establishment that sells gasoline to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

ROAD, MAJOR: Public streets or public highways connecting through public roads with each other and which also handle internal movement within built-up areas.

ROAD, SECONDARY: Public streets or public roads serving to connect major roads with each other and which also handle internal movement within built-up areas.

ROAD, LOCAL: Public streets or public roads which primarily function to give direct access to abutting property. Local roads are the internal part of the system providing movement within residential and other land use areas.

SETBACK-FRONT: The required open unoccupied space between the street line and the front of the main structure, but not including porches, unless enclosed or located upon foundation, entrance steps and other appendages to the front of the main structure.

SETBACK-BACK: The required open, unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

SIGN: Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others, but not including any flag, badge or insignia of any public, quasi-public, civic, charitable or religious group.

SIGN AREA: The area defined by the frame of the edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four sided (straight sides) geometric shape which most closely outlines the said sign.

SITE PLAN: A layout plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SITE PLAN REVIEW: A review and approval process, conducted by the Planning Board, whereby Site Plans are reviewed utilizing criteria stated in this ordinance.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade.

STORAGE SHED: A building or enclosure that is portable or moveable in nature. May have a floor, walls and a roof. Examples are lawn and garden sheds among others.

STREETLINE: The limit of the street width or highway right-of-way, whichever is greater.

STRUCTURE: Anything constructed or erected above grade with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, signs, billboards and poster panels.

SUBSURFACE -- Below the surface of the earth, or of a body of water, as the context may require.

SWIMMING POOL: Any body of water, or receptacle for water, having a capability of a depth of eighteen (18) inches or more at any point, used or intended to be used for swimming, bathing, or wading and permanently installed or constructed either above or below ground.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the

structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

TELECOMMUNICATION TOWER: Any tower, edifice, pole or other structure within the Town whether attached to a building or freestanding, whether guyed or self-supporting, designed to be used or designed to support a device to be used for the transmission and/or reception of radio and television communication frequency signals, and including but not limited to broadcast, shortwave or citizen band or when supporting driven devices, including but not limited to energy conversion systems and wind speed and/or direction indicators. (Amateur radio operators refer to -- FCC Regulations PRB-1).

TEMPORARY ROADSIDE STANDS: The sale at a temporary roadside stand of farm produce or personal property exceeding a total of 72 hours during a calendar year provided that such stand shall not be closer than fifteen feet from the right-of-way line. Ample parking for customers shall be provided outside the boundaries of the adjacent road. Signs advertising the roadside stand are permitted on the site of the sale not to exceed sixteen square feet.

TEMPORARY USE: An activity conducted for a specified, limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work and seasonal produce stands.

TOWN BOARD – The Town Board of the Town of Preble, New York.

TOXIC SUBSTANCE: Any compound or material which is or may be harmful to human health, as defined by § 4801, Subdivision 2, of the New York State Public Health Law.

UNDERGROUND INJECTION -- Subsurface emplacement of Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes, including emplacement by or into an Injection Well.

UNDERGROUND NATURAL GAS STORAGE -- Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location, whether for the purpose of load balancing the production of natural gas or for any other reason, including without limitation short-term, long-term, or intermittent storage for product quality, processing, or transportation purposes, or because of market conditions. Without limitation, this term includes compression and dehydration facilities.

UNIFORM CODE: Any reference in this Ordinance to the Uniform Code shall mean the New York State Fire Prevention and Building Code.

USE: The specific purposes for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE – An area variance or a use variance, as the context may admit.

VARIANCE, AREA -- The authorization by the Board of Appeals for the use of land

in a manner that is not allowed by the dimensional requirements of the applicable zoning regulations.

VARIANCE, USE -- The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

YARD, FRONT: An open space within and extending the full width of the lot from the front street line to the part of the principal building which is nearest to such front line.

YARD, REAR: An open space extended across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory buildings and open porches which can be within five (5) feet of the rear lot line.

YARD, SIDE: An open space on the same lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than two (2) feet for rain water leaders, window sills, other such fixtures and open steps, and a single storage shed.

ZONING ENFORCEMENT OFFICER: -- The Code Enforcement Officer, or other person from time to time designated by the Town Board to administer and enforce this Law.

ARTICLE III

Code Enforcement Officer; Building Permits; Operating Permits; Certificates of Occupancy

SECTION 300 CODE ENFORCEMENT OFFICER

- A. The Code Enforcement Officer shall administer and enforce all the provisions of the New York State Uniform Fire Prevention and Building Code as currently in effect and as hereafter amended from time to time (hereinafter “Uniform Code”), the State Energy Conservation Construction Code as currently in effect and as hereafter amended from time to time (hereinafter “Energy Code”), and the Zoning Ordinance of the Town of Preble as currently in effect and as hereafter amended from time to time (hereinafter “this zoning law”). The Code Enforcement Officer shall have the following powers and duties:**
- 1. to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;**
 - 2. upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;**
 - 3. to conduct inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this ordinance;**
 - 4. to issue Stop Work Orders;**
 - 5. to review and investigate complaints;**
 - 6. to issue orders pursuant to subdivision (a) of section 312 (Violations);**
 - 7. to maintain records;**
 - 8. to collect fees as set by the Town Board;**
 - 9. to pursue administrative enforcement actions and proceedings;**
 - 10. in consultation with this Town’s attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this zoning law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this zoning law; and**

11. to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this ordinance.

- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this ordinance.
- D. Services of an individual, partnership, business corporation or other similar firm may be contracted for or one or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this ordinance. Said individual or firm and each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel and shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and for any services provided in assistance thereof shall be fixed from time to time by the Town Board.

SECTION 301 BUILDING PERMITS

- A. **Building Permits Required.** Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code, Energy Code, and/or this zoning law including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.
- B. **Exemptions.** No Building Permit shall be required for work in any of the following categories:
 - 1. construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided

the gross floor area does not exceed 144 square feet (13.88 square meters), which are not improved by electric or septic systems;

2. installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
3. installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
4. construction of retaining walls unless such walls support a surcharge or impound Class 1, 11 or IIIA liquids;
5. construction of temporary motion picture, television and theater stage sets and scenery;
6. installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
7. installation of partitions or movable cases less than 5'-9" in height;
8. painting, wallpapering, tiling, carpeting, or other similar finish work;
9. installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
10. replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
11. Repairs, provided that such repairs do not involve the (i) removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the enlargement, alteration, replacement or relocation of any building system; or (iii) the removal from service of all or part of a fire protection system for any period of time; or (iv) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which effects egress.
12. Intentionally omitted.
13. Agricultural buildings or structures that are not to be improved by electric or septic systems.

C. **Exemption not deemed authorization to perform non-compliant work.** The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code, Energy Code, or this zoning law.

D. **Applications for Building Permits.** Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code, Energy Code, and this zoning law. The application shall include or be accompanied by the following information and documentation:

1. a description of the proposed work;
2. the tax map number and the street address of the premises where the work is to be performed;
3. the occupancy classification of any affected building or structure;
4. where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
5. at least 2 sets of construction documents (drawings and/or specifications) which i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code, Energy Code, and this zoning law; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

E. **Construction documents.** Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

F. **Issuance of Building Permits.** An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code, Energy Code, and this zoning law. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code, Energy Code, and this zoning law.

- G. **Building Permits to be displayed.** Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. **Work to be in accordance with construction documents.** All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- I. **Time limits.** Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement' Officer.
- J. **Revocation or suspension of Building Permits.** If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code, Energy Code, or this zoning law, the Code Enforcement officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code, Energy Code, and this zoning law and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code, Energy Code, and this zoning law.
- K. **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 313 (Fees) must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 302 PREAPPLICATION CONFERENCE WITH PLANNING BOARD

Preapplication conferences with the Town's Planning Board are encouraged for all applicants seeking permits for nonresidential uses or non-farm uses.

SECTION 303 CONSTRUCTION INSPECTIONS

- A. **Work to remain accessible and exposed.** Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

- B. Elements of work to be inspected. The following elements of the construction process shall be inspected made, where applicable:**
- 1. work site prior to the issuance of a Building Permit;**
 - 2. footing and foundation;**
 - 3. preparation for concrete slab;**
 - 4. framing;**
 - 5. building systems, including underground and rough-in;**
 - 6. fire resistant construction;**
 - 7. fire resistant penetrations;**
 - 8. solid fuel burning heating appliances, chimneys, flues or gas vents;**
 - 9. Energy Code compliance; and**
 - 10. a final inspection after all work authorized by the Building Permit has been completed.**
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code, Energy Code, or this zoning law. Work not in compliance with any applicable provision of the Uniform Code, Energy Code, or this zoning law shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code, Energy Code, and this zoning law, re-inspected, and found satisfactory as completed.**
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in section 313 (Fees) must be paid prior to or at the time of each inspection performed pursuant to this section.**

SECTION 304 STOP WORK ORDERS

- A. Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:**
- 1. any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code, Energy Code, or this zoning law, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or**
 - 2. any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work**

is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

3. any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building-permit that has become invalid, has expired, or has been suspended or revoked.

B. **Content of Stop Work Orders.** Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before Work will be permitted to resume.

C. **Service of Stop Work Orders.** The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

D. **Effect of Stop Work Order.** Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

E. **Remedy not exclusive.** The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (A) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 312 or any other applicable ordinance, local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 305 CERTIFICATES OF OCCUPANCY

A. **Certificates of Occupancy required.** A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.

B. **Issuance of Certificates of Occupancy.** The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code, Energy Code, and this zoning law and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or

subclassification to another complies with all applicable provisions of the Uniform Code, Energy Code, and this zoning law. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy.

1. a written statement of structural observations and/or a final report of special inspections, and
2. flood hazard certifications.

C. **Contents of Certificates of Occupancy.** A Certificate of Occupancy shall contain the following information:

1. the Building Permit number, if any;
2. the date of issuance of the Building Permit, if any;
3. the name, address and tax map number of the property;
4. if the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued;
5. the use and occupancy classification of the structure;
6. the type of construction of the structure;
7. the assembly occupant load of the structure, if any;
8. if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
9. any special conditions imposed in connection with the issuance of the
10. Building Permit; and
11. the signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

D. **Temporary Certificate.** The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate,

may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code, Energy Code, and this zoning law.

- E. **Revocation or suspension of certificates.** If the Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 313 must be paid at the time of submission of an application for a Certificate of Occupancy or for Temporary Certificate.

SECTION 306 NOTIFICATION REGARDING FIRE OR EXPLOSION

The chief of any fire department providing fire fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 307 OPERATING PERMITS REQUIRED; EXPLICITLY PROHIBITED USES NOT AUTHORIZED.

- A. **Operation Permits required.** This Section 307 is not intended and shall not be construed to authorize any Explicitly Prohibited Use to be conducted within the Town, or to authorize any other use that is not a legal use within the Town. No Operating Permit shall be issued for any Explicitly Prohibited Use. Even if any of the activities, uses or buildings set forth below are otherwise lawful within the Town, no such activities, uses, or buildings shall be conducted or used unless an Operating Permit is obtained and remains in effect:
1. manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;
 2. hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
 3. use of pyrotechnic devices in assembly occupancies;

4. buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
5. buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

- B. **Applications for Operating Permits.** An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code and this zoning law. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. **Inspections.** The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.
- D. **Multiple Activities.** In any circumstance in which more the one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- E. **Duration of Operating Permits.** Operating Permits shall remain in effect until reissued, renewed, revoked, or suspended.
- F. **Revocation or suspension of Operating Permits.** If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code or this zoning law, such Operating Permit shall be revoked or suspended.
- G. **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 313 must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

**SECTION 308 FIRE SAFETY AND PROPERTY MAINTENANCE
INSPECTIONS**

A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

- 1. Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.**
- 2. Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.**
- 3. Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.**

B. Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

- 1. the request of the owner of the property to be inspected or an authorized agent of such owner;**
- 2. receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code, Energy Code, or this zoning law exist; or**
- 3. receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code, Energy Code, or this zoning law exist;**

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

C. OFPC Inspections. Nothing in this section or in any other provision of this ordinance shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State

Fire Administrator under Executive Law section 156-e and Education Law section 807-b.

- D. **Fee.** The fee specified in or determined in accordance with the provisions set forth in section 313 must be paid prior to or at the time each Inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 309 COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this ordinance or any other regulation adopted for administration and enforcement of the Uniform Code, Energy Code, or this zoning law. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

1. performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
2. if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (Violations) of this ordinance;
3. if appropriate, issuing a Stop Work Order;
4. if a violation which was found to exist is abated or corrected, performing all inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 310 RECORD KEEPING

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:
1. all applications received, reviewed and approved or denied;
 2. all plans, specifications and construction documents approved;
 3. all Building Permits, Certificates of Occupancy, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
 4. all inspections and tests performed;
 5. all statements and reports issued;
 6. all complaints received;
 7. all investigations conducted;

8. all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this ordinance, including; and
9. all fees charged and collected.

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimal time period so required by State law and regulation.

SECTION 311 PROGRAM REVIEW AND REPORTING

A. The Code Enforcement Officer shall monthly and annually submit to the Town Board a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 310 (Record Keeping) and a report and summary of all appeals or litigation pending or concluded.

B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

SECTION 312 VIOLATIONS

A. **Compliance Orders.** The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, Energy Code, or this zoning law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, Energy Code, or this zoning law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this ordinance which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance maybe instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof to be served on the owner of the affected property personally or by registered mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant,

contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail; provided however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

- B. **Appearance Tickets.** The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. **Civil Penalties.** In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, Energy Code or this zoning law or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this ordinance, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town.
- D. **Injunctive Relief.** An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, Energy Code, this zoning law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this ordinance. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, Energy Code, this zoning law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, Energy Code or this zoning law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board.
- E. **Remedies Not Exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 304 (Stop Work Orders) or any other section of this ordinance, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 304 (Stop Work Orders) or any other section of this ordinance, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 381 of the Executive Law.

SECTION 313 FEES

A fee schedule shall be established by resolution of the Town Board. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this ordinance.

SECTION 314 INTERMUNICIPAL AGREEMENTS

The Town Board may, by resolution, authorize the Town Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this zoning law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

ARTICLE IV
Establishment And Designation Of Zoning Districts

SECTION 400 ESTABLISHMENT OF DISTRICTS

For the purpose of promoting the public health, safety, morals, and general welfare of the Town of Preble, the Town is hereby divided into the following types of districts.

R1 - Residential

R1L- Residential Lake Side

AG - Agricultural

C - Commercial

I - Light Industrial

ZONE A

AQUIFER PROTECTION DISTRICT

WETLAND PROTECTION OVERLAY ZONE

SECTION 401 ZONING MAP

Said districts are bounded as shown on the map entitled "Zoning Map of the Town of Preble", adopted March 10, 2008, and certified by the Town Clerk which accompanies, and which, with all explanatory matter, is hereby made a part of this Ordinance.

SECTION 402 DESIGNATION OF DISTRICT BOUNDARIES

Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow the center lines of streets, the center lines of railroad right-of-ways, existing lot lines, the mean water level of streams, and other waterways, all as shown on the Zoning Map.

SECTION 403 DETERMINATION OF LOCATION OF BOUNDARIES

In case of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Enforcement Officer shall request the Zoning Board of Appeals to render a determination.

ARTICLE V

Zoning District Uses; Any Use Not Specifically Permitted Is Prohibited.

Any use not specifically set forth as a permitted use (as of right or upon conditional permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district.

No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located, and no building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building is located.

SECTION 500 RESIDENTIAL (R1)

SECTION 501 PURPOSE

The purpose of the Residential District is to provide a stable environment for residential development, free from incompatible uses and only those uses set forth below shall be allowed in said district.

SECTION 502 PERMITTED USES

One and Two Family Dwellings

SECTION 503 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis except home occupations.

SECTION 504 USES REQUIRING A CONDITIONAL PERMIT ISSUED BY THE ZONING BOARD OF APPEALS (SUBJECT TO CONDITIONAL PERMIT USE REGULATIONS, ARTICLE IX)

**Agriculture
Multiple Family Dwellings
Public And Semi-Public Buildings and Grounds
Home Occupations
Individual Manufactured Homes, (See Section 615)
Manufactured Home Parks
Day Care Centers
Temporary Roadside Stand (Duration of permit as determined by the Zoning Board of Appeals)
Bed and Breakfast**

SECTION 505 SPECIFICATIONS

Setbacks:	Front:	Seventy-five (75) feet minimum
	Side:	Twenty (20) feet minimum
	Rear:	Twenty (20) feet minimum
	Frontage:	One hundred fifty (150) feet minimum
	Height:	Thirty-five (35) feet maximum
	Lot Size:	One (1) acre minimum

SECTION 510 RESIDENTIAL LAKE SIDE DISTRICT (R1L)

SECTION 511 PURPOSE

The purpose of the Residential Lake Side District is to recognize lake and pond shorelines as a unique resource. Recognition is given that these shorelines be given use limitations to prevent environmental destruction and to maintain their attractiveness and value for residential development as well as for public enjoyment and therefore only those uses set forth below shall be allowed in said district.

SECTION 512 PERMITTED USES

Seasonal Home
Single-Family Dwellings

SECTION 513 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis, except home occupations.

SECTION 514 USES PERMITTED WITH A CONDITIONAL PERMIT ISSUED BY THE ZONING BOARD OF APPEALS (SUBJECT TO CONDITIONAL PERMIT USE REGULATIONS, ARTICLE IX)

Two Family Dwellings
Recreation Areas
Home Occupation
Temporary Roadside Stand (Duration of permit as determined by Zoning Board of Appeals)
Bed and Breakfast

SECTION 515 SPECIFICATION

Setbacks:	Front:	Seventy-five (75) feet minimum
	Side:	Fifteen (15) feet minimum
	Rear:	Twenty (20) feet minimum

Frontage: One hundred fifty (150) feet minimum
Height: Thirty-five (35) feet maximum
Lot Size: Two (2) acre minimum

SECTION 516 OTHER PROVISIONS AND REQUIREMENTS

- A. Site Plans for development in this district shall be designed to preserve the scenic qualities of the shoreline and related vistas.
- B. Roadways shall be planned to provide the most effective access to individual parcels and lots.
- C. The Planning Board shall require an erosion and sediment control plan and a stormwater management plan with any application for development in this district.

SECTION 520 AGRICULTURAL (AG)

SECTION 521 PURPOSE

The purpose of the Agricultural District is to protect agricultural lands and uses from incompatible land uses and to limit non-farm residential, commercial and industrial uses to those areas best suited by reason of their requirements for public services and only those uses set forth below shall be allowed in said district.

SECTION 522 PERMITTED USES

Agriculture and Agri Business
Riding Stables
Poultry House

SECTION 523 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis except for home occupations.

SECTION 524 USES REQUIRING A CONDITIONAL PERMIT ISSUED BY THE ZONING BOARD APPEALS (SUBJECT TO CONDITIONAL PERMIT USE REGULATIONS, ARTICLE IX).

Individual Manufactured Home, (See Section 615)
Home Occupations
Camp Grounds
Excavation and Mining (except where prohibited, see Section 550)
Farm Labor Camps
Kennels
Bed and Breakfast

Recreation Areas
Temporary Roadside Stand (Duration of permit as determined by Zoning Board of Appeals)
One and Two Family Dwellings
Telecommunication Towers

SECTION 525 SPECIFICATIONS

Setbacks:	Front:	One Hundred (100) feet minimum
	Side:	Thirty (30) feet minimum
	Rear:	Thirty (30) feet minimum
	Frontage:	One Hundred Fifty (150) feet minimum
	Height:	Thirty-five (35) feet maximum (except for Agricultural Storage Facilities, Airport Structures, and Telecommunication Towers)
	Lot Size:	One (1) acre minimum

SECTION 530 COMMERCIAL (C)

SECTION 531 PURPOSE

The purpose of the Commercial District is to provide for business establishments serving the needs of area residents, especially retail and service businesses. Permitted uses are intended to create a commercial district free from conflicting land uses and therefore only those uses set forth below shall be allowed in the said district.

SECTION 532 PERMITTED USES

Any permitted use or a use requiring a conditional permit in the AG, R1, and R1L district excluding farm labor camps and kennels. Also permitted are:

Business Services including warehousing and storage; provided, however, that in no event shall any Explicitly Prohibited Use be authorized by virtue of or pursuant to this Section 532.

**Retail and Wholesale Business
Professional Offices**

Other business and commercial uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above; provided, however, that in no event shall any Explicitly Prohibited Use be authorized by virtue of or pursuant to this Section 532.

SECTION 533 PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures.

Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.

Off-street parking, loading and unloading facilities subject to the provisions of Article VI of this ordinance.

One (1) on premise sign shall be permitted per business for each street and parking area upon which said use fronts. Said sign shall not exceed twenty (20) square feet.

SECTION 534 USES REQUIRING A CONDITIONAL PERMIT ISSUED BY THE ZONING BOARD APPEALS (SUBJECT TO CONDITIONAL PERMIT USE REGULATIONS, ARTICLE IX)

Motor Vehicle Repair Stations/Service Stations

Restaurants

Drive In Restaurants

Hotels and Motels

Retail Gasoline Outlet

Essential Services

Temporary Roadside Stand (Duration of permit as determined by Zoning Board of Appeals)

SECTION 535 OTHER PROVISIONS AND REQUIREMENTS

- A. No commercial structure shall be permitted within one (100) hundred feet of the nearest lot line of any residential or agricultural district.
- B. All commercial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets, adjacent off-street parking areas and adjacent non-commercial districts by fencing, landscaping or other appropriate measures.
- C. All uses permitted in this district shall set aside not less that ten (10) percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purpose.

- D. Each use in this district shall provide truck loading and unloading area in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
- E. Commercial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between commercial and non-commercial uses.

SECTION 536 SPECIFICATIONS

Setbacks:	Front:	Fifty (50) feet minimum
	Side:	Twenty five (25) feet minimum
	Rear:	Fifty (50) feet minimum
	Height:	Thirty-five (35) feet maximum
	Frontage:	One Hundred Fifty (150) feet minimum
	Lot Size:	One (1) acre minimum

SECTION 540 LIGHT INDUSTRIAL (I)

SECTION 541 PURPOSE

The purpose of this district is to provide areas in the Town for well-planned and well-designed light industrial and business park uses that are compatible with adjacent agricultural, residential, business and commercial uses. Light industrial uses are industrial processes which are conducted entirely within an enclosed building, and which do not emit any odor, noxious fumes or degraded air emissions, smoke, noise, heat, vibration, glare or radiation that is detectable at the property line and that do not pose a significant public safety or health hazard or significant adverse effect to the natural environment.

SECTION 542 PERMITTED USES

- A. Offices
- B. Wholesale distribution centers
- C. Storage facilities/Warehouses; provided, however, that in no event shall any Explicitly Prohibited Use be authorized by virtue of or pursuant to this Section 542.
- D. Manufacturing, assembly or processing of products conducted entirely within an enclosed building
- E. Administrative or product development facilities, including, but not limited to training centers
- F. Research and testing laboratories
- G. Data processing, computer service centers, excluding any retail sales

SECTION 543

PERMITTED ACCESSORY USES

- A. Signs shall be permitted for advertising industrial activities on the premises which shall not exceed, in aggregate, fifteen (15) percent of the area of the front facade of the building. Such signs may be illuminated but shall not be of the flashing type.
- B. Private garages and storage buildings which are necessary to store vehicles equipment, or materials on the premises.
- C. Temporary Roadside Stands (Duration as determined by Zoning Board of Appeals).
- D. Off-street parking space subject to the provisions of Article VI of this ordinance.

SECTION 544

USES REQUIRING A CONDITIONAL PERMIT ISSUED BY THE ZONING BOARD OF APPEALS (SUBJECT TO CONDITIONAL PERMIT USE REGULATIONS, ARTICLE IX)

Adult Entertainment Businesses
Telecommunication Towers

SECTION 545

OTHER PROVISIONS AND REQUIREMENTS

- A. Intentionally omitted.
- B. All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets, adjacent off-street parking areas and adjacent non-industrial districts by fencing, landscaping or other appropriate measures.
- C. There shall be no emission of odor, noxious fumes, or degraded air emissions, smoke, noise, heat, vibration, glare or radiation from any processes that is detectable at the property line.
- D. All uses permitted in this district shall set aside not less than ten (10) percent of the lot to be devoted to seeding planting, retention of tree cover, or other landscaping. This area shall be used for no other purpose.
- E. Each use in this district shall provide truck loading and unloading area in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.

- F. Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.
- G. Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from a property line.

SECTION 546

SPECIFICATIONS

Setbacks:	Front:	Fifty (50) feet minimum
	Side:	Fifty (50) feet minimum
	Rear:	Fifty (50) feet minimum
	Height:	Thirty-five (35) feet maximum (Except
	Frontage:	One Hundred Fifty (150) feet minimum
	Lot Size:	One (1) acre minimum

SECTION 550

ZONE A

Zone A is an overlay zone shown on the Zoning Map of the Town. In Zone A the mining of sod, loam, sand, gravel, aggregate, quarried stone or like material is prohibited except when incidental to, or in connection with the construction or maintenance of a building on said lot.

SECTION 560

AQUIFER PROTECTION DISTRICT

SECTION 561

PURPOSE

The purpose of the Aquifer Protection District is, in the interest of public health, safety and general welfare, to preserve the quality and quantity of the Town's groundwater resources in order to ensure a safe and healthy drinking water supply. This is to be accomplished by regulating land uses which might contribute to the contamination of any aquifers identified as necessary for the present and future water supply of the Town of Preble.

SECTION 562

SCOPE

The Aquifer Protection District shall be considered as overlying other zoning districts. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of this district. In any cases where conflicts arise between these supplemental regulations and any other existing regulations, the more restrictive shall apply.

SECTION 563

ESTABLISHMENT OF AREAS

- A. Area I: General Aquifer Area. The general aquifer area consists of outwash sand and gravel deposits anywhere within the Town of Preble.

Area I serves as a source of groundwater for numerous private water supplies, and non-municipal public drinking water supplies.

- B. Area II: Tributary watershed area. The tributary watershed area shall include uplands that may contribute runoff overland and/or through surface streams for groundwater recharge to Area I. Area II also serves as a source of groundwater for numerous private water supplies, and non-municipal public drinking water supplies.
- C. The boundaries of Areas I and II reflect the best hydrogeologic information available as of the date of the map. All boundaries were developed using information and analysis of the United States Geological Survey, as documented in: Miller, T.S., Hydrology and Simulation of Ground-Water Flow in a Glacial Aquifer System in the West Branch Tioughnioga River Valley, Cortland and Onondaga Counties, New York (in review).

Where boundaries are in doubt or in dispute, the burden of proof shall be upon the owners) of the land in question to show where the boundaries should be properly located. At the request of the owner(s), the Town may engage a professional geologist, hydrogeologist, engineer or other qualified expert trained and experienced in hydrogeology to determine more accurately the location and extent of an aquifer or recharge area, and may charge the owner(s) for the entire cost of the investigation.

SECTION 564

PERMITTED USES

The Aquifer Protection District is an overlay district, intended to provide additional protection of important environmental resources. The boundaries of the Aquifer Protection District may overlap different land use districts, but does not change the use and dimensional requirements of the underlying land use districts.

SECTION 565

NON-CONFORMING USES

Notwithstanding any other provision herein, a nonconforming use within the Aquifer Protection District may be continued and maintained so long as it remains otherwise lawful. No such use shall be enlarged, altered, extended or operated in any way which increases its threat to groundwater quality or otherwise contravenes with the purpose and intent of this Article.

SECTION 566

PROHIBITED USES AND ACTIVITIES

The following uses and activities are prohibited:

- A. The discharge, land application or disposal of any hazardous material, toxic substance or radioactive material.

- B. The open storage of pesticides, herbicides or fungicides.
- C. The open storage of coal asphalt grindings, or chloride salts.
- D. Any form of underground injection of hazardous materials or toxic substances.
- E. Solid waste disposal facilities and junkyards in Area I.
- F. The disposal of toxic substances or hazardous materials by means of discharge to an on-site wastewater treatment system.
- G. Any use which would involve exceeding the following impervious surface (lot coverage) requirements in Area I:
 - (1) lot size less than 5 acres - 75% lot coverage
 - (2) lot size 5 to 20 acres - 60% lot coverage
 - (3) lot size greater than 20+ acres - 50% lot coverage
- H. Floor drains discharging to dry well or other forms of subsurface discharge.
- I. All Explicitly Prohibited Uses.

SECTION 567

RESTRICTED USES AND ACTIVITIES

- A. Petroleum storage facilities installed above or below ground require secondary containment (dual walled for underground facilities) and are subject to compliance with those standards described in Articles XIX, XX and XXI of the Sanitary Code of the Cortland County Health Department and New York State Petroleum Bulk Storage Regulations (6NYCRR Parts 611, 612, 613 and 614).
- B. Underground home heating oil tanks installed after the enactment date of this chapter shall be dual walled, and are subject to compliance with those standards described in Articles XIX, XX and XXI of the Sanitary Code of the Cortland County Health Department and New York State Petroleum Bulk Storage Regulations (6NYCRR Parts 611, 612, 613 and 614).
- C. Storage of toxic substances or hazardous materials (including pesticides, herbicides, and fungicides) are subject to compliance with New York State Chemical Bulk Storage Regulations (6NYCRR Parts 595, 596, 597, 598 and 599).
- D. Vehicular servicing at a commercial or industrial facility, including

but not limited to automotive repair stations, body shops and rustproofing operations are permitted subject to the following requirements being met:

- (1) Floor drains must be connected to a holding tank.**
 - (2) Wastes collected in a holding tank must be disposed of through a licensed waste hauler.**
 - (3) Waste degreasing solvents must be stored in drums or a holding tank and disposed of through a licensed waste hauler.**
 - (4) Waste oil must be stored in tanks or drums for disposal by a licensed waste hauler.**
 - (5) Storage facilities for tanks and/or drums require coated concrete floors and dikes to retain accidental spills or leaks and a permanent roof to protect tanks or drums and to prevent precipitation from entering dikes. Drums should be sealed, and tanks and drums must be located away from drains.**
 - (6) Large drip pans shall be kept beneath drums which have spigots and are stored in a horizontal position on racks.**
 - (7) Potentially contaminated scrap, including but not limited to scrap parts, batteries and used filters, shall be stored in proper containers to prevent environmental release of contaminants to the environment.**
- E. Application of pesticides, herbicides, fungicides or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer. Property owners who enlist the services of a commercial pesticide, fungicide or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Conservation.**
- F. Whenever there is a question as to the groundwater contamination potential of a proposed use, the expert opinion of the United States Environmental Protection Agency (USEPA), the New York State Department of Environmental Conservation (NYSDEC), the State and County Health Departments or any qualified professional may be requested.**
- G. The storage of coal asphalt grindings or chloride salts must be within a water-tight ventilated structure constructed on an impervious surface. Any outside area used for loading, handling or mixing shall be designed so as to prevent seepage and runoff from entering the groundwater or any watercourse.**

This Section 567 is not intended and shall not be construed to authorize

any Explicitly Prohibited Use.

SECTION 568

SPECIAL PERMITS REQUIRED

Any use of property within the Aquifer Protection District shall be permitted only upon obtaining a special permit from the Town Board of the Town of Preble when the use meets or exceeds any of the following:

- A. Any restricted uses or activities as outlined in Section 567.
- B. Is a development, other than residential, which increases impervious surface by more than 10,000 sq. ft.
- C. Any subdivision which results in the creation of five (5) or more lots in Area I.
- D. Is a use that anticipates an average daily water use exceeding 10,000 gallons per day (gpd).

SECTION 569

APPLICATION

Applicants for a special permit to develop in the Aquifer Protection District shall submit the following:

- A. The name, addresses and telephone number of the applicant.
- B. If the applicant is a corporation, the name, address and telephone number of all the corporate officers and directors.
- C. A map and report showing the location of the premises for which the permit is sought and plans prepared by a licensed professional engineer or architect showing all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of sanitary wastes, stormwater wastes, process wastes, toxic substances and hazardous materials, solid wastes and incidental wastes within the property boundaries of the business or commercial establishment.
- D. a copy of the spill prevention and control plan for the site.
- E. Toxic substances information.
 - (1) When the use of toxic substances or hazardous materials averages an amount equal to or in excess of fifty-five (55) liquid gallons per month or five hundred (500) pounds dry weight per month, the applicant must provide for any design features, operating plans and any other protection measures as the Town Board deems appropriate and sufficient to prevent and/or monitor groundwater contamination in the event of a leak or spill of these substances.

- (2) When toxic substances or hazardous materials are used but the use averages less than fifty-five (55) liquid gallons per month or five hundred (500) pounds dry weight per month and when the project is determined to have a potential negative impact on groundwater quality, the Town Board may require the applicant to provide for any and all design features, operating plans and/or such other protection measures as per C above.**
- (3) When storage of toxic substances or hazardous materials at any one time is equal to or exceeds a total of one hundred eighty five (185) liquid gallons or a total of one thousand seven hundred (1,700) pounds dry weight, the applicant must provide for any and all design features, operating plans and such other additional protection measures as the Town Board may require to prevent and/or monitor groundwater contamination especially in the event of a potential leak or spill of these substances.**
- (4) When storage of toxic substances or hazardous materials at any one (1) time is less than a total of one hundred eighty five (185) liquid gallons or a total of one thousand seven hundred (1,700) pounds dry weight, the Town Board may demand the applicant to provide for any and all design features, operating plans and such other additional protection measures as per C above.**

F. Water use information.

When the average daily water use is greater than or equal to 10,000 gallons per day, the applicant must, at a minimum, provide the following information:

- 1. Applicant must provide information on the expected average annual water use, expected maximum daily water use, and describe any seasonal variations in expected water use.**
- 2. Applicant must describe the nature of the water source (e.g., groundwater, surface water, spring, other), and whether the source is a public or private supply. Applicant must describe any proposed on-site water supply facilities if a new private supply will be developed.**
- 3. Applicant must describe the nature of the water use (e.g., on-site drinking water, manufacturing process, wholesale, etc.).**

If water is used in a manufacturing process, the nature of the use must be described (e.g., cooling water).

4. Applicant must state the maximum gallons per day of consumptive water use and total annual consumptive water use, if any.
 5. Applicant must describe how wastewater will be disposed (e.g., public sanitary sewer, on-site wastewater system, etc.)
 6. The Town may require that the applicant provide an assessment of potential impacts of the proposed water use on the quantity of water available for other existing water uses (e.g., neighboring wells) or water resources (e.g., streams, wetlands, aquifers).
- G. Such other information as the Town Board shall request in order to have all facts before them prior to making its decision.
- H. Copies of any permits and applications to any other governmental agencies.
- I. A list of all toxic substances or hazardous materials used or stored on the premises together with sufficient detail to appraise the Town Board of the method of storage and the amount of toxic substances or hazardous materials on the premises.
- J. The method of disposal of toxic substances or hazardous materials.
- K. A full report regarding the use and storage of all toxic substances and all hazardous materials.

SECTION 570

PROCEDURES: HEARING

- A. The Town Board shall refer an application for such special permit to the Town Planning Board (and the County Planning Board if required under General Municipal Law Section 239m) for comments and recommendations prior to the Town Board's decision.
- B. Where appropriate and not inconsistent with this Article, the Town Board shall follow administrative procedures set forth in Article IX of this chapter.
- C. A public hearing shall be held in regard to granting such special permit, and notice of the public hearing in regard to the granting of such special permit shall be published in the official Town newspaper not more than twenty (20) days and not less than ten (10) days before the date of such public hearing. All uses specified above would be subject to a special permit, except for the fact that

when such uses are governmental entities, they shall nevertheless be subject to the public hearing requirements of this section and shall file a long environmental assessment form which shall be reviewed by the Town Board of the Town of Preble in accordance with the provisions of the New York State Environmental Quality Review Act.

SECTION 571 **ISSUANCE**

- A. The Town Board may grant the special permit, deny the special permit or grant the special permit with stated conditions.

- B. In the event that a special permit is granted or granted with stated conditions, it shall be a requirement that the applicant use the best available means to prevent the contamination of the groundwater and the aquifers of the Town of Preble. This shall be a continuing requirement.

SECTION 572 **CHANGE IN USE OR OWNERSHIP**

- A. Where a special permit has been issued, a change in either use or ownership requires an application for a new special permit.

- B. In the event that a change in ownership does not result in any change in use, the special permit shall be automatically granted and be considered an agreement between the Town Board and the new owner that the provisions of this Article shall be adhered to.

SECTION 580 **WETLAND PROTECTION OVERLAY ZONE**

SECTION 581 **PURPOSE**

The purpose of the Wetland Protection Overlay Zone is to protect the Town's fragile and unique natural water resources, and ultimately the Cortland-Homer-Preble Aquifer.

SECTION 582 **DEVELOPMENT GUIDELINES**

Any development in this overlay zone which requires a building permit also requires a special permit issued by the Zoning Board of Appeals. The Zoning Board of Appeals shall consider and address the following before making a decision on any proposal within the Wetland Protection Overlay Zone and may include such conditions to said special permit reasonably designed to satisfy (and identify) any ground water concerns.

- A. Increased construction setback requirements.

- B. Restrictions on clearing of natural vegetation along the edge of the protected-resource feature.**
- A. Uses that present a higher potential for environmental pollution (eg: gasoline filling stations, car washes, bulk fuel storage, junkyards, truck terminals, and facilities which use or handle toxic materials).**
- D. Limitations on right-of-way access to Town's lakes.**
- E. Storm Water and erosion control management practices.**
- F. Agriculture incentives on tilling and fertilizer applications within 50 feet of high water mark.**
- G. Beach and shoreline renovation standards.**
- H. Construction limitations within flood-plain boundaries.**
- I. Department of Environmental Conservation regulations pertaining to development of areas designated as wetlands.**

ARTICLE V-A
Explicitly Prohibited Uses; Prohibition Against
Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes.

SECTION 590 EXPLICITLY PROHIBITED USES.

Without limiting the generality of the statements elsewhere in this Law that uses not set forth in Article V hereof (as to a particular district) are not allowed uses in the Town, the following uses and activities are hereby expressly and explicitly prohibited in each and every zoning district within the Town, and no building or structure shall be created, altered or erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:

- (i) Land Application Facility;**
- (ii) Large Scale Propane Facility;**
- (iii) Natural Gas And/Or Petroleum Exploration Activities;**
- (iv) Natural Gas And/Or Petroleum Extraction Activities;**
- (v) Natural Gas And/Or Petroleum Exploration, Extraction or Production Wastes Disposal/Storage Facility;**

- (vi) Natural Gas And/Or Petroleum Exploration, Extraction, Or Production Wastes Dump;
- (vii) Natural Gas Compression Facility;
- (viii) Natural Gas Processing Facility;
- (ix) Underground Injection; and
- (x) Underground Natural Gas Storage.

Any condition caused or permitted to exist in violation of this Section 590 is a threat to public health, safety and welfare, and is hereby declared and deemed to be a nuisance. Collectively the above expressly prohibited uses may be referred to in this law as “Explicitly Prohibited Uses,” any one of the above expressly prohibited uses may be referred to in this law as an “Explicitly Prohibited Use,” and any combination of more than one such use may also be referred to as “Explicitly Prohibited Uses.”

SECTION 591 PROHIBITION AGAINST NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES.

The Town of Preble hereby exercises its authority and right under NY ECL § 27-0711 to adopt a local law that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this Local Law complies “with at least the minimum applicable requirements” set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27.

It shall be unlawful for any person to produce, store, inject, discard, discharge, dispose release, or maintain, or to suffer, cause or permit to be produced, stored, injected, discarded, discharged, disposed, released, or maintained, anywhere within the Town, any Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes.

SECTION 592 NO APPLICATION TO CUSTOMARY LOCAL DISTRIBUTION LINES, ETC.

The prohibitions set forth above in Section 590 of this Article V-A are not intended, and shall not be construed, to (x) prevent or prohibit the right to use roadways in commerce or otherwise for travel; (y) prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Town; or (z) prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal Farm, residential, business, commercial, and other uses within the Town.

ARTICLE VI
Regulations Applicable To All Zoning Districts

SECTION 600 **SIGNS**

Signs shall be permitted only according to standards listed below unless otherwise stated in this ordinance.

SECTION 601 **GENERAL STANDARDS**

- A. No sign shall consist of lights which flash or move or appear to move.
- B. No sign shall be higher than the principal building to which it is accessory.
- C. No general advertising signs unrelated to the permitted use of the premises are allowed.
- D. No sign shall project into a public right-of-way.
- E. No sign shall be erected on a public utility pole or traffic control structure.
- F. All existing signs at the time of the enactment of this ordinance shall be allowed to remain as long as they are properly maintained and their use remains uninterrupted.
- G. Temporary unlighted signs erected by and for non-profit organizations such as churches, American Legion, Boy Scouts, political organizations, etc. advertising suppers, banquets, benefits, fund raising sales, etc. may be erected for a forty (40) day period without permit in any district, provided that the sign will not constitute a traffic hazard and shall be removed within forty-eight (48) hours after the advertised event.
- H. One site sign is permitted, not to exceed twenty (20) square feet per side (except as otherwise specified in this ordinance).

SECTION 605 **PARKING**

This section is designed to reduce problems caused by inadequate or poorly designed parking facilities.

- A. All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads.

- B. Violation is constituted by an observed overflow of parking on to off-site areas, neighboring property or road right-of-ways more than three times per month.
- C. A parking space shall be not less than 10' x 20' exclusive of aisles access and driveway areas.
- D. Off-street parking areas for non-residential uses shall provide aisles or access lanes to parking spaces. Parking areas for fifty (50) or more vehicles shall delineate fire lanes and include "no parking" signs.

SECTION 606 MINIMUM PARKING STANDARDS

Minimum standards, supplementary to the basic standards cited above, are as follows:

- A. One parking space for every three seats in a public meeting place.
- B. One parking space for each employee at places of employment and one parking space per two hundred and fifty (250) square feet of gross floor area in a commercial establishment unless otherwise specified herein.
- C. One parking space for every two hundred (200) square feet of gross floor area in business and professional offices.
- D. One parking space for every one hundred (100) square feet of gross floor area in supermarkets and self service food stores.

SECTION 610 FENCES

Fences erected in the Town shall adhere to the following unless otherwise specified in this Ordinance:

- A. Fences may be erected, altered or reconstructed to a maximum height of six (6) feet for residential uses; eight (8) feet for non-residential uses.
- B. No fence shall cause obstruction to vision at street intersections. A clear sight triangle at street intersections shall be maintained. The "clear sight triangle" is an area encompassed by the intersecting street lines of a corner lot and a straight line joining said street lines at points which are thirty (30) feet distance from the point of intersection of the street lines. The height of any fence within the "clear sight triangle" shall not exceed three and five-tenth (3.5) feet.
- C. Clear visibility from motor vehicles about to enter public right-of-ways must not be obstructed by fences. This clear visibility must be such that a vehicle operator sitting in a vehicle on a private access way at a distance of 20 feet from a public right-of-way must not have his or her

full view of the public right-of-way obstructed for 200 feet by any fence or fences constructed on private property.

- D. Farm fencing shall be exempt from these provisions.

SECTION 615 INDIVIDUAL MANUFACTURED HOMES

- A. Only manufactured homes manufactured after the implementation of the Housing and Community Development act (June 15, 1976) shall hereafter be placed in the Town.
- B. No structure may hereafter be constructed or moved from elsewhere so as to be attached to the mobile manufactured home. Decks, door porches, peaked roofs and car ports are excluded from the above prohibition and may be attached.
- C. A storage shed or garage must be located on each manufactured home lot. The shed will provide necessary storage space to compensate for the lack of attics and basements and have a minimum size of eight (8) feet by ten (10) feet.
- D. All manufactured homes shall be supported by an adequate foundation. Anchors and tie downs such as cast in place in concrete "dead men", eyelets in concrete, foundations or runways, screw augers or other devices securing the stability of the unit are required. Such anchors and tie downs shall be placed in at least each corner of the foundation and shall have adequate strength for the structure.
- E. Single wide manufactured homes shall be provided with a fire resistant skirt or covering, between the ground and the base of each unit. Double wide mobile homes must have block construction between the ground and the bottom of the unit.
- F. manufactured homes are subject to all applicable provisions of this Ordinance pertaining to single family dwellings.
- G. Manufactured homes on a property used for agricultural purposes shall be removed within one hundred twenty (120) days upon being vacated as living quarters for persons employed on said property or upon said property no longer being used for agricultural purposes.

SECTION 620 CAMPING TRAILERS

Camping trailers shall not be occupied on an overnight basis for a period exceeding seven (7) days and provided that all health standards are met.

SECTION 625 STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

- A. The State Environmental Quality Review Act (SEQRA) requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 6 and Part 617 or Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.**
- B. All "Type I" actions (6 NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.**
- C. For any zoning action reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board.**
 - Zoning Text Amendments - Town Board**
 - Zoning District Amendment - Town Board**
 - Aquifer Protection District Special Permits - Town Board**
 - Conditional Permits - Zoning Board of Appeals**
 - Site Plan Review - Planning Board**
 - Variances - Zoning Board of Appeals**
- D. If in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement. Review, notice and action on the EIS shall be conducted according to (6 NYCRR Part 617).**

SECTION 630 LOTS IN TWO DISTRICTS

Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations applying to the major portion of the lot shall apply to the whole lot, and in the case where a lot is divided exactly in half by the district line, the regulations of the more restrictive district shall apply to the whole lot.

SECTION 635 CORNER LOTS

On corner lots, the sides facing both streets shall be considered front yards and the remaining two yards as side yards. No rear yard is required.

SECTION 640 RUBBISH AND JUNK

- A. Junk Yards and Automobile Graveyards are prohibited in all zoning districts.**

- B. All yards must be kept free of abandoned, inoperable, or unregistered vehicles and machinery, discarded appliances and furniture, all forms of rubbish and junk, and disorderly or unsightly piles of building material, with the exception that those items associated with work in progress and one unregistered vehicle are permitted on a lot.

SECTION 645 NON-CONFORMING USES, LOTS, STRUCTURES; PRE-EXISTING, LEGAL NON-CONFORMING NATURAL GAS AND/OR PETROLEUM EXTRACTION ACTIVITIES

Lots, structures, uses of land and structures and characteristics of use which lawfully existed at the time of the enactment of this ordinance and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions.

- A. Intent - It is the intent of these regulations to permit non-conforming uses to continue until they are removed, but not to encourage their survival.
- B. Enlargement - No non-conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these regulations.
- C. Unsafe Structures - Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition. Such restoration shall not result in the resumption of any non-conforming use (or non-conforming structure) already discontinued. (See F).
- D. Alterations - A non-conforming structure may not be reconstructed or structurally altered where the aggregate cost will exceed fifty percent of the full value of said structure, unless the structure is changed to a conforming use.
- E. Restoration - No non-conforming structure damaged by fire or other causes to the extent or more than seventy five percent of its full value shall be repaired or rebuilt except in conformity with the requirements of these regulations. (See J).
- F. Discontinuance - Whenever a non-conforming use has been discontinued for a period of one (1) year, use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these regulations.
- G. Changes - Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
- H. Displacement - No non-conforming use shall be extended to displace a conforming use.

I. Moving - Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

J. Existing Undersized Lots of Record

1. Any recorded lot held in single and separate ownership prior to the adoption of this ordinance and whose area and/or width and/or depth are less than minimum requirements specified herein for the district, may be considered in compliance and no variance therefore shall be required, provided that:

a. Such lots do not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for that district;

b. The minimum yard requirements set by these regulations are met.

2. In any district where residences are permitted, such undersized non- conforming lots may be used for not more than one single-family dwelling.

3. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

K. Pre-existing, legal non-conforming Natural Gas And/Or Petroleum Extraction Activities.

Notwithstanding any provision of this chapter to the contrary, any Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of Local Law 1 of 2014 shall be subject to the following:

1.a. If, as of the effective date of Local Law 2014 of 2013 substantive Natural Gas And/Or Petroleum Extraction Activities are occurring in the Town, and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation the possession of valid, non-revoked permits for all matters for which permits are required, and including compliance with each, any, and all permit conditions, as are or may be required by the New York State Department of Environmental Conservation (“DEC”) and/or all other regulating local, state, and federal governments, bureaus, or agencies, then and only then such Activity by or on behalf of the holder of the permit(s) shall be considered a pre-existing, non-conforming use and shall be allowed to continue, subject, however, to the provisions of

Clauses 2. and 3. of this Section K .

b. Natural Gas And/Or Petroleum Extraction Activities that are being conducted in the Town as of the effective date of this Local Law and which do not qualify for treatment under the preceding clause 1.a. of this Section K. shall not be grandfathered (or be permitted to continue or deemed lawful pre-existing uses).

2. Upon the depletion, closing, or reclamation of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of Clause 1.a. of this Section K., or upon any other substantive cessation of Natural Gas And/Or Petroleum Extraction Activities for a period of more than twelve (12) months, then and in either of such events the pre-existing and/or non-conforming use status (and any related 'grandfathering rights') of or relating to such Activity shall terminate.

3. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by Clause 1. a. of this Section K. is not intended, and shall not be construed, to authorize or grandfather any Natural Gas And/Or Petroleum Extraction Activities extending beyond whatever well bore is authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion or attempted or purported expansion of such well, whether as to its production, depth, horizon(s) or otherwise, shall not be grandfathered under Clause 1.a. of this Section K.

SECTION 650 PINBALL AND VIDEO GAME ARCADES

- A. Pinball and video game arcades shall not be permitted as home occupations.**
- B. Arcades shall be closed between the hours of 12:00 midnight and 8:00 A.M.**
- C. No one under the age of 16 shall be permitted in an arcade during the hours when local public schools are in session.**

SECTION 655 ALTERNATE ENERGY SYSTEMS

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany alternate energy systems.

- A. All wind energy towers shall be located so as to allow an open zone around the tower on the owner's property and of a radius at least equal to the height of the tower.**
- B. All appurtenant electrical equipment shall cause no undue interference or noise.**

- C. Rotating windmill blades shall clear the ground at their lowest points by at least ten (10) feet.

SECTION 660 STORAGE SHEDS

- A. Side lot setback shall be no less than 3 (three) feet.
- B. Rear lot setback shall be no less than 5 (five) feet.
- C. Storage sheds shall not be permitted within the front yard.

ARTICLE VII
Supplementary Regulation Governing Certain Uses

SECTION 700 ADULT ENTERTAINMENT BUSINESSES

- A. Adult entertainment businesses are prohibited within:**
- (1) Five hundred (500) feet of any residential zoning district or any single-family, two family or multiple-family dwelling, including structures devoted to both residential and commercial or business purposes.**
 - (2) One thousand (1000) feet of any public or private school.**
 - (3) Five hundred (500) feet of any church or other religious facility or institution.**
 - (4) One thousand (1000) feet of any public park.**
- A. The distance provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult entertainment business is to be located to the nearest point of the parcel of property or the land use district boundary line from which the adult entertainment business is to be separated.**
- B. The provisions of this chapter shall not apply to any theater, concert hall, or similar establishment which is primarily devoted to theatrical performances.**

SECTION 701 CAMPING GROUNDS

Camping grounds shall be occupied only by travel trailers, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreation purposes. The removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.

- A. Minimum site area: fifteen (15) acres.**
- B. Not more than ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.**
- C. A camping ground shall be so located that no entrance or exit from a site shall discharge traffic from the camping ground through a residential area. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street or road.**

D. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences. Also, no portion of the camping grounds subject to flooding, or other physical hazard shall be used for any purpose which exposes persons or property to such potential or actual dangers.

E. Management headquarters, recreational, educational and social facilities, toilets, lavatories, showers, coin-operated laundries, sewage dumping and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses. In addition, retail stores and other convenience establishments are allowed as accessory uses in camping grounds in districts where such uses are not allowed as principal uses, but subject to the following restrictions:

- 1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.**
- 2. Such establishments shall present no visible evidence from any street or road outside the camping ground of their commercial character which would attract customers other than occupants of the camping grounds.**
- 3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street or road and shall not be directly accessible from such street or road, but shall be reached only from within the camping ground.**

F. Plans for sewage disposal and water supply shall be designed in accordance with standards established by the State of New York and the Cortland County Health Code and shall receive approval from the County Health Department.

G. Roadways in camping grounds shall be private, but shall be constructed with a stabilized travelway and shall meet the following minimum stabilized travelway width requirements:

one way, no parking	12 feet
one way with parking on one side, or two way with no parking	18 feet
two way with parking on one side	27 feet
two way with parking on both sides	34 feet

- H. Each travel-trailer site shall be at least two thousand five hundred (2,500) square feet in area and have a minimum width of forty (40) feet.
- I. A minimum of eight (8%) percent of the gross area for the camping ground shall be set aside and be developed as common use areas for open or enclosed recreation facilities. No travel-trailer site, required buffer strip, street right-of-way, storage area, or utility site shall be counted as meeting recreational purposes.
- J. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground. All traffic into or out of the camping ground shall be through such entrances and exits. An adequate lighting system shall be provided for the camping ground.
- K. All utilities shall be underground.
- L. Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each camp site. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- M. All applicable sanitation standards established by the State of New York and by the Cortland County Health Code shall be complied with.
- N. Setbacks. Each building or structure within a camping ground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes and the motor vehicles propelling or carrying the same may be located not closer than sixty (60) feet to any front lot line.

SECTION 702 CLUBS (LODGES, FRATERNAL ORGANIZATIONS, ETC.)

- A. Landscaping and/or fencing of an appropriate kind to screen adjacent properties and land uses shall be provided on all side and rear lot lines.
- B. Minimum off street parking shall provide one (1) space per employee and one (1) space for each three (3) members. Spaces shall measure not less than 10' X 20'.
- C. Entrance and exit points shall be from major or secondary roads.

SECTION 703 TELECOMMUNICATION TOWERS

- A. No telecommunication tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with this ordinance. No existing structure shall be modified to serve as a telecommunication tower unless in conformity with this ordinance.**

- B. Telecommunication towers are prohibited within:**
 - (1) Five hundred (500) feet of any residential zoning district.**

 - (2) Seven hundred fifty (750) feet of an existing single family, or two family dwelling including structures devoted to both residential and commercial or business purposes.**

- C. Applicants proposing to collocate on a previously approved telecommunication tower do not require a special permit. They are, however, subject to Site Plan Review in accordance with ARTICLE X. The Planning Board may require the applicant to submit any of the items under E. (1) below as part of the Site Plan Review Process.**

- D. The regulations shall apply to all property with in the Agricultural and Industrial zoning districts. Telecommunication towers shall be specifically excluded from all other zoning districts.**

- E. Shared Use of Existing Tall Structures. At all times, shared use of existing tall structures (for example municipal water towers, multi-story buildings, church steeples, farm silos etc.), and exiting or approved towers (see subsection C above), shall be preferred to the construction of new towers.**
 - 1. An applicant proposing to share use of an existing tall structure shall be required to submit:**
 - (a) a completed application for a special permit.**

 - (b) documentation of intent from the owner of the existing facility to allow shared use.**

 - (c) a site plan showing all existing and proposed structures and improvements including antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modifications of the existing facility shall be indicated on the site plan.**

 - (d) an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify to the above.**

towers is undesirable based upon the applicant's investigation in accordance with subsection (G). Any proposal for a new telecommunication tower shall also be subject to the requirements of subsections (I) through (V) below.

I. New Towers: Future Shared Use. The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities to include a minimum of an additional two (2) sites for collocation. The applicant shall submit to the ZBA a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the zoning enforcement officer prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The letter shall commit the new tower owner and his/her successors in interest to:

- (1) Respond within 90 days to a request for information from a potential shared-use applicant.
- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (4) Allow shared use of the new tower for public safety and emergency networks, such as fire, ambulance, police, and E-911.

J. Site Plan Review: Submission Requirements

- (1) An applicant shall be required to submit a site plan in accordance with ARTICLE X. The site plan shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wire and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.
- (2) Supporting Documentation - The applicant shall submit a complete short EAF, a complete Visual Environmental Assessment Form (visual EAF addendum), and documentation

on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required. The applicant shall also submit a copy of its Federal Communications Commission (FCC) license and any application required by the FCC for its approval.

K. Lot Size and Setbacks. All proposed telecommunication towers and accessory structures shall be located on a single parcel and shall be setback from abutting parcels and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.

L. Visual Impact Assessment. The ZBA may require the applicant to undertake a visual impact assessment which may include:

- (1) A "Zone of Visibility Map" to determine locations where the tower may be seen.
- (2) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the town including but not limited to: state highways and other major roads, local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The ZBA shall determine the appropriate key sites at a pre-submission conference with the applicant.
- (3) Assessment of alternative tower designs and color schemes, as described in subsection M below.
- (4) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

M. New Tower Design. Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:

- (1) Any new tower shall be designed to accommodate further shared use by other telecommunications providers including a minimum of two (2) additional collocation sites.
- (2) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
- (3) The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and/or federal law and/or regulation. The ZBA at its discretion may

modify this requirement if the applicant can justify the need to exceed this height limitation.

- (4) The ZBA may request a review of the application by a qualified engineer, at the applicants expense, in order to evaluate the need for, and the design of, any new tower.
 - (5) Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
 - (6) No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to; company name, phone numbers, banners, and streamers.
- N. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground), shall take place prior to the approval of the special permit.
- O. Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.
- P. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- Q. Parking shall be provided to assure adequate emergency and service access. The ZBA shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.
- R. The tower and any accessory structures shall be adequately enclosed by a fence, design of which shall be approved by the ZBA. The requirement may be waived by the ZBA if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.
- S. The applicant shall submit to the ZBA a letter of intent committing the tower owner, and his/her successors in interest, to notify the zoning enforcement officer within thirty (30) days of the discontinuance of use of the tower. This letter shall be filed with the zoning enforcement

officer prior to issuance of the building permit (assuming the telecommunication tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations, shall be a violation of this ordinance and shall be punishable according to Section 308.

T. Intermunicipal Notification for New Towers. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County E-911 Services, the ZBA shall require that:

(1) An applicant who proposes a new telecommunication tower shall notify in writing the Cortland County Planning Board, Cortland County E-911 Coordinator and the legislative body of each municipality that borders the Town of Preble. Notification shall include the exact location of the proposed tower, and a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use.

(2) Documentation of this notification shall be submitted to the ZBA at the time of application.

U. Notification of Nearby Landowners. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within five hundred (500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by certified mail. Documentation of this notification shall be submitted to the ZBA prior to the public hearing.

V. The applicant shall submit and maintain the appropriate bond or letter of credit sufficient or in sufficient sum to cover cost of removal of all improvements to be made by the applicant. Said bond or letter of credit is subject to review as to its adequacy once every five (5) years thereafter.

W. The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special permit and/or site plan.

SECTION 704 DAY CARE CENTERS

- A. Must have a direct alarm to the Cortland County E-911 Center.**
- B. Must have an active outdoor recreation area of 100 square feet per client.**
- C. Outdoor recreation areas must be fenced-in or otherwise protected from roads and nearby properties.**
- D. No outdoor recreation equipment may be placed within ten (10) feet of any property line, fence, or structure.**
- E. Minimum parking shall be one (1) space per staff member plus one (1) space for each ten (10) clients.**

SECTION 705 DRIVE-IN RESTAURANTS

- A. The following information shall be submitted as part of the application for site plan approval and the special use permit for drive-in restaurants in addition to that information required in other sections of this ordinance.**
 - 1. The location and dimensions of all structures including buildings, screened trash areas, fencing, and lighting with the direction and level of illumination.**
 - 2. The location and dimensions of all off-street parking areas including ingress and egress, and the layout of aisles and spaces.**
 - 3. Proposed landscaping site plan indicating the sizes and types of plant materials.**
- B. Drive-in restaurants shall be a minimum of two hundred (200)feet from other drive-in restaurants and distances shall be computed as follows:**
 - 1. For drive-in restaurants on the same side of the street the distances between them shall not be less than two hundred (200) feet between the two closest property lines.**
 - 2. For drive-in restaurants on opposite sides of the street the distances between them shall not be less than two hundred (200) feet measured diagonally between the two closest property corners.**
 - 3. For four corner intersections, only one drive-in restaurant can be located on each of the two diagonally opposite corners exclusive of the two hundred (200) feet distance requirement.**

- C. All drive-in restaurants shall provide suitable storage of trash in areas which are so designed and constructed as to allow no view of the trash storage from the street, to prevent trash and waste materials from blowing away and to permit safe and easy removal of trash and waste.**
- 1. The minimum distance of any driveway to a property line shall be fifteen (15) feet.**
 - 2. The minimum distance between driveways on the site shall be ninety five (95) feet measured between the closest points of the center lines of the driveways.**
 - 3. The minimum driveway entrance distance from a street intersection shall be thirty (30) feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.**
 - 4. Drive-in restaurants adjacent to or integrated into a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.**
 - 5. Exterior lighting proposed for the site shall be planned, erected and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source shall not be located at a point more than 20 feet above the mean grade level.**
 - 6. Landscaping and fencing shall be provided to minimize visual unattractiveness and to reduce friction between adjacent and other nearby land uses.**
 - 7. Water supply and sewage disposal systems shall be approved by the Cortland County Health Department.**

SECTION 706 EXCAVATION AND MINING

- A. Excavation and mining is prohibited in overlay Zone A (See Section 550).**
- B. In areas where excavation and mining are permitted, the following standards apply:**
 - 1. The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation where applicable.**
 - 2. Minimum land area: ten (10) acres.**

3. All buildings and excavation operations shall be located or shall occur not closer than two hundred (200) feet to any street or property line.
4. All equipment used for excavations and processing shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practical, noises and vibrations, and dust conditions which are injurious or a nuisance to persons living in the vicinity.
5. All operations shall be conducted between the hours of seven o'clock in the morning (7:00 A.M.) and seven o'clock in the evening (7:00 P.M.) with no Sunday operations. Exceptions can be made in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment is required to be made.
6. All land which has been excavated must be rehabilitated in accordance with reclamation plans approved by the Zoning Board of Appeals and the New York State D.E.C. as part of the site development plan review and approval process. This shall be done within one (1) year after the termination of operations and at the expense of the operator.
7. A performance bond or some other financial guarantee shall be required to assure that the conditions stipulated in the approval of the special use permit are carried out.
8. The Zoning Board of Appeals shall consider the following criteria in their review of the special use permit application:
 - a. The current use of the property proposed to be excavated as well as the proposed use of the area subsequent to completion of the excavation and restoration thereof.
 - b. The potential short-term and long-term effects of the proposal on the aesthetics and environment of the surrounding area.
 - c. The effect on the property of the proposal that may change the productivity or suitability of the land for agricultural purposes and/or the desirability or feasibility for future development purposes.
 - d. The amount of time, as estimated by the applicant, that will be required for the completion of the proposed excavation and the restoration of the property.

- e. Noise and/or vibrations that may be created by the proposed operations.
- f. Truck traffic that may be created by the proposed operation. Deleterious effects, if any, on those properties in the general area of the proposed operation.
- g. All other criteria which, from time to time, may be relevant to the proposed operation.
- h. Special permits for excavation operations are for a two (2) year duration. Upon reapplication, the Zoning Enforcement Officer may grant permit renewal if all conditions of the original permit have been complied with. If there is a question about compliance the applicant must apply to the Zoning Board of Appeals for a renewal.
- i. No persons, firm or corporation shall strip, excavate, or otherwise remove top soil for sale or other use other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental hereto. Any area of land consisting of more than one (1) acre from which top soil has been removed or covered over by fill shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.

SECTION 707 FARM LABOR CAMPS

- A. Farm Labor Camps, whether private or commercial, shall meet all requirements of the State Sanitary Code and other applicable laws, regulations including those of the Cortland County Health Code.
- B. Housing facilities maintained shall be set back at least three hundred (300) feet from all property lines.
- C. Special permits for labor camps are of one (1) year duration. Upon reapplication, the Zoning Enforcement Office may grant a permit renewal if all conditions of the original permit are complied with.

Otherwise application must be made to the Zoning Board of Appeals.

SECTION 708 HOME OCCUPATIONS

- A. A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.

- B. No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation. No more than fifty (50) percent of the floor area of an accessory structure shall be used for a home occupation.
- C. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, or vibrations.
- D. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
- E. No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
- F. One sign shall be permitted not to exceed four (4) square feet in area. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
- G. One (1) commercial type vehicle may be used in connection with the home occupation and be parked on the property.
- H. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- I. A home occupation shall not be interpreted to include the following: commercial stables or kennels, restaurants, musical and dancing instruction to groups exceeding four pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.

SECTION 709 HOTELS AND MOTELS

- A. Minimum lot size: Two (2) acres
 Minimum lot width: Two hundred (200) feet
 Minimum front setback: One hundred (100) feet
 Minimum side and rear setbacks: Forty (40) feet.
- B. Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops, and other personal service shops for the convenience of guests may be permitted as accessory uses. With the exception of an identifying sign for the restaurant, no external evidence of these internal commercial activities is permitted.

SECTION 710 KENNELS AND ANIMAL HOSPITALS

- A. Adequate landscaping and/or fencing shall be provided for visual screening and buffering between such facilities and adjacent properties.**
- B. All buildings, structures or other accessory uses shall be at least seventy-five (75) feet from any property line.**
- C. All animals shall be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.**
- D. Lot coverage shall not exceed fifty (50) percent.**
- E. Entrance and exit points shall be from major or secondary roads only.**

SECTION 711 MANUFACTURED HOME PARKS

- A. Special use permits for the establishment and operation of manufactured home parks are of a one (1) year duration. Upon reapplication, the Zoning Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with. Otherwise renewal applications must be submitted to the Zoning Board of Appeals.**
- B. The minimum site area of proposed manufactured home parks shall not be less than twenty (20) acres.**
- C. Manufactured home lots for the placement of single wide manufactured homes (less than 15 feet wide) shall have an area of not less than seven thousand two hundred (7,200) square feet. Each manufactured home lot shall front on an interior park roadway and have a minimum frontage of fifty (50) feet. Manufactured home lots for the placement of double wide manufactured homes shall have an area of not less than ten-thousand (10,000) square feet. Each manufactured home lot shall front on an interior park roadway and have a minimum frontage of seventy-five (75) feet.**
- D. Minimum front setback for manufactured homes: twenty (20) feet; minimum side setback: ten (10) feet on each side; minimum rear setback; ten (10) feet.**
- E. The minimum setbacks of every manufactured home, building or other structure in a manufactured home park from the nearest public street line shall be seventy-five (75) feet, and from every other lot line of the manufactured home park shall be forty (40) feet.**

- F. Not more than one (1) manufactured home shall be located on any one (1) manufactured home lot. Every manufactured home within a manufactured home park shall be located on a manufactured home lot or in a designated storage area shown on the approved site plan for said park.**
- G. At least one (1) service building shall be constructed in each manufactured home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools and materials shall be stored within said building when they are not in use.**
- H. Each manufactured home lot must have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the manufactured home by a paved sidewalk having a minimum width of twenty-four (24) inches.**
- I. No boats, campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a manufactured home park except in areas designated and approved for such storage as part of the site plan approval.**
- J. Every roadway within a manufactured home park shall have a minimum pavement width of twenty-two (22) feet and a minimum right-of-way width of fifty (50) feet. If cul-de-sacs exist they shall have a minimum diameter of seventy (70) feet.**
- K. A complete water distribution system approved by the Cortland County Health Department shall be installed. Such system shall include a water-service pipe for each mobile home lot and approximately spaced fire hydrants shall be installed which provide a minimum of 1000 gallons per minute or such alternate system which provides equal or greater fire protection. Fire hydrants shall be provided at each street intersection and at intermediate points between intersections as recommended by the State Insurance Services Office. Generally, hydrant spacing may range from 350 to 600 feet depending on the area being served.**
- L. A public sanitary sewage disposal system approved by the Cortland County Health Department shall be installed, including sewage/wastewater discharge connection for each manufactured home lot.**
- M. All public utility, electric, gas, cable television and telephone lines shall be installed underground.**
- N. Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection of interior roadways as well as with each abutting public road and at**

least every two hundred (200) feet where such intersections are more than two hundred (200) feet apart.

- O. Pedestrian walkways shall be provided along at least one side of all interior streets. Such walkways shall have a minimum pavement width of three (3) feet and the pavement shall be constructed of mortar or cement concrete and not bituminous asphalt.**
- P. An acceptable landscape plan shall be prepared and carried out which will provide for appropriate planting of ground cover, trees and shrubs.**
- Q. No manufactured home shall be located on a manufactured home lot until the paved roadways, sanitary sewage disposal system, water supply system and storm drainage system serving said manufactured home lot have been installed in accordance with the approved site plan or plans for the manufactured home park.**
- R. Each roadway shall be named and noted upon signs at each roadway intersection. Each manufactured home lot shall be assigned a permanent number which shall be noted on the manufactured home lot in a location clearly visible from the roadway.**
- S. Wherever utilized, fuel storage shall be enclosed in a ventilated structure designed to hide the tanks from view and blend in with the surroundings unobtrusively. All fuel tanks used for heating within a manufactured home park, including all fuel tanks used for heating within manufactured homes, shall be installed in accordance with New York Conservation Law, 6 NYCRR Part 610 as well as in accordance with National Fire Protection Association (NFPA) sections 30 and 30A. Fuel tanks as described above shall also be installed in accordance with the Cortland County Sanitary Code and the International Building Code including: Chapter B, Article 10, Part 1000; Chapter C, Article 2, Part 1163 and Chapter C, Article 3, Part 1171.**
- T. Every manufactured home park shall have a recreational area or open-space area for use by the occupants of the manufactured home park. Such areas shall be as centrally located as the topography and design of the park permit. Such areas shall be not less than ten thousand (10,000) square feet or one thousand (1,000) square feet per manufactured home lot in the park, whichever is greater.**
- U. The park owner shall provide for the weekly collection and disposal of garbage, trash and rubbish.**
- V. No more than one (1) accessory building shall be permitted on any manufactured home lot.**
- W. Each manufactured home shall be enclosed at the bottom with a fire resistant skirt or enclosure within thirty (30) days after the placement of the manufactured home on the lot.**

- X. No enclosure or addition, with the exception of carports, door porches, decks and peaked roofs shall be constructed on or added or attached to the exterior of any manufactured home.
- Y. No manufactured home shall be offered for sale, displayed for sale or sold within a manufactured home park unless such manufactured home is located on a manufactured home space and is connected to an electric public utility supply, an approved water supply and an approved sewer or septic system.
- Z. Every roadway within a manufactured home park shall be maintained in good repair and shall be kept open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner shall be responsible for providing and paying the cost of roadway maintenance including snow plowing. The provisions of this subsection shall apply to manufactured home parks hereafter established within the Town.
- AA. Sale of lots. Any sale of a manufactured home space or spaces or portion of a manufactured home park, other than the entire ~~mobile~~ manufactured home park, as shown on the plan of such park approved by the town, shall thereupon immediately invalidate the permit for such park approved by the Town Board. Any use of any of the premises within the manufactured home park other than as a manufactured home park shall thereupon immediately invalidate the special permit of such park approved by the Zoning Board of Appeals.
- BB. All individual lots will be properly identified by sequential numbers or letters.

SECTION 712 MOTOR VEHICLE REPAIR SHOPS

- A. Entrance and exit driveways shall have an unrestricted width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not nearer than ten (10) feet from any property line, and shall be laid out so as to avoid the necessity of vehicles backing out into any public right-of- way.
- B. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors in public\private view. Vehicles shall be in areas screened by opaque fencing not less than 6 feet in height from adjacent properties. All such vehicles shall be stored in a neat and orderly manner.
- C. The hours of operation of motor vehicle repair shops shall be no earlier than 7:30 a.m. and not later than 8:00 p.m.

SECTION 713 MULTIPLE FAMILY DWELLINGS

- A. The maximum gross density shall not exceed three (3) units per acre.**
- B. Minimum habitable floor area requirements:**
 - 1. Townhouse units, two (2) bedrooms or less: eight hundred fifty (850) square feet.**
 - 2. Townhouse unit, three (3) bedrooms or more: one thousand (1,000) square feet.**
 - 3. Apartment unit, efficiency: five hundred fifty (550) square feet.**
 - 4. Apartment unit, one bedroom: six hundred seventy-five (675) square feet.**
 - 5. Apartment unit, two (2) bedrooms: eight hundred (800) square feet.**
 - 6. Apartment unit, three (3) bedrooms: nine hundred fifty (950) square feet.**
 - 7. No more than one third (1/3) of the total units within a multiple-family dwelling development shall be three (3) or more bedrooms units.**
- C. Setback requirements**
 - 1. The minimum front setback from any public street shall be seventy five (75) feet.**
 - 2. The side and rear setbacks shall be fifty (50) feet from all other lot lines.**
 - 3. Minimum distance between buildings in a multiple family dwelling development shall be one hundred (100) feet.**
- D. All stairways to the second floor or higher shall be located inside buildings.**
- E. Access to public road:**
 - 1. All multiple-family dwelling developments must have direct access to a public road.**
 - 2. If there are more than twelve (12) dwelling units in a multiple-family dwelling development, direct access must be provided to a public road by a private driveway or a road dedicated to the Town by the developer.**

3. If there are more than fifty (50) dwelling units in a multiple-family development, or, if in the opinion of the Zoning Board of Appeals, the location and/or the topography of the site indicate the need for additional access, the Zoning Board of Appeals may require same as a condition of site plan approval.
- F. Off-street parking shall be provided in the amount of two (2) spaces for each unit.
- G. The aggregate lot coverage of multiple-family dwelling developments shall not exceed thirty (30) percent of the total land area.
- H. Plans submitted for site plan approval shall address at least these elements; sewage disposal, water supply, storm drainage, landscaping, lighting, pedestrian and vehicular circulation and off-street parking.

SECTION 714 PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS

- A. Landscaped areas at least ten (10) feet in width or other suitable screening, shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.
- B. No structure or use shall be located within fifteen (15) feet of any adjacent property line.
- C. Entrance and exit points shall be from major or secondary roads.
- D. Parking areas shall not be within ten (10) feet of any property line.

SECTION 715 RETAIL GASOLINE OUTLET

- A. Entrance and exit driveways shall have an unrestrictive width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not nearer than fifteen (15) feet from any property line, and shall be designed to avoid the necessity of any vehicle backing out into any public right of way.
- B. Entrance and exit points shall be from a major or secondary road.
- C. All buildings shall be setback from the major or secondary street line a distance of not less than thirty (30) feet.
- D. Gasoline pumps shall be located not less than twenty (20) feet from the street line and not less than thirty (30) feet from all other property lines.
- E. No such establishment shall be located within a distance of two hundred (200) feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for

occupancy by more than fifty (50) persons, or within 500 feet of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.

- F. Landscaped areas of at least ten (10) feet in width shall be provided along side and rear yard property lines to lessen any visual unattractiveness.
- G. The entire area of the site traveled by motor vehicles shall be a dust free paved surface.
- H. Any repair of motor vehicles shall be performed in a fully closed building and no more than two (2) motor vehicles shall be offered for sale on the site at any one time. No motor vehicle parts, or partially dismantled motor vehicle shall be stored outside of an enclosed building.

SECTION 716 BED AND BREAKFAST

- A. A bed-and-breakfast shall not be permitted in a mixed use dwelling or on a mixed use property.
- B. The parking requirement for a single-family dwelling shall apply and, in addition, one additional parking space for every guest room shall be provided.
- C. A single non-illuminated stationary sign, not exceeding four square feet, shall be permitted.

ARTICLE VIII

Administration and Enforcement

Section 800-801 - Zoning Enforcement Officer

Section 810-814 - Planning Board

Section 820-836 - Zoning Board of Appeals

Section 840-846 - County Planning Board

SECTION 800 ENFORCEMENT

- A. The duties of administering and enforcing the provisions of this Ordinance are hereby conferred upon the Zoning Enforcement Officer. The Zoning Enforcement Officer shall be appointed by the Town Board and receive compensation as that Board shall determine.**
- B. Except as otherwise specifically provide by law, ordinance, rule or regulation, or except as otherwise provided, the Zoning Enforcement Officer shall administer and enforce all of the provisions of the Building Code and other laws, ordinances, rules and regulations applicable to plans, specifications or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein, and to the location, use and occupancy thereof.**
- C. In the absence of the Zoning Enforcement Officer, or in the case of his inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board, to designate a person to act on behalf of the Zoning Enforcement Officer and to exercise all the powers conferred upon him by the Ordinance.**

SECTION 801 DUTIES AND PROCEDURES OF THE ZONING ENFORCEMENT OFFICER

A. Administer the Zoning Law

The Zoning Enforcement Officer shall review all applications for building permits and, if the minimum requirements of Article III hereof are met, the Officer shall issue a permit.

If the applicant's plans do not meet the Zoning requirements, the Officer must deny the permit.

B. Referral to the Zoning Board of Appeals

- 1. An applicant, after he has been denied a building permit, requested the Zoning Enforcement Officer shall notify the Secretary of the ZBA of the request and forward all necessary supporting information.**

2. Any application for a conditional permit shall be forwarded by the Zoning Enforcement Officer to the Secretary of the Zoning Board of Appeals along with all supporting information.

C. **Referral to Town Planning Board**

Any application for a use that requires Site Plan Review or an aquifer protection district special permit shall be forwarded by the Zoning Enforcement Officer to the Secretary of the Town Planning Board along with all supporting information.

D. **Referral to the Town Board**

Any application for a zoning map amendment or an aquifer protection district special permit shall be forwarded by the Zoning Enforcement Officer to the Secretary of the Town Board along with all supporting information.

E. **Remedy for Zoning Law Violations**

For any plans, construction, building, or use of property found to be in violation of this Ordinance, the Zoning Enforcement Officer shall order the responsible party or parties, in writing, to stop and to remedy the situation and/or conditions. The Officer shall have the authority to secure from the Town Justice a stop order to constrain the continuance of any zoning law violation.

F. **Report to Town Board**

A monthly report shall be made in writing by the Zoning Enforcement Officer to the Town Board describing and enumerating actions taken and permits issued.

G. **Public Record**

The Zoning Enforcement Officer shall file all permit actions with the Town Clerk.

SECTION 810 PLANNING BOARD

SECTION 811 APPOINTMENT OF A PLANNING BOARD

The Town Board authorizes the appointment of a ~~seven~~ five member Planning Board as more fully described in Town Law Section 271. At least one member shall be a person engaged in agricultural pursuits as defined in Town Law Section 271 subsection 11. Terms of all Planning Board Members shall be staggered as the law requires.

SECTION 812 CHAIRPERSON, RULES AND EXPENSES

- A. The Town Board may select a Chairperson of the Planning Board annually, or on failure to do so, the Planning Board shall elect a chairperson from its own members.**
- B. The Planning Board may adopt rules or bylaws for its operation.**
- C. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.**

SECTION 813 FUNCTIONS OF THE PLANNING BOARD

- A. Prepare, modify or update a comprehensive development and land use plan for the Town. This plan may also be referred to as the Town Master Plan.**
- B. Review and prepare comments for the Town Board on all proposed zoning amendments after referral to the County Planning Board.**
- C. Review and prepare comments for the Town Board on all aquifer protection district special permit applications after referral to the County Planning Board.**
- D. Conduct Site Plan Reviews as authorized by Town Law 274a and prescribed in Article X of this Ordinance.**
- E. Render assistance to the Zoning Board of Appeals on its request.**
- F. Research and report on any matter referred to it by the Town Board.**
- G. Make investigations, maps, reports, and recommendations regarding any matter related to Planning and Development as it deems desirable providing expenditures of the Board do not exceed appropriations (Town Law Section 275).**
- H. Review and act on subdivision applications**

SECTION 814 COUNTY PLANNING BOARD REPRESENTATIVES

The Town Board may nominate either a member of its Planning Board or some other resident to serve on the County Planning Board when vacancies occur. Appointments to the County Planning Board are made by the County Legislature.

SECTION 820 ZONING BOARD OF APPEALS

SECTION 821 APPOINTMENT OF ZONING BOARD OF APPEALS

Pursuant to Section 267 of Town Law, there shall be a Zoning Board of Appeals consisting of five (5) members holding staggered five (5) year terms appointed by the Town Board.

SECTION 822 CHAIRPERSON, RULES EXPENSES, AND DECISIONS

Board.

- A. The Chairperson of the ZBA shall be appointed annually by the Town Board.
- B. The ZBA may adopt rules or bylaws for its operation.
- C. The Town Board shall provide an appropriation to the ZBA to cover necessary expenses including the means for the ZBA to maintain a written record of its meetings and public hearings.
- D. All decisions shall be by a majority vote of the membership present except in those cases of a County Planning Board disapproval referral recommendation. In such cases a majority of the membership present plus one vote shall be required for any decision.

SECTION 823 FUNCTIONS OF THE ZONING BOARD OF APPEALS

- A. **Interpretation.** Upon appeal from a decision by the Zoning Enforcement Officer, the ZBA shall decide any question involving interpretation of any provision of this Ordinance.
- B. **Appeals for Variances.** Upon denial of a building permit by the Zoning Enforcement Officer, the ZBA shall hear requests for variances as more fully described in Section 830 of this Ordinance.
- C. **Conditional Permit.** Review and grant or deny conditional permits as authorized by Article IX.

SECTION 830 APPLICATIONS FOR VARIANCES THROUGH THE ZONING BOARD OF APPEALS (ZBA)

All requests for variances shall be made to the ZBA by the Zoning Enforcement Officer.

SECTION 832 GRANTING AREA OR DIMENSIONAL VARIANCES

- A. Area variances may be granted where setback, frontage, lot size, density or yard requirements of this Ordinance cannot be reasonably met. In order to grant an area variance the Zoning Board of Appeals

must weigh the benefit of granting the variance to the applicant against the detriment to the health, safety, and welfare of the community or neighborhood.

B. In making its determination, the Zoning Board of Appeals 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 of 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. Area Variance Procedures

Area variances shall be granted by the procedure established in Section 834.

SECTION 833 GRANTING USE VARIANCES

A. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the ZBA finds that otherwise applicable zoning regulations and restrictions have caused unnecessary hardship as set forth herein.

- 1. Unnecessary Hardship. In order to prove the existence of an unnecessary hardship for purposes hereof the applicant is required to clearly demonstrate to the ZBA's satisfaction that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each and every of the following four criteria is satisfied: (w) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (x) 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 involved; (y) that the requested use variance, if granted, will not alter the**

essential character of the neighborhood; and (z) that the alleged hardship has not been self-created.

2. **Reasonable Rate of Return.** In evaluating whether the applicant can realize a reasonable rate of return, the ZBA shall examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the ZBA finds that the applicant has clearly demonstrated, by detailed, written “dollar and cents” proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district (including those uses permitted by special use permit).
3. **Unique Hardship.** No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the ZBA finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.
4. **Essential Character of the Neighborhood.** No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the ZBA finds that the proposed project will not alter the essential character of the neighborhood. In making its determination of whether the proposed project will alter the essential character of the neighborhood, the ZBA shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (a) the rural residential, agricultural and historic character of the Town, (b) its irreplaceable recreation and tourism sites, (c) the extent of hazard to life, limb or property that may result from the proposed project, (d) health impacts, (e) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (f) the impact on property values, and (g) whether the applicant will use a style of development that will result in degradation to the air quality, water quality or scenic and natural resources of the Town. In order to find that the proposed project does not alter the essential character of the neighborhood, the ZBA shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.
5. **Self-Created Hardship.** No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the ZBA finds that the alleged hardship was

not self-created. The ZBA may find that the applicant suffers from a self-created hardship in the event that the ZBA finds that (x) the applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (y) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (z) when the applicant purchased the property, the applicant knew or should have known the property was subject to the zoning restrictions.

B. The ZBA, in the granting of use variances, shall grant only the minimum variance that it shall deem necessary and adequate to allow an economically beneficial use of the property, and at the same time preserve and protect the essential character of the neighborhood and the health, safety and welfare of the community.

C. The ZBA, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such use variance may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this Law. If the applicant refuses to accept such requirements and conditions, the use variance shall be denied.

SECTION 834 PROCEDURE FOR GRANTING A VARIANCE

- A. All applications for variances shall be in writing on forms established by the ZBA. They are available from the Zoning Enforcement Officer or the Town Clerk.
- B. Every application shall refer to the specific section or sections of the law involved and shall state in detail why the applicant believes the variance should be granted.
- C. Upon receipt of the completed application the ZBA shall:
 - 1. schedule a public hearing ;
 - 2. advertise in the official newspaper of the Town a notice of the public hearing as described in Section 835;
 - 3. refer the application to the County Planning Board as required by General Municipal Law Section 239, if required-;

4. determine whether or not the State Environmental Quality Review Act needs to be followed and if so make certain the proper papers are submitted and reviewed.
- D. Within forty-five (45) days of the public hearing, the ZBA shall render a decision. If the matter was referred to the County Planning Board, a copy of the ZBA's findings and decision must be returned to the County Planning Board within 7 days following the decision date.

SECTION 835 NOTICE OF PUBLIC HEARING

- A. The Board shall fix a reasonable time for the hearing of appeals not to exceed forty-five (45) days from date of ZBA receipt, or sixty (60) days where cases are referred to the County Planning Board, and shall give due notice of the time set for the hearing to the applicant. Public notice shall be by the publication of an advertisement in the official newspaper of the town pursuant to law, and shall briefly describe the nature of the appeal and the time and place of the hearing.

SECTION 836 MEETING OF THE BOARD

- A. The Zoning Board of Appeals shall hold meetings at the request either of the chairperson or of four or more members.
- B. The presence of four (4) members shall constitute a quorum for the conduct of business before the board.
- C. A concurring vote of the majority of those members of the Board present shall be necessary to act on the application for any variance or to decide upon any other matter brought before the board, unless otherwise stipulated in this law or in the bylaws or rules of the ZBA.
- D. All votes of the Zoning Board of Appeals shall be taken by roll call.
- E. In accordance with General Municipal Law, Section 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on such matter
- F. The Zoning Board of Appeals may request and obtain any advice or opinion on the law relating to any matter before the Board from the Town Attorney and may require the town attorney to attend its meetings.
- G. The Zoning Board of Appeals may require the Zoning Enforcement Officer to attend its meetings and to present any facts relating to any matter before the Board.
- H. All meetings of the Zoning Board of Appeals shall be open to the public.

- I. The Zoning Board of Appeals shall keep minutes of all its meeting. The Town board shall provide a secretary to take minutes at meetings of the Zoning Board of Appeals.
- J. The Zoning Board of Appeals shall keep a factual record of all its proceedings including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript. The records may be kept in narrative form.

SECTION 840 REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD

The Zoning Enabling Law requires that any of the following local zoning actions must be referred to the County Planning Board prior to action by the local Board. Any proposal for a special permit, variance, site plan approval, change in the zoning law text or map (rezoning, amending the zoning law) which would affect real property lying within a distance of 500 feet from the boundary of:

- any county
- any town
- any village
- any existing or proposed county or state park
- any right-of-way of any county or state road or parkway
- any stream or canal owned by the county
- any existing or proposed county or state owned land on which a public building or institution is situated
- any existing farm operation within an agricultural district, as defined by Article Twenty-Five-AA of the Agricultural and Markets Law.

Must be referred to the County Planning Board who shall have 30 days from date of receipt to take action on the matter. By mutual agreement of the county and the municipality, such 30 day period may be extended for good cause.

SECTION 845 EFFECT OF COUNTY PLANNING BOARD REVIEW

- A. If the County Planning Board recommends in favor, the local board's decision is governed by a majority vote.

- B. If the County Planning Board recommends disapproval or approval subject to stated conditions or modifications, the local board may override the county opinion only by a majority plus one vote.**

SECTION 846 REPORT ON FINAL LOCAL ACTION

Where required referral is made to the County the local board must send a copy of its decision and reasons for such decision to the County Planning Board within 7 days after the local decision is reached.

ARTICLE IX
Conditional Permits

SECTION 900 PURPOSE

Conditional permit uses are uses for which approval of the Board of Appeals is required and for which conformance to additional standards is required, in addition to all other requirements of this Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific case or use shall be considered as an individual case that requires consideration of the merits and details of each proposed use to assure that such proposed use is in harmony with this Law and the Comprehensive Plan, and that such proposed use will not adversely affect the general character of the surrounding area if the conditions of the conditional use permit are met.

SECTION 901 ADMINISTRATION

Pursuant to Town Law, Section 274b the Town Zoning Board of Appeals will administer the review and granting of Conditional Permits.

SECTION 902 PROCEDURE

- A. All applications for conditional permit shall be filed with the Zoning Enforcement Officer who shall refer the completed special permit application to the Zoning Board of Appeals within ten (10) days after receiving a completed application.
- B. At its next regular or special meeting, the Zoning Board of Appeals shall designate a public hearing date within a reasonable period of time, not to exceed forty-five (45) days from the date application was made or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m, as described in Section 840 of this Ordinance.
- C. The Zoning Board of Appeals shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town.
- D. The notice of the public hearing shall be sent and published at least ten (10) calendar days prior to the date of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
- E. The Zoning Board of Appeals shall make a factual record of all its proceedings involving the granting of a special conditional permit. The decision of the Zoning Board of Appeals shall contain the reasons for its decision.
- F. The Zoning Board of Appeals shall render its decision, either approving with conditions, or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon.

- G. Each application for a conditional permit shall be accompanied by a proposed plan showing the information required for site plan approval in Article X.**
- H. Each conditional permit application must also receive site plan approval before the conditional permit may be granted.**

SECTION 903 FINDINGS

- 1. In order to grant approval for a Conditional Permit, the applicant must prove that the structure and/or use:**
 - A. Is appropriate for the particular lot and area, and will not conflict with allowed uses.**
 - B. Is in compliance with all other applicable sections of this Zoning Ordinance.**
 - C. Is physically and visually compatible with the general neighborhood.**
 - D. Provides a suitable transition when located between differing uses or Districts or provides a visual buffer by landscaped green areas or fencing.**
 - E. Has adequate space and plans for off street parking.**
 - F. Has future expansion or revision capabilities without need for variances.**
 - G. Provides for safe handling of vehicular traffic to and from site without causing congestion. No new vehicular entrances shall be permitted within fifty feet of an existing intersection.**
 - H. Provides for safe passage of pedestrians.**
 - I. Enhances neighboring property and does not lead to depreciation of properties (by reason of noise, traffic dust, fumes, smoke, odor, fire, glare, flashing lights or sewage disposal).**

**ARTICLE X
Site Plan Review**

SECTION 1000 PURPOSE

The intent of this section is to set forth additional general standards applying to certain land uses and activities. These standards are felt to be necessary to protect against the possible undesirable effects of particular land uses and related activities on surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Ordinance.

SECTION 1001 APPLICATIONS

All applications for building permits, zoning variances, or special permits, (except building permit applications for one or two family dwellings and their permitted accessory uses or any addition to a single family dwelling or general farming use) shall be accompanied by a site plan approval. No building permit shall be issued until all the requirements of this Article and all other applicable provisions of this Ordinance have been met.

SECTION 1002 PROCEDURE

- A. All completed applications for site plan approval shall be made to the Planning Board by filing it with the Town Clerk. The applicant shall present it to the Planning Board at their next regularly scheduled meeting.
- B. Within forty-five (45) days of receipt of the application or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m, as described in Section 840 of this code, the Planning Board shall render a decision to approve with conditions, or deny, and forward the decision to the code enforcement officer. An extension of this forty-five (45) day period may be granted upon consent of both the applicant and the town planning board. If the Planning board fails to act within said forty-five (45) day period or within any extension that have been granted, the site plan shall be approved.
- C. A full written record of the planning board minutes and decisions together with all documents pertaining to the case shall be filed in the Office of the Town Clerk and shall be mailed to the applicant.

SECTION 1003 PREAPPLICATION CONFERENCE

A preapplication conference may 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 site plan.

SECTION 1004 APPLICATION FOR SITE PLAN APPROVAL

An application for site plan approval shall be made in writing to the Planning Board and shall be accompanied by information drawn from the following checklist. The Planning Board may require additional information to complete its review.

A. Plan checklist for all site plans:

- 1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;**
- 2. north arrow, scale and date;**
- 3. boundaries of the property plotted to scale;**
- 4. existing watercourses and bodies of water;**
- 5. location of any slopes of 5% or greater;**
- 6. proposed grading and drainage;**
- 7. location, proposed use and height of all buildings and site improvements such as culverts, drains, retaining walls and fences, etc.;**
- 8. location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site;**
- 9. location of outdoor storage, if any;**
- 10. description of the method of sewage disposal and location of the facilities;**
- 11. identification of water source; if well, locate;**
- 12. location, size and design and construction materials of all proposed signs;**
- 13. location and proposed development of all buffer areas, including existing vegetative cover;**
- 14. location and design of outdoor lighting facilities;**
- 15. general landscaping plan.**

B. As necessary, the Planning Board may require the following:

- 1. provision for pedestrian access;**

2. location of fire lanes and hydrants;
3. designation of the amount of building area proposed for retail sales or similar commercial activity;
4. other elements integral to the proposed development as considered necessary by the Planning Board.

SECTION 1005 PLANNING BOARD REVIEW OF SITE PLAN

The Planning Board's review of the site plan shall include, as appropriate, the following:

A. General Considerations

1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
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 stormwater and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
10. Protection of solar access on adjacent or neighboring properties.

11. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 12. Special Attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- B. **Consultant Review** - The Planning Board may consult with the Town building inspector, fire commissioners, highway department, county planning department and other local county officials, 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.
- C. **Professional Review** - The Planning Board may seek professional review, by a Surveyor or Professional Engineer licensed in the State of New York, of any application for site plan review. The bill for this professional review shall be incurred by the applicant.
- D. **Public Hearing** - The Planning Board may conduct a public hearing on the site plan. If a public hearing is considered desirable, such hearing shall be conducted within forty-five (45) days of the receipt of the application and shall be advertised in the official newspaper of the town at least ten (10) days before the public hearing. A decision shall be rendered within forty-five (45) days of the public hearing.

ARTICLE XI
Flood Hazard Area Regulation

SECTION 1100 GENERAL

The flood hazard areas of the Town are subject to periodic inundation which may result in damage to property, produce health and life safety hazards, disrupt commerce and governmental services, introduce extraordinary public expenditures for flood protection and relief, and generally impair the Town tax base.

Flood damage losses are partly caused by the cumulative effects of increased runoff and of obstructions in areas of special flood hazards. These and other factors raise flood elevations and velocities. Improvements to property that are inadequately flood proof, not sufficiently elevated or otherwise protected from flooding also contributes to flood losses.

SECTION 1101 PURPOSE

It is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to possible flooding in designated flood hazard areas. To accomplish this purpose the flood hazard area regulations of this Article are designed to accomplish the following:

- A. Protect human life and health;
- B. Maximize public expenditures for flood control projects;
- C. Reduce need for rescue and relief efforts associated with flooding undertaken at public expense;
- D. Prevent prolonged interruptions of business and industry;
- E. Minimize damage to public facilities and utilities;
- F. Assist in maintaining a stable tax base by providing for the sound use and development of flood hazard areas;
- G. Insure that potential buyers will be notified that property is in a flood hazard area;
- H. Assign full and clear responsibilities to those who control flood hazard areas for their actions.

SECTION 1102 FLOOD LOSS REDUCTION

Methods to reduce potential flood losses recommended include:

- A. Restricting or prohibiting uses which may be dangerous to health, safety, and property due to flooding that may cause increases in erosion or in flood elevations or water velocities;**
- B. Requiring that land development activities vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;**
- C. Preventing or controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which temporarily store, absorb or channel flood waters;**
- D. Preventing or regulating filling, grading, dredging, and other modification to ground configuration which may increase flood waters;**
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in downstream areas.**

SECTION 1103 FLOOD HAZARD AREA BOUNDARIES

The flood hazard area includes any and all areas of "special flood hazard" identified by the Federal Insurance Administration. If no "special flood hazard" areas have been identified by the Federal Insurance Administration then the location and extent of any flood hazard area in the Town will be determined by studies and investigations approved by the Town Board after certification by a registered professional engineer.

SECTION 1104 PENALTIES FOR NONCOMPLIANCE

Within the Flood Hazard Area - no structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Ordinance and any other applicable regulations. Failure to comply with the provisions of this Ordinance shall constitute a violation. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined no more than \$250.00 or imprisoned for not more than 15 days, or both, for each violation. In addition the convicted person shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violations.

SECTION 1105 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Major floods can and do occur on rare occasions. Flood elevations may be increased by man made or natural causes. This Ordinance does not imply that land outside the flood hazard area or uses permitted within such area will be free from flooding or flood damages. This shall not create liability on the part of the Town, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

SECTION 1106 ADMINISTRATION OF DEVELOPMENT PERMIT

A. Establishment of Development Permit

A Development Permit shall be obtained before construction or development begins within any flood hazard area established in Section 1103. Application for a Development Permit shall be made on forms furnished by the Zoning Enforcement Officer of the Town and may include, but not be limited to: maps and plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of material, drainage facilities; and the like as well as such natural features as wetlands, drainage ways and waterbodies.

B. Designation of the Zoning Enforcement Officer

The Zoning Enforcement Officer of the Town is hereby appointed to administer and implement the provisions of this Article by granting or denying development permit applications in accordance with the provisions herein.

C. Duties and Responsibilities of the Zoning Enforcement Officer.

The duties of the Zoning Enforcement Officer shall include, but not be limited to:

1. Review of all development permit applications to determine whether or not the permit requirements of this Article have been satisfied.
2. Review of all development permit applications to determine if the necessary related permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

- 3. Review of all development permit applications in the flood hazard area to determine if the proposed development adversely affects the flood carrying capacity of that area. For the purposes of this Article "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood more than one (1) foot at any point. The assistance of a Professional Engineer should be obtained as necessary in making this determination.**
- 4. When certifiable base flood elevation data has not been provided in the determinations of Section 1103 or elsewhere a licensed surveyor shall obtain, review, and reasonably utilize any base flood elevation data deemed reliable to assist in deciding whether or not to grant a Development Permit.**
- 5. Obtaining and recording the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.**
- 6. For all new or substantially improved flood proof structures:

A licensed surveyor must verify and record the actual elevation (in relation to mean sea level) and maintain the flood proofing certifications required in Section 1107 which follows.**
- 7. Notifying adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Insurance Administration, if applicable and, requiring that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capability is not diminished.**
- 8. Making interpretations where needed, as to the exact location of the boundary of the flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1107 following.**

SECTION 1107 VARIANCE PROCEDURE

The Town Zoning Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this Article consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program 44 CFR 60, if applicable.

SECTION 1108 FLOOD HAZARD REDUCTION

In all Flood Hazard Areas the following is required:

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.**
- B. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and/or frame ties to ground anchors.**
- C. All new construction and improvements shall be constructed with materials and utility equipment resistant to flood damage.**
- D. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.**
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters.**
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters and discharges from the systems into flood waters.**
- G. On-site sewage systems shall be located to avoid impairment to them or contamination from them during flooding.**
- H. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage potentials.**
- I. All subdivision proposals shall have storm drainage designed to reduce exposure to flood damage.**
- J. Base flood elevation data from a reliable source shall be provided for subdivision proposals and other proposed development containing 5 or more acres.**
- K. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.**

- L. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:**
- 1. Be flood proof so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;**
 - 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and**
 - 3. be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Enforcement Officer as set forth in Section 1106 c.**
- M. manufactured homes shall be anchored in accordance with Section 1108 b.**
- N. For new manufactured home parks and manufactured home subdivisions; for expansions to existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repairs, reconstruction or improvement has commenced; and for manufactured homes not placed in a manufactured home park or manufactured home subdivision, require that:**
- 1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level; and,**
 - 2. in the instance of elevation on pilings, that:**
 - a. lots are large enough to permit steps;**
 - b. piling foundations are placed in stable soil not more than ten feet apart; and**
 - c. reinforcement is provided for pilings more than six feet above the ground level**

- O. No manufactured home shall be placed in any designated floodway, except in an existing manufactured home park or an existing manufactured home subdivision.**

SECTION 1109 DESIGNATED FLOODWAYS

Located within areas of "special flood hazard," described in Section 1103, may be areas designated as floodways. Because a floodway is potentially critical area to be kept permanently clear due to the potentially high velocity and volume of flood waters the following limitations and requirements apply to designated floodways:

- A. Encroachments are prohibited in any floodway including filling, new construction, substantial improvements, and all other forms of development unless an evaluation by a professional engineer demonstrates that proposed encroachments will result in no increase in flood elevations during the occurrence of the base flood discharge.**
- B. Any proposal demonstrating compliance with item "A" above in this section shall have all new construction and substantial improvements to comply with the flood hazard reduction provisions found in Section 1108 of this Ordinance.**
- C. manufactured homes may not be located in any floodway, except in either an existing manufactured home park or an existing manufactured home subdivision.**
- D. In all areas of "special flood hazard," described in Section 1103, in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.**