

Town of Fayette

Land Use Regulations

Adopted September 11, 2008

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ARTICLE I: ENACTMENT AND INTENT

SECTION 101 TITLE

The title of this code is the "Land Use Local Law of the Town of Fayette, Seneca County, New York", and shall include this text and land use maps.

SECTION 102 PURPOSE

This Local Law is adopted pursuant to the Town Law of the State of New York, to promote and protect the public health, safety and general welfare; to protect real property values; and to ensure the quiet enjoyment of property by residents; and in furtherance of the following related and more specific purposes:

- A. To protect and enhance the agricultural, open, rural and natural character of the land.
- B. To preserve the town's natural resources and habitats.
- C. To guide and regulate the orderly growth, development and redevelopment of the Town of Fayette in accordance with the Town's Comprehensive Plan, a well-considered plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of Town residents.

SECTION 103 APPLICATION OF REGULATIONS

The regulations established by this Local Law shall be the minimum regulations within each land use district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the land use district in which it is located.
- B. No building or structure shall hereafter be erected or altered which:
 - 1. Exceeds the height limitation for any structure within a specified land use district;
 - 2. Accommodates or houses a greater number of dwelling units than is permitted within a specified land use district;
 - 3. Occupies a greater percentage of lot area than is permitted by the land use schedule; or
 - 4. Has narrower or smaller yards or other open spaces than herein required, or is in any other manner contrary to the provisions of this Local Law or the requirements of the New York State Uniform Fire Prevention and Building Code.

- C. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with the regulations set forth herein, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as provided in Sections 800 and 802.
- D. No yard or lot existing at the time of enactment of this Local Law shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Local Law shall meet or exceed the minimum requirements established herein.

SECTION 104 CONFLICTS WITH OTHER LAWS

Whenever the requirements of this Local Law are in conflict with the requirements of any other lawfully adopted rules, regulations, codes, or local laws, the most restrictive of such rules, regulations, codes, or local laws or those imposing the higher standards shall govern.

SECTION 105 VALIDITY AND SEVERABILITY

Should any section of or provision of this Local Law be decided by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this Local Law as a whole, or any part thereof, other than the part so decided to be unconstitutional or otherwise invalid.

SECTION 106 FEES

Permit fees shall be collected and paid according to the fee schedule in effect at the time of application. Such fee schedule shall be established by resolution of the Town Board and may be amended from time to time by Town Board resolution. The fee schedule will be posted at the Town Clerk's Office and Land Use Officer's Office.

SECTION 107 VIOLATIONS AND PENALTIES

Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this Local Law shall be guilty of an offense, and upon conviction thereof, shall be subject to a fine of not more than \$250.00 or imprisonment for a period not more than six (6) months or both. Each week a violation is continued shall be deemed a separate offense.

SECTION 108 ACTIONS

- A. If the Land Use Officer discovers a project commencing or operating without the required permits, the Land Use Officer shall undertake enforcement actions as authorized by this Local Law and other provisions of New York State Law.
- B. The Town may maintain an action for a temporary restraining order, temporary injunction, or injunction to restrain, correct, or abate any violation of this Local Law or any failure to comply with any of the provisions of this Local Law.

SECTION 109 ENFORCEMENT OF LAND USE LOCAL LAW

Any building or structure erected or any use conducted without a land use permit or certificate of compliance, where required, or not in conformity with the provisions of this Local Law, may be removed, closed or halted at once by the Land Use Officer with the issuance of a stop order, with assistance, if deemed necessary, of any appropriate Town office or employee. All costs incurred relating to such enforcement action shall be borne by the property owner.

SECTION 110 CONSISTENCY WITH COMPREHENSIVE PLAN

The provisions and regulations of this Local Law and interpretations thereof shall be made in accordance with the objectives of the Town’s Comprehensive Plan.

SECTION 111 EFFECTIVE DATE

This Local Law shall take effect immediately, or as soon as NYS Law provides as provided by the NYS Town Law and Municipal Home Rule Law.

SECTION 112 AMENDMENTS

A. Procedure

The Town Board may from time to time on its own motion, on petition or on recommendation of the Town Planning Board, and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this Local Law, after public notice and hearing.

B. Filing of Petition

A petition to amend, change or supplement the text of this Local Law or any land use district as designated on the land use maps established herein shall be filed with the Town Clerk and accompanied by the appropriate fees. The Clerk shall transmit the documentation to the Town Board. A petition for a change to the official land use maps shall contain a map which clearly describes the affected property and its boundaries and shall indicate the existing land use district and the requested land use change. In addition, every petition for a change to the official land use maps shall contain an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in State Environmental Quality Review (SEQR) regulations.

C. Referral to Town Planning Board

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Town Planning Board for report prior to the public hearing. If the Town Planning Board shall fail to file such a report within sixty-two (62) days following such referral, it shall be conclusively presumed that the Town Planning Board has

approved the proposed amendment, supplement or change. Such referral shall be deemed received when the referral is first presented at a duly called meeting of the Town Planning Board.

D. Public Hearing; Notice; Referrals; Recording of Actions

The Town Board by resolution adopted shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as provided by Town Law or Municipal Home Rule Law.

Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices, referrals to the County Planning Board, and proper recording of land use actions taken by the Town Board shall apply to all amendments to this Local Law.

E. Notification of Property Owners

For land use map amendments initiated by petition, all property owners within a distance of 500 feet of any proposed change or amendment shall be notified by the applicant by certified mail, return receipt requested.

F. Disposition Final; Rehearing on Petition

The disposition of a petition for amendment by the Town Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Town Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one (1) year from the date of such previous denial unless the Town Planning Board shall submit a recommendation, with reasons stated therefore, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority of the Town Board plus one (1).

ARTICLE II: DEFINITIONS

SECTION 200 WORD USAGE

For the purpose of this Local Law, certain words and terms used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, partnership, trust, company or corporation as well as an individual or family.
- B. Words used in the present tense include the future tense.
- C. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- D. The word "building" includes the word "structure".
- E. The words "shall" and "must" are mandatory and not discretionary; the word "may" is permissive and discretionary.
- F. The words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied".
- G. The word "lot" includes the words "plot", "parcel", "tract" or "site" or "realty."
- H. The word "premises" includes a lot and all buildings or structures thereon.
- I. To "erect", to "construct" and to "build" a building or structure each have the same meaning and also include to "excavate" for a building and to "relocate" a building by moving it from one location to another.

SECTION 210 DEFINITIONS

ACCESSORY APARTMENT (a/k/a In-Law Apartments): An small apartment attached to a single-family dwelling specifically designed to accommodate the special housing needs of elderly parents and parents in-law who may have insufficient incomes to be able afford a private dwelling of their own; and/or who have physical and/or mental impairments and need the assistance of adult children caregivers.

ACCESSORY BUILDING OR STRUCTURE: A detached building or structure which: (1) is customarily incidental and subordinate to, and serves a principal building; (2) is subordinate in area, extent or purpose to the principal building served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building use; and, (4) is located on the same parcel as the principal building. This definition shall include private garages, but shall exclude Outdoor Appliances and devices previously used for highway use, such as truck trailers, however, truck trailers used for

storage on farm operations located within a Seneca County Agricultural District shall be deemed to be accessory farm structures

ACCESSORY USE: A use incidental and subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

ADULT ENTERTAINMENT USE: is any use containing any or all of the characteristics of the following:

- A. **Adult Bookstore:** An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and video tapes and which establishment is customarily not open to the public generally due to the exclusion of minors by reason of age.
- B. **Adult Drive-in Theater:** A drive-in theater that customarily presents motion pictures and which is not open to the public generally due to the exclusion of minors by reason of age.
- C. **Adult Entertainment Cabaret:** A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally due to the exclusion of minors by reason of age.
- D. **Adult Motel:** A motel which is not open to the public generally but excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theater would not be open to the public generally due to the exclusion of minors by reason of age.
- E. **Adult Theater:** A theater that customarily presents motion pictures, films, videotapes or slide shows, that are not open to the public generally due to the exclusion of minors by reason of age.
- F. **Massage Establishment:** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or New York State licensed massage therapists who administers only medial massages. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.
- G. **Peep Show:** A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally due to the exclusion of minors by reason of age.

AGRICULTURAL PRODUCT PROCESSING FACILITY: A facility in which agricultural products, which may not be produced on the premises, are altered for the purpose of canning, freezing, or other packaging, or are converted or incorporated into other products.

AGRICULTURAL PRODUCT DISTRIBUTION CENTER: A facility in which agricultural products, which are not produced on the premises, are graded, sorted, and/or packaged for the purpose of distribution by truck, rail, or other means. For purposes of this definition, if a farm operation is comprised of and/or uses more than one parcel of land for agricultural purposes whether or not such parcels are contiguous to each other, all such parcels shall be deemed as part of the premises.

AGRICULTURE/ (FARMING): The use of one or more parcels of land contiguous or not contiguous to each other for agricultural production purposes including, tilling of the soil, dairying, pasture, animal and poultry husbandry, apiculture, aquaculture, arboriculture, horticulture, floriculture, viticulture, and accessory uses for packing, storing, processing and retail sales of products, provided that the operation of any accessory uses shall be secondary to that of the principal agricultural production activities.

ALTERATION: As applied to a building or structure; (1) the change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities; (2) an enlargement of a building or structure, whether by extending on a side or by increasing in height; (3) the moving from one location or position to another; or (4) any alteration whereby a structure is adapted to another or different use, including any separation into rooms or spaces by the installation of non-bearing partitions; or (5) the installation, replacement or alteration of mechanical systems.

ALTERNATIVE ENERGY SYSTEMS: 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. Current examples include wind turbines, solar collectors and solar greenhouses, heat pumps, wind-powered air compressors, or other related devices. For the purposes of this Local Law, this definition shall apply to individual residences and businesses. Commercial generating plants, the prime function of which is selling energy, are excluded.

ANIMAL HOSPITAL OR VETERINARY CLINIC: The premises or buildings used for the diagnosis, treatment or other care of the ailments of domesticated, household or farm animals, which may include related facilities, such as laboratories, offices and temporary quarters for such animals.

ANIMAL HUSBANDRY: The raising or keeping of one (1) or more cows, steers, bulls, horses, mules, hogs, sheep, goats, donkeys, oxen, or other similar animals, or the raising or keeping of more than fifteen (15) ducks, chickens, rabbits, geese, quail, chinchillas, mink, or any similar small animals, but not including dogs and cats. Such uses include the pasturing, feeding, and sheltering of such animals.

ANIMAL UNIT: The equivalent of 1,000 pounds of farm animal.

ANTENNA(E): A system of electrical conductors that transmit or receive electronic frequency signals. Such signals shall include, but not be limited to radio, television, cellular, paging, and personal communication services (PCS).

APARTMENT: A dwelling unit within a two-family or multi-family dwelling that is intended to be leased or rented. This term shall not be deemed to include a motel, hotel, boarding house or travel trailer.

AUTOMOTIVE WRECKING: The dismantling or disassembling of used motor vehicles, mobile homes or manufactured housing; or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

BED AND BREAKFAST INN: A single-family dwelling where overnight lodging, with or without the service of meals, is offered to transient guests for compensation. Such use shall be clearly incidental and secondary to the principal use of the dwelling. This term includes hostels and Tourist Home establishments but does not include hotels, tourist courts, motor lodges, tourist cabins or similar terms.

BOARD OF APPEALS: The Board of Appeals of the Town of Fayette.

BOAT: All types of vessels and watercraft designed to travel in or on the surface of the water.

BOAT SLIP (a/k/a BERTH): The area in or adjoining a boat house or dock the purpose of which is for the storage of one or more boats.

BOATHOUSE: A permanent structure with a permanent roof that provides boats with direct water or rail access to Seneca or Cayuga Lake or to the Cayuga and Seneca Canal.

BUFFER AREA: A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms, designed to provide a physical screen to limit visibility between uses and reduce the escape and/or intrusion of litter, fumes, dust, noise, or other noxious or objectionable elements.

BUILDING: Any structure that is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals, or property.

BUILDING CODE: The New York State Uniform Fire Prevention and Building Code, which govern building construction, renovation and property maintenance.

BUILDING COVERAGE, PERCENT OF: The percent of building coverage of any lot shall be equal to one hundred (100) times the ratio of the gross horizontal area of all principal and accessory buildings that have roofs on them (including covered breezeways, covered porches, covered cantilevered structures, etc.) measured from the exterior faces of the exterior walls but shall not include any structure (such as a patio or deck) that does not have a roof, divided by the horizontal area of the lot.

BUILDING HEIGHT: The vertical distance measured from the mean level of the ground surrounding the structure to the highest point of the structure, but not including chimneys, spires, tanks, silos, and similar projections

BUILDING LINE: A line formed by the intersection of a horizontal plane at an average grade level and a vertical plane that coincides with the exterior surface of the building or a projected roof or porch. The vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves. All yard and setback requirements are measured to the building lines.

BUILDING PERMIT: A document issued by the Seneca County Code Enforcement Officer authorizing the construction and occupancy of structures in accordance with the New York State Uniform Fire Prevention and Building Code. The erection, construction, enlargement, alteration, improvement, relocation removal or demolition of any building or structure requires a building permit. A building permit is separate and distinct from a land use permit (see LAND USE PERMIT).

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated. In any residential district, any dwelling shall be deemed to be a principal building on the zone lot on which the same is located. On farmsteads containing both a residence and a barn, the residence and barn shall be considered as joint principal buildings.

BUSINESS: Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes offices, recreational and amusement enterprises and any operation where the above-described activities are conducted in return for remuneration of any type. For the purpose of this Local Law, "business" shall have the same meaning as commercial, and reference to commercial districts or zones shall be interpreted as referring to business districts.

BUSINESS, DRIVE-IN: A traffic-generating facility where a product is sold or a service performed for customers while they are in or near their motor vehicles in off-street parking or service areas. This term includes convenience store, drive-in banking, restaurant, fast food service, drive-in photo processing, drive-in outdoor theatres, autowash or similar use. This term shall not include retail gasoline services.

BUSINESS, GENERAL: Any establishment engaged in the sale of goods or services not otherwise identified in this Section.

BUSINESS, NEIGHBORHOOD: Small commercial establishments, containing less than 10,000 square feet in gross floor area, catering primarily to nearby residential areas and providing convenience and/or specialty goods and services including but not limited to grocery stores, beauty salons, barber shops, cafes and coffee shops, pizzerias, video/DVD rental stores, cobbler shops, and similar types of businesses.

BUSINESS, RETAIL: A commercial activity designed for and primarily characterized by the on-premises sale of goods directly to the ultimate individual and household consumer, but also including servicing, preparation, storage and wholesale business transactions related to such goods and customarily associated therewith but clearly incidental thereto. This term shall not include commercial activity which may also be similarly characterized, but which is separately identified as a use permitted within a land use district.

BUSINESS, SERVICE: A business primarily involved in the provision of services, rather than goods, to other businesses or to the general public. This term shall not include any service activity which may also be similarly characterized, but which is separately identified as a use permitted within a land use district.

CAMPING UNITS: See Recreational Vehicle

CAMPGROUND: A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding mobile homes or manufactured housing designed for year-round occupancy or as a place of residence.

CARPORT: A roofed structure without enclosing walls, used for the storage of one or more vehicles.

CEMETERY OR BURIAL GROUND: A tract of land for the disposal or burial of deceased human beings or remains in a grave, mausoleum, vault, columbarium or other receptacle. The provisions of this Local Law shall apply to all cemeteries and burial grounds including those owned by a religious corporation, municipal corporation, or a cemetery corporation owning a cemetery operated, supervised or controlled by or in connection with a religious corporation. This definition shall include cemeteries and burial grounds used for the disposal of domestic pets.

CERTIFICATE OF COMPLIANCE: A certificate issued by the Land Use Officer upon completion of the construction of a structure or change in use of a structure or parcel of land indicating that the premises comply with the provisions of this Local Law and may be used for such uses and purposes as set forth in the certificate of compliance. A certificate of compliance is separate and distinct from a certificate of occupancy . (See CERTIFICATE OF OCCUPANCY)

CERTIFICATE OF OCCUPANCY: A certificate issued by the Seneca County Code Enforcement Officer upon completion of construction or alteration of a building. Said Certificate acknowledges that the structure was constructed in compliance with all of the requirements and conditions of the New York State Uniform Fire Prevention and Building Code and authorizes the use and occupancy of the structure. A certificate of occupancy is also required prior to a change in the general occupancy classification of a building. A certificate of occupancy is separate and distinct from a certificate of compliance. (See CERTIFICATE OF COMPLIANCE)

CHURCH: See PLACE OF WORSHIP

CLEAR SIGHT TRIANGLE: An area of unobstructed vision at roadway intersections defined by lines of sight between points at a given distance from the intersection of roadway right-of-way lines.

CLUB: Any organization catering to members and their guests, or a building or premises used for recreational, general, social, or athletic purposes not open to the general public. Clubs shall not be conducted primarily for gain, and vending stands, merchandising, or commercial activities shall not be conducted except as required for the membership and purposes of such club. For the purpose of this Local Law, this term shall include, but not be limited to: religious organizations; lodges; fraternal organizations; mutual benefit societies; snowmobiling, archery or sportsperson clubs; and other similar organizations such as tax-exempt organizations organized under Section 501 (c) 3 of the Internal Revenue Code and/or the New York State Not-for-Profit Corporation Law.

CLUSTER DEVELOPMENT: A development of residential lots, some of which may contain less area than the minimum lot area required for the zone within which such development occurs, while

maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

CODE ENFORCEMENT OFFICER: The governmental official authorized to issue building permits in accord with the New York State Uniform Fire Prevention and Building Code. In Seneca County, the Code Enforcement Officer is an employee of the Seneca County Department of Health.

COMMERCIAL USE: Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes retail or wholesale trade, services, offices, recreational and amusement enterprises and any operation where the above-described activities are conducted in return for remuneration of any type.

COMMERCIAL VEHICLE: Any type of motor vehicle in excess of twenty (20) feet in length driven or used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, motor coaches carrying passengers, and trailers and semi-trailers, including tractors when used in combination with trailers and semi-trailers. Farm vehicles and large recreational vehicles and motor homes are excluded from this definition.

COMMON ACCESS LOT: A lot that serves as an access way for two (2) or more lots which are often but not necessarily remote and noncontiguous. Common access lots typically provide access to residential subdivisions, lakes, creeks, and public and semi-public lands and sometimes resemble flag lots in that the access is narrow in relation to the land area or body of water being accessed.

COMMON AREA: Space reserved for use by any and all residents of a housing development including, but not limited to, halls, stairways and landings in apartment houses.

COMMUNICATION TOWER: See "TELECOMMUNICATIONS FACILITY".

CONVENIENCE STORE: A retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages and household supplies to customers who purchase relatively few items. Such an establishment may include the sale of prepared foods, such as sandwiches, soups, ice cream, etc. for consumption on or off the premises and may include indoor seating for such purposes.

COUNTY PLANNING BOARD: The Planning Board of the County of Seneca.

CORNER LOTS: See LOT, CORNER.

COVERAGE: That percentage of the plot or land area covered by the building area.

CURB CUT: The opening along a roadway at which point vehicles may enter or leave the roadway.

DAY CARE, CHILD: The care for a child on a regular basis provided away from the child's residence for less than twenty-four (24) hours per day by someone other than the parent, step-parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of such child

DAY CARE HOME, FAMILY: A residence in which child day care is provided on a regular basis for more than three (3) hours per day per child for three to six children for compensation or otherwise, and which is subject to the New York State law and regulations, but exempt from municipal land use regulations.

DAY CARE HOME, GROUP FAMILY: A residence in which child day care is provided on a regular basis for more than three (3) hours per day per child for seven (7) to twelve (12) children for compensation or otherwise, and which is subject to the New York State law and regulations, but exempt from municipal land use regulations.

DAY CARE CENTER, CHILD: A program or facility which is not a residence in which child day care is provided on a regular basis to more than six (6) children for more than three (3) hours per day per child for compensation or otherwise.

DEPARTMENT OF AGRICULTURE AND MARKETS: The New York State Department of Agriculture and Markets (NYSDAM)

DEPARTMENT OF ENVIRONMENTAL CONSERVATION: The New York State Department of Environmental Conservation (NYSDEC)

DEPARTMENT OF HEALTH: The New York State Department of Health (NYSDOH) and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

DEVELOPMENT: Any change made 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.

DISTRIBUTION CENTER: A truck terminal facility at which any storage of goods or chattels is minor, transitory and merely incidental to the purpose of facilitating the transportation of goods or chattels.

DOCK: A structure built over the water or floating upon the water used as a landing place for boats, as a means of boarding and disembarking boats, and which may be used in conjunction for swimming and fishing or other water-dependent activities and pursuits.

DRIVE-IN SERVICE: See BUSINESS, DRIVE-IN

DRIVEWAY: A private roadway providing a means of access from a public roadway to a property or off-street parking area. An access way may also be deemed a driveway.

DWELLING: Any building or portion thereof designed or used exclusively as a residence or sleeping place for one (1) or more persons.

A. Single Family: A detached residential dwelling designed for and occupied by one family only.

- B. Two-Family: A detached or semi-detached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.
- C. Multi-Family: A building or portion thereof used or designed as a residence for three (3) or more apartment or dwelling units.
- D. Seasonal Dwelling: A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including, hunting cabins, vacation cottages, and summer cottages. This definition does not include recreational vehicles, travel trailers, camper trailers, pop-up tents and tents.

DWELLING UNIT: One room or rooms connected together 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.

EASEMENT: A specified (limited) use of private land for a public or quasi-public purpose.

EFFICIENCY APARTMENT: A dwelling unit in which the sleeping area and living room are one.

EQUESTRIAN STABLE (a/k/a RIDING ACADEMY): An equine stable used for the purpose of renting equine animals for rides, riding lessons, or for training such animals for specific purposes. This definition shall also include the boarding of such animals and structures and land used for such purposes.

EXCAVATION (Quarry, Sand Pit, Gravel Pit, Topsoil Stripping): A lot or land or part thereof used for the purposes of extracting stone, sand, or gravel 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 land use permit.

FAMILY: One or more persons, usually but not necessarily related by blood, marriage or adoption, living together as a single, not-for-profit housekeeping unit.

FAMILY DAY CARE HOME: See DAY CARE HOME, FAMILY

FARM: See AGRICULTURE

FARM ANIMAL: This term shall include, but not be limited to, horses, cows, steers, bulls, goats, sheep, pigs, rabbits, fowls, llamas, and other similar animals, vermiculture and aquatic species.

FARM BUILDING: Any building used for the housing of agricultural equipment, produce, livestock or poultry or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operating of the farm as defined herein.

FARMER: Any person who during the preceding two years derives an average of at least \$10,000 of sales revenue from an agricultural operation. .

FARM MARKET: A permanent structure with more than 120 square feet of gross floor area intended for the display and sale of farm produce and other agricultural products or crafts. (See also "Farm Roadside Stand.")

FARM ROADSIDE STAND: Retail outlet, consisting of non-permanent structures (movable and temporary), for the sale of agricultural products grown principally by the operator during the harvest season. (See also "Farm Market.")

FENCE: A barrier, as of wooden or metal posts, rails, wire mesh, etc., used as a boundary, decorative enclosure, means of protection or confinement, but excluding farm fences (see following definition).

FENCING, FARM: Any barrier, fencing, screening or buffering that specifically meets the needs of agricultural land use.

FLAG LOT: A type of lot (commonly flag-shaped in configuration) in which roadway frontage is provided by a strip of land which is narrow in relation to the remainder of the lot, and which extends from the main body of the lot to the roadway. A lot which does not physically front on or abut a roadway, but which has access to a roadway by means of an easement over other property, shall be deemed to be included in this definition.

- A. Flag Lot, Access Portion: The narrow panhandle portion of a flag lot which provides an access corridor between a public roadway or highway right-of-way to the interior portion of a flag lot.
- B. Flag Lot, Interior Portion: That portion of a flag lot having sufficient lot area, width and depth to meet the minimum requirements of the zone district, and which excludes the access portion of the lot.

FLOOD HAZARD AREA: Areas subject to a one percent (1%) or greater chance of flooding in any given year as shown on the FEMA Flood Insurance Rate Map. Refer to Town of Fayette - Flood Hazard Ordinance.

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the floor(s) of a building or buildings, measured from the inside faces of exterior walls or from the center line of walls separating two uses or dwelling units.

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, as defined in the New York State Uniform Fire Prevention and Building Code.

FRONTAGE: All of the property abutting one side of a road, street, or thoroughfare, measured along the road, street or thoroughfare line.

FUEL OIL STORAGE: Premises used for the storage of fuel oil, kerosene or other combustible fuel in tanks for the sale by motor vehicle or other means of conveyance to purchasers at some other location, and excluding gasoline storage tanks used at gasoline stations for retail sales or tanks used by individuals when fuel is not sold.

GARAGE, PRIVATE: An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit. A garage cannot serve as the principal use on any lot.

GARAGE, PUBLIC: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, recreational vehicles, boats or other tangible personal property.

GASOLINE STATION: Any building, land area or other premises or portion thereof used or intended to be used primarily for the retail dispensing or sales of vehicular fuels and which may include, as an accessory use, the sale and installation of lubricants, tires, batteries and similar accessories.

GRAVEL OR SAND PIT: See MINING

GREEN SPACE: Land areas covered only by grass, trees or other vegetation.

HARD SURFACE: The surface of the ground containing a minimum 3 inches of asphalt, 4 inches of concrete, 6 inches of crushed stone, or a surface treated with stone and oil.

HISTORIC PRESERVATION COMMISSION: A commission appointed by the Town Board having the responsibilities for performing the duties set forth in Article XIII of this Local Law entitled HISTORIC PRESERVATION.

HOME BUSINESS: An accessory use, other than a “Home Occupation” as defined herein, that is conducted within a single family, occupied dwelling or an attached or detached accessory structure (including a barn) for gainful employment and involves the manufacture, provision or sale of goods and/or services principally on the premises. The term “home business” shall include a commercial or industrial use conducted in conjunction with a farm use. The type of business permitted shall include, but not be limited to, those involving the manufacture, provision, or sale of goods and/or services on the premises. A “Class A” or “Class B” Home Business is a home business that meets the respective criteria specified in Section 825.

HOME OCCUPATION: Any occupation or profession conducted as an accessory use entirely within a dwelling or accessory building by the occupants of the dwelling, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. By definition, a home occupation involves no client or customer visits to the dwelling, is not evident by observation from the street or any of the adjoining properties, and occurs in a single-family development only.

HUNTING/ FISHING / SHOOTING CLUB: A facility, whether open to the public or limited to members of a group, which offers such activities as game hunting, fishing, trap or skeet shooting,

target shooting, target practice, game farms, and related uses such as assembly halls or sales of bait or equipment. The term includes rod & gun clubs and sportspersons' clubs.

INDUSTRY, HEAVY: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials or a use engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but exclusive of basic industrial processing and storage of flammable or toxic materials. "Light Industry" is also exclusive of uses that create or cause heavy, noisy or otherwise objectionable disturbances, such as vibration, dust and odors.

JUNKYARD: A place where junk waste, discarded or salvaged materials are stored, bought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including auto-wrecking or dismantling yards, house-wrecking yards, used lumber yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment; but not including farm equipment on a farm, pawn shops and establishments for the sale, purchase or storage of used furniture, household equipment and clothing, for the processing of used, discarded or salvaged materials as part of manufacturing operations or for the sale, purchase or storage of used motor vehicles or salvaged machinery to be reused for the purposes for which originally manufactured. Junkyard shall also be construed to include any property on which more than two (2) unlicensed motor vehicles are stored outside of an enclosed structure, but shall not be construed to include boats, motor homes, snowmobiles, all-terrain vehicles and garden and lawn tractors.

KENNEL: Any premises, and/or structure in or on which four (4) or more dogs at least four (4) months of age or more are harbored as defined in Article 7 of the New York State Agriculture and Markets Law for commercial or non-commercial purposes for a continuous period of 24 hours or more.

LAND USE OFFICER: The official designated to administer and enforce this Local Law by granting or denying development permits in accordance with its provisions.

LAND USE PERMIT: A document issued by the Land Use Officer indicating that the purposes for which a parcel of land and structure or structures thereon, if any, are and will be used in conformity with the purposes permitted by this Local Law in the land use district in which the parcel of land is located and further indicating that conformance with the conditions and requirements imposed by this Local Law for the land use district in which the parcel of land and structure or structures, if any, are located. A land use permit is separate and distinct from a building permit and must be obtained prior to a building permit. (See BUILDING PERMIT)

LOADING SPACE, OFF-STREET: Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

LOT: A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recordings.

A. Corner Lot: A parcel of land at the junction of, and fronting on two or more intersecting streets, roads, or thoroughfares.

B. Through Lot: An interior lot having frontage on two parallel or approximately parallel streets, roads, or thoroughfares.

LOT AREA: The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way, private rights-of-way, or utility rights-of-way shall not be included in calculating lot area.

LOT DEPTH: The mean distance from the right of way line of the street to the rear lot line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The linear distance along a lot line which adjoins the road or highway and provides access to the lot.

LOT LINE: The property lines bounding the lot:

A. Lot Line, Front: The line separating the lot from a street right-of-way.

B. Lot Line, Rear: The lot line opposite and most distant from the front lot line.

C. Lot Line, Side: Any lot line other than a front or rear lot line.

LOT OF RECORD: A parcel of land properly recorded with the County Clerk and assigned a unique tax parcel identification number at the time of passage of this Local Law.

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

MANUFACTURED HOME (a/k/a MOBILE HOME and TRAILER HOME): A factory-manufactured home, built on a permanent steel-framed chassis in accordance with federal Department of Housing and Urban Development (HUD) standards and designed to be transported to a site in one section, which is intended to be used as permanent living quarters by a single family unit when connected to the required plumbing, heating and electrical utilities. For the purpose of this Local Law, the removal of transport wheels and/or the anchoring of the home to a permanent foundation shall not remove it from this definition. A "Single-Wide Manufactured Home" is a manufactured home with a width at its narrowest dimension of less than twenty (20) feet.

MANURE STORAGE FACILITY: A facility constructed as an accessory use to an animal husbandry use, riding stable, or kennel, intended to collect, hold, process, store, treat, or distribute animal solid and liquid waste. Included within this definition are storage tanks, lagoons, seepage pits, drains, and

collection systems intended to handle animal waste. Not included within this definition are systems designed and constructed to handle human waste.

MEAN HIGH WATER LEVELS: The approximate average high water level determined from survey data provided by the United States Geological Survey (USGS). According to information promulgated by the New York State Department of Environmental Conservation, the Mean High Water Level for Cayuga Lake is 383.50 feet and the Mean High Water Level of Seneca Lake is 445.90 feet.

MEAN HIGH WATER MARK: The location where the mean high water levels of Cayuga and Seneca Lakes and the Cayuga and Seneca Canal intersect shoreline parcels.

MEAN LOW WATER MARK: The location where the mean low water levels of Cayuga Lake, Seneca Lake and the Cayuga and Seneca Canal intersect shoreline parcels.

MEAN LOW WATER LEVEL: The Mean Low Water Level of Cayuga Lake is 381.81 feet and for Seneca Lake is 445.3 feet.

MEDICAL OFFICES/CLINIC: A facility or institution, whether public or private, where medical, chiropractic or dental care is furnished to persons on an outpatient basis by one (1) or more doctors, chiropractors or dentists; a place for the care, diagnosis and treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room or kept overnight on the premises; a facility for human ailments operated by a group of physicians, dentists, chiropractors or other licensed practitioners for the treatment and examination of outpatients.

MINING: The use of an area of land to remove minerals, metals or other items of value from the ground for a profit. Two categories of mining are set forth in this Local Law as follows:

- A. Mining, Minor: Mining operations that do not reach the thresholds set forth in the New York Mined Land Reclamation Law at which point a mining permit issued by the New York State Department of Environmental Conservation is required.
- B. Mining, Major: Mining operations or proposed mining operations that meet or surpass the thresholds set forth in the New York Land Reclamation Law at which point a mining permit issued by the New York State Department of Environmental Conservation is required.

MINOR LOT ADJUSTMENT: A category of property subdivision where no new lot is created and only a transfer of property of less than one-quarter (1/4) acre in size or strip of property less than 20 feet wide, to the adjacent land owner as long as the transferring lot is not, and will not, become non-conforming under current lot size requirements of this Local Law and the New York State Uniform Fire Prevention and Building Code. Minor lot adjustments do not require action on the part of the Town Planning Board although the Town Planning Board must be informed in writing of such minor lot adjustment and requires a letter signed by the chairman of the Planning Board acknowledging such adjustment.

MODULAR HOME: A factory-manufactured dwelling having no permanent support frame and designed to be transported to a site in one or more sections for erection, construction, or installation as a permanent structure. Modular Homes shall be affixed to a permanent site-built foundation and shall meet the requirements of the New York State Uniform Fire Prevention and Building Code. For the purposes of this Local Law, Modular Homes shall be regulated as a dwelling.

MOORING: A floating device anchored to the bed of the lake such as a buoy or a fixed structure on or under the water such as a pole to which a boat can be attached for waterside storage.

MOTOR VEHICLE: Any vehicle designed to be propelled or drawn by power other than muscle power, except electrically driven wheelchairs being operated or driven by an invalid. This term shall include automobiles, trucks, buses, motorcycles, tractor-trailers, but not boats, motor homes, snowmobiles, all-terrain vehicles and garden and lawn tractors. Farm tractors, and other motorized farm equipment and any other motor vehicle used for agricultural production are excluded from this definition.

MOTOR VEHICLE REPAIR SHOP: A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles for compensation and in compliance with New York State Department of Motor Vehicle registration and licensing requirements for such uses. Fueling service stations and the sale of motor fuel are excluded from this definition.

MOTOR VEHICLE SALES: Any area of land, including structures thereon, the use of which is the display or sale of new and/or used automobiles, motorcycles, trucks, cargo trailers, boats, recreational vehicles or other vehicles, and which may or may not include the repair of vehicles as an accessory use. Enclosed showrooms and open display areas are included in this definition. Fueling service stations and the sale of motor fuel is excluded from this definition. Excluded from this definition are private sales of personally-owned vehicles.

MOTOR VEHICLE SALES AREA: An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition where no repair work is done.

NYS: Abbreviation for New York State

OPEN STORAGE: An unenclosed area used for temporary or seasonal storage of vehicles, materials, building supplies, stock, or supplies for later use in conjunction with a permitted principal use, accessory use, or special permitted use.

OUTDOOR APPLIANCE: An accessory appliance, building or structure attached to or detached from the principal building and which is constructed primarily for the purpose of housing a wood, coal or other solid fuel furnace that serves to provide heat and/or hot water to the principal building or to another accessory structure. For purposes of this definition, outdoor wood-fire boiler shall be included in the definition of an Outdoor Appliance

PARK, PRIVATE, NON-COMMERCIAL: Outdoor recreation facilities, operated by a not-for-profit organization and open only to bona fide members of such organization.

PARK OR RECREATION AREAS, PUBLIC: Outdoor recreation facilities or other entertainment facilities operated as a non-profit enterprise by the Town of Fayette, any other governmental entity or any non-profit organization and open to the general public.

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

PARKING, OFF-STREET: An off-street area 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 listed in the land use district regulations of this Local Law as permitted.

PLACE OF WORSHIP: Any church, synagogue, temple, mosque or similar structure used for worship or religious instruction including social and administrative rooms accessory thereto.

POND, FARM: Any artificially constructed body of water whose use is to enhance the agricultural process, or for protection, conservation, water supply, or flooding or drainage control.

PRE-EXISTING, NONCONFORMING BUILDABLE LOT: A lot of record existing at the time of the adoption of this Local Law that does not meet the minimum lot size and dimensions established by this Local Law, but which prior to the adoption of this Local Law met the minimum lot size and dimensions required for erecting a building or structure on the lot. Such lot shall be deemed to still be eligible for a permit for the erection of a building or structure thereon provided such building or structure can meet the lot line setback requirements of this Local Law and provided such use is permitted in the land use district in which the lot is located

PRE-EXISTING AND/OR NON-CONFORMING LOT: A lot of record existing at the date of the enactment of this Local Law which does not have the minimum width, depth or area for the district in which it, is located.

PRE-EXISTING AND/OR NON-CONFORMING BUILDING, STRUCTURE OR USE: A building, structure, or use of land which was lawfully existing prior to the adoption or amendment of this Local Law, but which fails to conform to the regulations of the land use district in which it is now located by reason of such adoption or amendment.

PRINCIPAL BUILDING: A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPAL USE: The main or primary purpose for which a building, structure or lot is to be used.

PUBLIC AND SEMI-PUBLIC USES: This definition is intended to include, but not be limited to, any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

A. Governmental buildings and uses

- B. Churches and places of worship and related uses
- C. Public or semi-public parks, playgrounds and recreational areas when authorized or operated by a governmental authority, school, or religious institution.
- D. Private and public nursery schools, elementary, middle and high schools, colleges, or universities.
- E. Public libraries and not-for-profit museums.
- F. Not-for-profit fire, ambulance and public safety buildings
- G. Not-for-profit Membership Corporation or club established for cultural, social, or recreational purposes.

PUBLIC UTILITIES AND 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, but shall not include telecommunications facilities as defined herein, and shall not include landfills, waste transfer stations or other facilities with the primary purpose of handling or disposing of household or industrial waste.

RECREATION, COMMERCIAL INDOOR: A building, structure or portion thereof used principally for indoor recreation, sports or leisure activity, conducted as a commercial enterprise or otherwise as a principal use. The term includes, but is not limited to, billiard parlors, bowling halls, live or motion-picture theaters, amusement or video game centers, indoor sports facilities, gymnasiums, physical fitness centers, martial arts schools and dance schools. The term does not include adult entertainment establishments, special events facilities or indoor recreation as a community facility or as an accessory use for an institutional use, membership club or nonprofit organization.

RECREATION FACILITY, OUTDOOR: Land developed by a private sponsor with facilities for passive recreation, e.g., trails and picnic areas, and/or with facilities for active outdoor individual or organized recreation, e.g., ball fields, tennis courts, swimming pools, ski trails, and ice-skating areas. This definition includes golf courses, hunting and/or fishing clubs, and open air theaters or drive-in theaters. This definition does not include arenas, stadia or other facilities for the accommodation of more than 200 spectators, campgrounds, or racetracks or other facilities featuring activities involving motorized vehicles.

RECREATIONAL VEHICLE: A vehicle type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic types are:

- A. Travel Trailer

A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and of a body width of no more than eight feet and six inches (8'6"), excluding awnings, and a body length of no more than forty (40) feet when factory equipped for the road.

B. Tent Camper

A portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.

C. Truck Camper

A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck. Truck campers are of two basic types:

1. Slide-in camper - A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
2. Chassis-mount camper - A portable unit designed to be affixed to a truck chassis.

D. Motor Home

A vehicular unit built on a self-propelled motor vehicle chassis.

RESIDENTIAL CONVERSION: The conversion of the use of a building from non-residential to residential use or the structural alteration of an existing residential structure to increase the number of residential units in the structure.

RESTAURANT: Any establishment, however designated, at which food or drink is sold for consumption to patrons seated within an enclosed building or on the premises. Included in this definition are diners, snack shops, coffee shops and taverns.

RESERVOIR SPACE: Any temporary storage space for a vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or parking space required by this Local Law. One (1) reservoir space shall be twenty-four (24) feet long and ten (10) feet wide.

RETAIL BUSINESS: See BUSINESS, RETAIL.

RIDING STABLE: See EQUESTRIAN STABLE

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

RIGHT-OF-WAY LINE: The line determining the street or highway limit of public ownership. For the purposes of this Local Law, the right-of-way line and the street line shall have the same meaning.

ROAD (a/k/a highway or byway):

A. Major: Streets or highways connecting through roads with each other and also handling internal movement within the town.

B. Secondary: Streets serving to connect major roads with each other and also to handle internal movement within the town.

C. Local: Streets which primarily function to give direct access to abutting property.

Local roads are the internal part of the system to provide movement within residential or to other land use areas.

D. Private: Roads or streets whose primary function is to serve private needs on private property. Private roads may serve more than one property.

ROADSIDE STAND: (See FARM PRODUCE STAND):

ROOMING or BOARDING HOUSE: A dwelling other than a hotel, motel or tourist home, where more than two (2) persons are housed or lodged for hire with or without meals. A rooming house is distinguished from a bed and breakfast inn or tourist home in that the former is designed to be occupied by longer term residents as opposed to overnight or weekly guests.

SATELLITE DISH ANTENNA: Shall mean a combination of: an antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources; and a low noise amplifier whose purpose is to carry signals into the interior of a building, but shall not include a telecommunications facility as defined herein.

SCHOOL OR COLLEGE: An institution or place of learning, including private, public and parochial facilities that provide a curriculum of elementary and secondary academic instruction, as well as higher education, including kindergartens; elementary, middle, junior and senior high schools; and two-year, four-year and advanced degree institutions. This definition shall not include day care centers (nursery schools) or specialized, trade, professional or business schools as defined below.

SCHOOL, SPECIALIZED, TRADE, PROFESSIONAL OR BUSINESS: A school giving regular instruction in: trades or specialized skills such as welding, hair dressing, cosmetology, or massage; or professional subjects, such as the dramatic or graphic arts, business, dancing, languages, music, or sciences; or business skills such as computer programming, stenography and secretarial courses. For the purpose of these regulations, such schools shall be deemed to be commercial service establishments.

SERVICE ESTABLISHMENT: See Business, Service

SETBACK: The horizontal distance between the street line, rear or side lines of the lot and the front, rear or side lines of the building. For the purpose of measuring setbacks, the building shall include an enclosed porch, but shall not include any open porch, patio, deck or steps that are no higher than four (4) feet above ground level. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from street lines to building lines are defined as "front setbacks". Setbacks from side lot lines are "side setbacks". Setbacks from rear lot lines are "rear setbacks".

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

municipality, school, or religious group. A sign shall not include a sign located completely within an enclosed building except for illuminated or animated signs within show windows. Each display surface of a sign shall be considered to be a separate sign.

SIGHT DISTANCE: The maximum extent of unobstructed vision along a street from a vehicle located at any given point on the street.

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

- A. Site Plan, Final: A complete and exact subdivision or site plan, prepared for official recording as required by statute and which defines and identifies the locations of property boundaries and proposed streets and other improvements.
- B. Site Plan, Preliminary: A tentative subdivision or site plan, in lesser detail than a final plan, showing approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plan.
- C. Site Plan, Sketch: An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings, and the general layout of the proposed subdivision or site.

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

SKETCH PLAN: An informal drawing of a site not necessarily prepared by a surveyor or engineer nor drawn to scale, but which depicts in reasonable detail the locations of prominent natural features and existing and proposed structures and improvements and identifies the dimensions of lot line boundaries, structures and improvements and the distances separating the foregoing.

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

CONDITIONAL USES (ALSO KNOWN AS SPECIAL PERMIT USES): Those uses that are specifically permitted in a given district only when conditioning criteria enumerated in this Local Law are met and a special use permit has been issued by the Town Planning Board.

STORAGE FACILITY, SELF-SERVICE: Any building or group of buildings on a single parcel made of individual storage compartments, which are rented or leased to individuals or businesses for storage of nonhazardous materials, personal property and equipment.

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

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. For example, structures include buildings, manufactured homes, walls, fences, signs, sheds, billboards and poster panels, docks, and/or similar construction types. For the purpose of regulating setbacks and other land use requirements, a shed or

other assembly of materials that is not a motor vehicle, is larger than 12 feet by 10 feet in gross floor area and is placed on wheels or skids shall be included in the definition of “structure.”

SUB-DIVISION: The division of a parcel of land into two or more parcels, which is subject to approval by the Town Planning Board pursuant to adopted Subdivision Regulations.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the assessed value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, fifty-percent (50%) of the assessed value preceding the date on which the damage occurred.

SWIMMING POOL: Any body of water, or receptacle for water, excluding farm ponds, having a depth of twenty-four (24) inches or more at any point, used or capable to be used for swimming, bathing, or wading, and permanently installed or constructed either above or below ground.

TAVERN: Any establishment, licensed by the State of New York, that engages in the sale for on premise consumption of alcoholic and non-alcoholic beverage(s).

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

TEMPORARY USE: An activity or use conducted for a specified limited period of time not exceeding six (6) months, which may not otherwise be permitted by the provisions of this Local Law. This term shall include those uses incidental to construction projects, construction trailers, campers, festival tents/refreshments stands, temporary real estate sales offices incidental to a subdivision project and similar type uses.

TOWN BOARD: The Town Board of the Town of Fayette.

TOWN PLANNING BOARD: The Planning Board of the Town of Fayette.

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.

UTILITY SHED: Wood, metal or masonry building for the storage of personal property. This excludes any devices previously used for highway use, such as truck trailers or manufactured homes.

VARIANCE: A variance is any departure from the strict letter of these regulations granted by the Board of Appeals as it applies to a particular piece of property. Variances attach to the land and survive changes in ownership.

A. Area Variance: A variance which permits deviation from strict compliance with the dimensional requirements of the land use regulations as long as the purposes for which the premises area intended to be used are permitted by this Local Law.

B. Use Variance: A variance which permits a use of land not permitted by this Local Law.

WAREHOUSE: A building or part of a building used or intended to be used primarily for the storage of goods or products that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or products to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes, or stored for use in connection with industrial assembly operations. The term "warehouse" shall not include a retail establishment whose primary purpose is for the sale of goods or products stored on the premises. However, this definition may include purely incidental retail sales as an accessory use.

WATER DEPENDENT USE OR ACTIVITY: Any use or activity which can only be conducted on, in, over or adjacent to a water body because such activity requires direct access to that water body, and which involves, as an integral part of such activity, the use of the water.

WATER RIGHTS LINES: Imaginary lines that extend a distance of 200 feet from the mean low water mark into the lake or to the edge of the navigable channel in a NYS canal in order to establish the riparian rights of adjoining property owners whose properties adjoin the lake or canal and which are used to determine boundaries for the placement of berthing and mooring facilities. The methodology for determining the location of Water Rights Lines is set forth in Section 520 of this Local Law.

WATERSIDE: The lakeside or canal side of the mean high water mark.

WHOLESALE ESTABLISHMENT: A business which is primarily involved in sales to other businesses, either directly or as a broker, rather than to the general public.

WIND ENERGY CONVERSION FACILITY:

COMMERCIAL WIND ENERGY CONVERSION FACILITY: Mechanical wind energy conversion devices such as a wind charger, windmill or wind turbine designed and sited to convert wind energy into a form of energy for commercial sale. Any wind energy conversion device that has the capacity to produce more than 250 kW of electricity shall be deemed to be included in this definition.

NONCOMMERCIAL WIND ENERGY CONVERSION FACILITY: A wind energy conversion device or devices such as a wind charger, windmill or wind turbine designed and sited to convert wind energy into a form of energy primarily to reduce the consumption of utility power on the site on which they are located provided no such device shall have the capacity to produce more than 250 kW of electricity. The net metering of the output of a wind charger, windmill or wind turbine pursuant to a tariff filed with the New York

Public Service Commission shall be considered a noncommercial wind energy conversion facility as long as the capacity of such devices does not exceed 250 kW.

WIND ENERGY CONVERSION DEVICE: A mechanical device with blades propelled by the wind such as a wind charger, windmill, wind-driven water pump,, wind turbine that is used to convert wind energy into another form of energy, e.g., electricity or which harnesses wind energy for operation of mechanical devices, e.g., mills, water pumps or air compressors.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein. (See also SETBACK)

A. **Yard, Front:** In the case of a lot outside the Lakeshore/Canal District and lots within the Lakeshore/Canal District that abut public roadways, the front yard shall be the area that extends the full width of the lot between the public roadway and the wall of the principal structure which is nearest such public roadway. Corner lots and through lots shall have two front yards comprised of areas that extend the full width of the lot between the public roadways and the principal structure.

In the case of a lot within the Lakeshore/Canal District, that does not abut a public roadway, but which may or may not abut a private roadway, the front yard shall be the area that extends the full width of the lot between the principal structure and the lot line nearest the lakeshore or canal.

B. **Yard, Rear:** An open space that extends across the entire width of the lot between the rear wall of the principal structure and the rear lot line, and unoccupied except for accessory building and open porches. Through lots and lots that abut two public streets where such streets intersect have no rear yards.

C. **Yard, Side:** An open space on the lot between the front yard line and the rear yard line, which extends from the principal building to the sideline of the lot. On through lots and corner lots, the side yard is that area of lot not within two front yards.

ARTICLE III: PERMITS AND PROCEDURES

SECTION 300 STATE ENVIRONMENTAL QUALITY REVIEW

- A. The State Environmental Quality Review Act (SEQR) requires local government to examine the environmental impact of all actions they permit, fund or construct. All “Unlisted” and “Type I” actions (NYCRR Part 617) require the review of an Environmental Assessment Form. Actions that may be subject to review under SEQR include land use changes, the approval of special use permits and site plans, issuance of variances.
- B. Applicants for special use permits, site plan approval and/or land use or area variances and the petitioners for land use changes that meet the definition of “Unlisted” or “Type I” actions shall be required to submit with the application for a special use permit, site plan approval and/or land use or area variance the appropriate Environmental Assessment Form which has been completed by the applicant.
- C. For land use action reviewed by the Town, the following bodies shall be lead agency unless otherwise delegated by the Town Board.
 - 1. Land Use Text Amendments - Town Board
 - 2. Land Use District Amendments - Town Board
 - 3. Special Permits - Town Planning Board
 - 4. Site Plan Reviews - Town Planning Board
 - 5. Land Use and Area Variances - Town Board of Appeals
- D. If in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears to be the potential for significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement. Review, notice and action on the Environmental Impact Statement shall be conducted in accord with 6 NYCRR Part 617.

SECTION 301 PERMITS REQUIRED

- A. No building or structure shall be erected, enlarged, structurally altered or moved, no new use shall be established, and no building permit shall be issued pursuant to the New York State Uniform Fire Prevention and Building Code, until a land use permit therefore has been issued by the Land Use Officer. No alterations to an existing building shall be made without a land use permit, unless pursuant to the New York State Uniform Fire Prevention and Building Code such alterations do not require a building permit. No land use permit, nor any certificate of occupancy or compliance pursuant to the New York State Uniform Fire Prevention and Building Code, shall be issued for any building where said construction,

addition, alteration, move or use thereof would be in violation of any of the provisions of this Local Law, or where any necessary Town Planning Board Subdivision approval has not been granted.

- B. Permit applications shall be filed with the Land Use Officer.

SECTION 302: PRE-APPLICATION CONFERENCE

Pre-application conferences with the Town's Planning Board are encouraged for all applications seeking permits for uses that may require a special use permit and/or site plan review. Generally most non-residential and non-farm uses require a special use permit and/or site plan review.

SECTION 303 APPLICATION PROCEDURE AND REQUIRED INFORMATION

- A. Application for a land use permit shall be made with the Land Use Officer on forms approved by the Town Board. Forms shall be made available at the Offices of the Land Use Officer and the Town Clerk.

- B. Information

All information on the application form shall be completed.

- C. Map required

One copy of a property map shall be submitted with all applications. The map shall be either:

1. Sketch Map: A sketch map is required to be submitted with all applications for a land use permit for one or two family dwellings, their customary accessory uses, or farm uses. The sketch map shall be drawn to scale and shall show the dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway location, natural water courses, ponds, surface drainage patterns or location of existing or proposed easements.
2. Site Plan: A site plan is required to be submitted with applications for all uses, excluding farm uses, farm labor housing, barns, farm buildings commercial nurseries and greenhouses, farm markets and one and two family dwellings and their customary accessory uses located in the Agricultural/Rural Residential and Hamlet districts, except that site plan review shall be required for all applications that will result in more than one residential structure on the same parcel exclusive of farm labor housing. Site plans are required for all applications for uses and construction in the Lakeshore/Canal district excluding farm uses, barns and farm buildings, commercial nurseries and green houses and farm markets that are located within a Seneca County Agricultural District

- D. Approval of Water and Sewage Disposal Systems: Evidence of approval of the water supply and the sewage disposal system plans by the Seneca County Health Department or its agent, or design plans signed by a licensed engineer, shall be submitted at the time of application.

Applications lacking such information shall be considered incomplete and shall not be accepted until said application is made complete.

- E. Evidence of the approval of the NYS Department of Transportation, County Highway Superintendent or Town Highway Superintendent for driveway access to State, County or Town roads and for driveways, culverts or drainage pipes within the rights-of-way of such highways and roads.
- F. Evidence of Property Ownership or Intent to Purchase. Copies of deeds, purchase agreements, or other proof of ownership or intent to purchase shall be attached to an application before it will be accepted.
- G. Licenses: Any uses currently licensed by Federal, State, County or Town Agencies and already operating within the Town shall present evidence of currently valid licenses before any permits for the expansion of such uses are considered.
- H. Fee: The appropriate non-refundable fee established by the Town Board in its fee structure shall be collected at the time of application. This fee structure shall be filed with the Town Clerk and posted at the Offices of the Town Clerk and the Land Use Officer

SECTION 304 TYPES OF LAND USE PERMITS AND APPROVALS

Under the terms of this Local Law, the following types of permits and approvals may be issued:

- A. Land Use Permit: A permit issued by the Land Use Officer on his own authority provided the proposed type of land use or structure is permitted in the land use district where such land use or structure is proposed to be established and/or constructed. A land use permit indicates that the proposed structure or structures and the proposed type of land use are in conformity with this Local Law. If a special use permit and/or Site Plan Approval and/or a Use or Area Variance is required, the Land Use Officer may not issue the land use permit until all of the foregoing permits, approvals and variances have been issued by the appropriate boards. A land use permit is separate and distinct from a building permit (See Building Permit below.)
- B. Special Use Permit: A permit for a conditional use issued by the Town Planning Board for a proposed type of land use and/or structure that is permitted as a conditional use in the land use district where such land use is proposed to be established and/or such structure is to be constructed provided that the proposed type of land use and/or structure satisfies the standards and conditions set forth for such conditional uses.
- C. Site Plan Approval: An approval issued by the Town Planning Board for a permitted or conditional use that requires the review and approval of the site plan (layout) of the proposed development on the parcel of land.
- D. Use and Area Variances: A waiver from the standards and conditions set forth in this Local Law issued by the Board of Appeals.

- E. Sequence of Permits and Approvals: Permits and approvals are to be issued in the following sequence:
1. Use and Area Variances, if required
 2. Special Use Permit, if required
 3. Septic System Design Approval, if required
 4. Site Plan Approval, if required
 5. Land Use Permit
 6. Building Permit
- F. Building Permit: A building permit is separate and distinct from a land use permit. A building permit is required for the erection, construction, enlargement, alteration, improvement, relocation removal or demolition of any building or structure. In Seneca County, the Seneca County Department of Health issues building permits only after an applicant has obtained a land use permit from the Land Use Officer. The purpose of a building permit is to ensure that the building or structure is constructed in conformance with the New York State Uniform Fire Prevention and Building Code.

SECTION 305 LAND USE PERMIT ISSUANCE

When all requirements of this Local Law have been met, the Land Use Officer shall issue a land use permit and return one approved copy of such permit to the applicant no later than five (5) days after approval. The Land Use Officer shall file one copy of the approved permit in the Town Clerk's office.

SECTION 306 TERMINATION OF PERMIT

- A. Permits issued pursuant this Article shall expire in one (1) year from the date of issuance unless the project is completed or substantially completed within such one (1) year time period.
- B. The Land Use Officer may grant an extension of time for completion of a project beyond the one (1) year time period provided the permit holder requests an extension in writing prior to the expiration of the one (1) year time period. Unless such extension is requested and approved, further work as described in the expired permits shall not proceed until new permits have been obtained from the agency or agencies that issued the original permit or permits.
- C. If a project is not initiated within one (1) year of the date of the issuance of the permit, the permit shall expire and be considered null and void, and a new application shall be required in order to obtain a new permit.

SECTION 307 CERTIFICATE OF COMPLIANCE

- A. The applicant shall notify the Land Use Officer when the structure and/or land use is ready for final inspection. The Land Use Officer shall then make a final inspection. If satisfied

that the standards, conditions and regulations pertaining to the project have been complied with and that the project has been completed as specified on the approved application, the Land Use Officer shall issue a certificate of compliance granting permission to occupy or use the structure. Permission to occupy a building or structure also requires certificate of occupancy issued by the Code Enforcement Officer denoting that the building or structure has been constructed in accord with the New York State Uniform Fire Prevention and Building Code.

- B. The certificate of compliance may be issued at the same time, and may be administered using the same form as the certificate of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

SECTION 308 STOP WORK ORDER

A stop work order may be issued when the Land Use Officer discovers a project commencing without required permits and approvals. A fee will be charged for the removal of any structure erected without the proper permits and approvals and for the cost of issuing the stop work order. All costs incurred relating to such enforcement action shall be borne by the property owner.

ARTICLE IV: ESTABLISHMENT AND DESIGNATION OF LAND USE DISTRICTS

SECTION 400 ESTABLISHMENT OF DISTRICTS

The following land use districts are hereby established in the Town of Fayette.

AR - Agricultural-Rural Residential District

H - Hamlet District

L - Lakeshore/Canal District

FO - Flood Plain Overlay District

EPOD - Environmental Protection Overlay Districts (Floating District)

SECTION 410 DISTRICTS REGULATIONS

Within each land use district, no premises, lot, building or structure shall be used and no building or structure shall be erected or altered to be used in whole or in part unless such use and such building complies with the regulations contained in this Local Law. Types of land uses, structures and facilities not expressly permitted in each land use district are prohibited.

SECTION 420 LAND USE MAPS

- A. The boundaries of the land use districts established herein shall be shown on the maps entitled, "Official Land Use Maps of the Town of Fayette." Such official land use maps which accompanies this Local Law and which shall be certified by the Town Clerk along with all notations, references, explanatory matters and designations contained on such map, is hereby made a part of this Local Law as if the same were fully described and set forth herein.
- B. Changes made to land use district boundaries, or other matters portrayed on the land use maps under the provisions set forth herein, shall be permanently affixed to the official land use maps promptly following any amendment approved by the Town Board and shall convey information as to the date and nature of the change or changes. No amendment to this Local Law, which involves matters to be portrayed on the land use map, shall become effective until such change and entry has been made on said official land use maps of the Town of Fayette and has been attested to by the Town Clerk.

SECTION 430 INTERPRETATION OF EXISTING BOUNDARIES

- A. Land use district boundaries depicted on the land use maps as approximately following the streets, roads and highways shall be constructed as following the center lines of such streets, roads and highways.

- B. Land use district boundaries depicted on the land use maps as approximately following lot lines shall be construed as following such lot lines.
- C. Land use district boundaries depicted on the land use maps as being parallel to streets, roads and highways shall be construed as being parallel thereto and at such distances therefrom as indicated on the land use maps. If no distance is depicted, such dimensional shall be determined by the use of the scale displayed on said land use maps.
- D. Land use district boundaries depicted as approximately following a stream, lake or other body of water shall be construed to follow the center lines of such stream, lake or other body of water.
- E. Land use district boundaries depicted as parallel to or extensions of features identified in Paragraphs A through D of this Section shall be so construed. Distances not specifically indicated on the official land use map shall be determined by the scale of the maps.

ARTICLE V: DISTRICT REGULATIONS

SECTION 500 AGRICULTURAL/RURAL RESIDENTIAL DISTRICT (AR)

A. Purpose

The purpose of the Agricultural/Rural Residential (AR) District is to protect agricultural lands and uses from incompatible uses and development; to maintain and preserve the rural and scenic character of the community by providing low-density development of the type compatible with the rural, agricultural character of the community; and to protect natural resources, natural features and the natural environment.

B. Permitted Principal Uses

1. Agriculture and farms with or without a farm residence
2. Barns, farm buildings including buildings for the storage of crops, equipment, farm supplies and materials and for the habitation of livestock.
3. Commercial horticultural nurseries and greenhouses
4. Single-family residential dwellings
5. Two-family residential dwellings
6. Seasonal dwellings
7. Equestrian stables and riding academies
8. Farm and garden supply sales
9. Farm equipment sales and service
10. Farm markets
11. Tack shops
12. Ski shops
13. Livestock feed grinding and milling / live stock feed sales
14. Veterinarian offices and animal hospitals

C. Permitted Accessory Uses

1. Customary farm accessory buildings including, but not limited to, barns, agricultural outbuildings and storage buildings, milking parlors, silos, grain elevators, fences, off-street loading and parking areas.
2. Customary residential accessory buildings including, but not limited to, garages, carports, picnic shelters, , barbecues, pet shelters, swimming pools, storage sheds, non-commercial antennae and satellite television disks, and off-street parking areas.
3. Roadside farm stands are permitted provided they meet the following standards:

- a. Such stands setback at least 15 feet from the edge of the pavement and outside the highway right-of-way so that there is sufficient area to permit at least five (5) motor vehicles to park safely on the shoulder of the road entirely off of the roadway pavement.
 - b. The area used by customers for parking is such that the motor vehicles may re-enter traffic in a forward motion without the need to back onto the roadway.
 - c. Provided that the farm stands are not located on sharp curves or bends in the road or near the crest of hills or knolls where such stands would create traffic hazards due to inadequate site distances.
- 4. Home occupations (only as an accessory use to a single-family dwelling)
 - 5. Farm labor housing
 - 6. Ponds, docks and boathouses
 - 7. Home child day care
- D. Conditional Uses Permitted with a Special Use Permit
- 1. Bed and Breakfast Inns (only as an accessory use to a single-family dwelling)
 - 2. Cluster residential development
 - 3. Home businesses – Class A and B (only as an accessory use to a single-family dwelling)
 - 4. Commercial Campgrounds
 - 5. Cemeteries
 - 6. Commercial kennels
 - 7. Commercial and non-commercial golf courses and other types of commercial and non-commercial outdoor recreational facilities and uses excluding recreational facilities that utilize motorized vehicles, but not excluding golf courses that utilize electric golf carts.
 - 8. Telecommunications towers
 - 9. Commercial storage buildings for rent including self-service storage buildings
 - 10. Automotive repair shops, paint shops, and/or detailing shops
 - 11. Ski shops
 - 12. Minor mining and excavation
 - 13. Accessory apartments (only as an accessory use to a single-family dwelling)
 - 14. Equestrian riding stables. liveryes and riding academies
 - 15. Daycare centers

16. The following retail and personal services businesses:
 - a. Hardware stores
 - b. Building supply stores with or without outdoor storage
 - c. Restaurants, coffee shops and taverns
 - d. Physicians, chiropractor and dentist offices
 - e. Convenience stores with or without gasoline sales
 - f. Other retail and personal-services businesses that, in the opinion of the Town Planning Board, are compatible with and complementary to the principal uses permitted in this land use district due to their nature and scale.
 17. The following commercial and light industrial businesses:
 - a. Machine shops, welding shops, fabrication shops and tool and die manufacturing shops
 - b. Custom electrical, heating and air conditioning (HVAC), plumbing, woodworking and printing shops
 - c. Other commercial and light-industrial businesses that, in the opinion of the Town Planning Board, are compatible with and complementary to the principal uses permitted in this land use district due to their nature and scale; such businesses may include those that produce renewable energy.
 18. The following public and semi-public uses
 - a. Governmental buildings and uses
 - b. Fire halls and ambulance buildings
 - c. Public and private parks not operated for profit
 - d. Libraries and museums not operated for profit
 - e. Churches and places of worship and related buildings
 - f. Civic and social clubs / Membership clubs and lodges / Assembly halls
 - g. Private schools and preschools
 19. Public utilities and essential services, excluding telecommunications towers
 20. Non-commercial wind turbines
 21. Adult entertainment businesses
 22. Outdoor Appliances
- E. No structure shall be constructed on the waterside of the mean low water mark of the Cayuga and Seneca Canal unless such structure is for a water-dependent use or activity.

F. Dimensional Requirements and Specifications

Structures and uses shall comply with the dimensional requirements, specifications and restrictions set forth in the Dimensional Requirements Table attached at the end of this Local Law.

SECTION 510 HAMLET DISTRICT

The purpose of the Hamlet (H) District is to provide for a mix of residential and commercial uses situated on smaller lots and in closer proximity to each other thereby creating a density and environment with characteristics similar to those typically found in small New York State villages. The business uses permitted are typically small and locally-owned businesses that will principally serve the residents of the hamlet and adjoining areas for their convenience.

A. Permitted Principal Uses

1. Single-family residential dwellings
2. Two-family residential dwellings

B. Permitted Accessory Uses

1. Customary residential accessory buildings including, but not limited to: garages, carports, picnic shelters, barbecues, pet shelters, swimming pools, storage sheds, fences, non-commercial antennae and/or satellite television disks, and off-street parking areas. Outdoor Appliances are expressly prohibited in this land use district.
2. Home occupations (only as an accessory use to a single-family dwelling)

C. Conditional Uses Permitted with a Special Use Permit

1. The following small-scale retail and personal service businesses such as:
 - a. Restaurants, diners, coffee and snack shops
 - b. Convenience stores without gasoline sales
 - c. Specialty merchandise stores, e.g., tack shops
 - d. Barbershops and beauty salons
 - e. Child day care centers
 - f. Other types of small-scale retail and personal services businesses that, in the opinion of the Town Planning Board, are compatible with and complementary to the principal uses permitted in this land use district.
2. Public and semi-public uses including:

- a. Governmental buildings and uses
 - b. Fire halls and ambulance buildings
 - c. Public and private parks not operated for profit
 - d. Libraries and museums not operated for profit
 - e. Churches and places of worship and related buildings
 - f. Civic and social clubs / Membership clubs and lodges
 - g. Private schools and pre-schools
- 3. Home businesses – Class A (only as an accessory use to a single-family dwelling)
 - 4. Bed and breakfast inns only as an accessory use to a single-family residential dwelling
 - 5. Public utilities and essential services
 - 6. Accessory apartment in single-family dwellings only.
 - 7. Golf courses

SECTION 520 LAKESHORE/CANAL (L) DISTRICT

A. Purpose

The purpose of the Lakeshore/Canal (L) District is to limit the development of land along the shores of Seneca and Cayuga Lakes and the Cayuga and Seneca Canal in order to protect the water quality of the lakes and canal and protect the environment, preserve the viewscapes and the scenic beauty of the lakeshore and canal, and to protect the land from overdevelopment.

B. Permitted Principal Uses

- 1. Agriculture and farms with or without a farm residence
- 2. Barns, farm buildings including buildings for the storage of crops, equipment, farm supplies and materials and for the habitation of livestock.
- 3. Commercial horticultural nurseries and greenhouses
- 4. Single-family residential dwellings
- 5. Two-family residential dwellings
- 6. Seasonal dwellings

C. Permitted Accessory Uses

1. Customary farm accessory buildings including, but not limited to, barns, agricultural outbuildings and storage buildings, milking parlors, silos, grain elevators, fences, off-street loading and parking areas. Outdoor Appliances are expressly prohibited in this land use district.
2. Customary residential accessory buildings including, but not limited to: garages, carports, picnic shelters, barbecues, pet shelters, swimming pools, storage sheds, fences, non-commercial antennae and satellite television disks, off-street parking areas, private boat docks, boathouses, boat launching ramps and moorings. Outdoor Appliances are expressly prohibited in this land use district.
3. Private boat docks, boathouses, boat launching ramps and moorings subject to the regulations set forth in Subsection F of this Section
4. Roadside farm stands are permitted provided they meet the following standards:
 - a. Such stands setback at least 15 feet from the edge of the pavement and outside the highway right-of-way so that there is sufficient area to permit at least five (5) motor vehicles to park safely on the shoulder of the road entirely off of the roadway pavement.
 - b. The area used by customers for parking is such that the motor vehicles may re-enter traffic in a forward motion without the need to back onto the roadway.
 - c. Provided that the farm stands are not located on sharp curves or bends in the road or near the crest of hills or knolls where that stands would create traffic hazards due to inadequate site distances.

D. Conditional Uses Permitted with a Special Use Permit

1. Bed and breakfast inns (only as an accessory use only to a single-family residential dwelling)
2. Yacht clubs / private and public boat marinas.
3. Retail sale of fishing and boating equipment and supplies.
4. Commercial boat fueling facilities.
5. Commercial campgrounds
6. Boat-rental businesses
7. Golf courses
8. Other small-scale retail and personal service businesses that, in the opinion of the Town Planning Board are compatible with and complementary to the principal uses permitted in this land use district.

- E. No structure shall be constructed on the waterside of the mean low water mark of Cayuga or Seneca Lake unless such structure is for a water-dependent use or activity.

F. Specifications for Private Boat Docks, Moorings, and Boathouses as an Accessory Use

1. Sitting and Setback Requirements

No docks, boathouses, moorings, or boat stations shall be located closer than 15 feet from the lots lines and Water Rights Lines of adjoining properties. No boat shall be stored or attached to a dock, boathouse. Boat stations, mooring or other structure or facility within 200 feet of the shore in such a way that the boat may float, drift or otherwise impinge on the Water Rights Lines of the adjoining properties. See Subsection F.2 of this Section for the methodology for determining the location of Water Rights Lines.

2. Methodology for Determining Water Rights Lines

Step 1: Locate the four points where the mean high water mark intersects the property lines of the subject parcel and the property lines of the adjoining parcels.

Step 2: Connect the four intersecting points located in Step 1 with three straight lines. These lines are called Mean High Water Tie Lines

Step 3: Measure the angles on the waterside at the points where two (2) Mean High Water Tie Lines meet.

Step 4: Bisect the waterside angle measurements and project the bisecting lines over the lake. These projected lines represent the Water Rights Lines.

In the event that the two Water Rights Lines for a parcel adjoining a lake intersect each other at a point such that both Water Rights Lines are less than 200 feet long, the method described above, shall be modified by the Board of Appeals, if possible in order that each parcel's Water Rights Lines are at least 200 feet long at their point of intersection with each other.

3. Height Restrictions

No boathouse or covered dock may exceed 18 feet in height measured from the mean high water mark to highest point of the structure.

4. Maintenance and Removal of Structures

Docks, moorings, boathouses and other water-related structures and facilities shall be maintained in good repair at all times. Docks, moorings, boathouses and other water-related structures and facilities shall be demolished and removed if abandoned or if they fall into disrepair due to the property owner's negligence to maintain them.

5. No dock shall be constructed in such a way or extend into the lake to such a distance that it interferes with normal navigation or reasonable access to docks on adjoining properties.

SECTION 530 FLOOD PLAIN OVERLAY (FO) DISTRICT

A. Purpose

The intent of the Flood Plain Overlay (FO) District is to protect the health, safety and welfare of the inhabitants of the Town of Fayette from hazards caused by periodic flooding by providing notice to land use permit applicants of the existence of the flood plains and to ensure that persons who develop property in the flood plain take adequate precautions in the design and construction of improvements that make to reduce the risk of property damage and loss of life thereby minimizing governmental expenditures for disaster relief and flood control projects.

B. Location

The boundaries of the Flood Plain Overlay District coincide with the boundaries of area of special flood hazard are depicted in the "Flood Insurance Rate Map" prepared by the Federal Emergency Management Agency (FEMA).

C. The provisions and requirements applicable within the Flood Plain Overlay (FO) District shall be in addition to the provisions and requirements applicable to the underlying land use district over which the Flood Plain Overlay (FO) District is superimposed. Any development within the Flood Plain Overlay District, including buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations, or storage of equipment or materials, shall require a special use permit. No such special use permit shall be granted unless the applicant demonstrates that the proposed development is in compliance with the following conditions:

1. Buildings must be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure.
2. Construction materials used shall be resistant to flood damage and utility equipment used must be resistant to flood damage and be located and installed in such a way so as to minimize or eliminate flood damage.
3. Construction methods and practices that will minimize flood damage and that will provide adequate drainage to reduce exposure to flood hazards shall be used.

4. New or replacement water supply systems and septic systems shall be designed so as to minimize or eliminate infiltration of flood waters into the well or septic system and discharges from such systems into the flood waters.
5. On-site septic systems shall be located so as avoid impairment or contamination from the systems during flooding.
6. Residential structures shall have the lowest habitable floor elevated at least one (1) foot above the 100 Year Flood level.
7. Any structure erected on pilings shall be constructed with the lowest floor elevated at least one (1) foot above the 100 Year Flood level.

ARTICLE VI: ENVIRONMENTAL PROTECTION OVERLAY DISTRICTS (EPOD) [FLOATING DISTRICT]

SECTION 600 PURPOSE AND INTENT

The purpose of the Environmental Protection Overlay Districts (EPOD) established in this Article is to provide special controls over land development located in sensitive environmental areas within the Town of Fayette. The Town's Comprehensive Plan identifies the use of overlay districts as a technique to protect and preserve unique environmental features based upon the following reasons:

- A. Prevention of an irreversible loss of natural resources.
- B. Enhancement of flood protection.
- C. Maintenance and/or improvement of surface water and groundwater quality.
- D. Preservation of wildlife habitats.
- E. Aesthetics.
- F. Maintenance of soils and slope stability.
- G. Maintenance of open space and viewsheds.
- H. Control of adverse impacts on existing development.

SECTION 601 WETLANDS

Development proposed within freshwater wetlands is regulated by the New York State Department of Environmental Conservation (DEC) for State-regulated wetlands and/or the United State Army Corps of Engineers for any federally-regulated wetlands. It is the obligation of each developer to determine if the project contains any State-designated and/or federally-designated wetlands. If a project contains State-regulated wetlands, a DEC official must stake the wetland and buffer areas, as well as issue a permit for any development impacting such areas. If a project contains a federally-designated wetland, a similar process must be followed, and a permit issued by the United State Army Corps of Engineers.

SECTION 602 REGULATIONS TO BE SUPERIMPOSED OVER OTHER DISTRICT REGULATIONS

The regulations contained in each EPOD are not intended to be substituted for the land use regulations of the underlying primary land use districts, but are additional requirements that shall be met by the applicant or developer prior to project approval. These additional requirements shall be based on sound management practices and must be reasonably related to the protection of the natural resource in question. The purpose of the overlay districts is to provide the Town with an additional level of review and regulation that controls how land development permitted by the Town's primary

land use districts should occur in or near sensitive or unique environmental areas. Conformance with these provisions may require plans to be modified and/or special conditions placed upon construction practices.

SECTION 603 ESTABLISHMENT OF DISTRICTS

In order to implement the purpose and intent of Section 600 of this Article, the Town Board of the Town of Fayette may amend this Local Law to establish the following EPODs:

- A. EPOD (1) Stream and Canal Corridor, Lakeshore and Floodplain Protection District.
- B. EPOD (2) Steep Slope Protection District

SECTION 604 OFFICIAL MAPS

The locations and boundaries of EPODs 1 and 2 shall be delineated on official maps on file in the Town offices following the establishment of EPOD Districts. Collectively these maps shall be known as the "Official Town of Fayette EPOD Maps. The Official Town of Fayette EPOD Maps shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the various overlay districts. The Town has the authority to amend or add to these official EPOD maps as necessary. Field investigations and/or other environmental analysis may be required in order to determine whether a specific parcel of land is included within one or more of the EPODs and to locate the boundary on the property. Temporary flagging of boundaries in the field may be required during the review of applications, and permanent staking may be required as a condition of permit approval.

SECTION 605 INTERPRETATION OF DISTRICT BOUNDARIES AND APPEALS

- A. The Land Use Officer shall be responsible for interpreting environmental protection overlay district boundaries based on an interpretation of the Town of Fayette EPOD Maps, as well as other criteria set forth in this Article for use to determine such district boundaries. The Land Use Officer may request the assistance of the Town Engineer, the developer's engineer, Town Planning Board, or other appropriate department or agency in making such a determination.
- B. Appeals to the Board of Appeals from Land Use Officer determinations of district boundaries shall be handled in the same manner as appeals from other Land Use Officer determinations under this Local Law.

SECTION 606 PERMIT APPLICATION AND REVIEW REQUIREMENTS

A. General Applicability

1. An EPOD development permit shall be required subject to the provisions of this Section and prior to the commencement of any regulated activity or the issuance of a building permit for regulated development in a designated EPOD district.

B. Exempt Activities

The following activities are exempt from the permit procedures of this Section:

1. Customary agricultural activities whether undertaken within or outside a County Agricultural District.
2. Lawn care and maintenance.
3. Non-commercial gardening activities.
4. Tree and shrub care and maintenance.
5. Select cutting and removal of trees in woodlots that are not located on steep slopes, for the personal use of the property owner and not for commercial purposes.
6. Removal of dead or deteriorating vegetation.
7. Removal of structures.
8. Maintenance and repair of existing structures and buildings including interior and exterior renovations and the construction of patios and decks.
9. Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
10. Emergency repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
11. Reconstruction of structures damaged by fire or a natural disaster, provided that the new construction is of the same size, and at the same location and on the same footprint as the original structure.
12. Public health activities carried out in order to comply with orders and regulations of the New York State Department of Health, Seneca County Department of Health or other related agency.
13. Installing utility service from an existing distribution facility to a structure, where no major modifications or construction is necessary.

14. Drilling water well to serve a farm or a single residential structure, i.e., a structure containing a single-family or two-family dwelling.
15. Any activities associated with normal, outdoor recreational activity
16. Activities subject to the review jurisdiction of the New York State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment under the provisions of Article 7 of the New York State Public Service Law.
17. An actual or ongoing emergency activity which is immediately necessary for the protection of life, property or natural resources.

C. Approvals Required

EPOD development permits may be authorized by the Town Planning Board concurrently with site plan approvals for which the Town Planning Board has jurisdiction.

D. Application Procedures

Applications: Applications for EPOD development permits shall be made in writing and filed with the Land Use Officer on application forms available in the Town Clerk's office. Application packets provided to applicants shall contain an application form and instructions, which shall include: submittal requirements, fees, procedures and approval criteria. Application shall be made by the property owner or his/her agent and shall be accompanied by the materials and fees specified. If the Land Use Officer determines the application to be complete, the application shall be submitted to the Town Planning Board at its next duly called meeting following the date of the submission of the complete application. If the application is deemed to be incomplete, the Land Use Officer shall return the application to the applicant and identify the deficiencies of the application.

E. Site Plan: The applicant shall submit a scaled (1" = 50' or 1" = 100') site plan prepared and certified by a licensed engineer or land surveyor, that contains the following minimum information:

1. A location plan and boundary line survey of the property.
2. The location of all environmental protection overlay district boundaries, designated Town open space, and Town, County or State parkland.
3. The location of all existing and proposed buildings, structures, utility lines, sewers, water mains, septic systems, water supply wells, storm water drains and agricultural drainage tile within two hundred (200) feet of the proposed work site.
4. The location of all existing and proposed impervious surfaces such as driveways, sidewalks, etc., on the property or within two hundred (200) feet of the proposed work site.

5. Existing and proposed contour levels at one (1) foot intervals for the property, unless such property is located within a steep slope protection district whereby contour levels may be shown at two (2) foot intervals.
6. The location and types of all existing and proposed vegetation and shrub masses, as well as all trees with a diameter of eight (8) inches or more within and/or adjacent to the property.
7. The location of all existing and proposed, drainage ways, ditches and swales. within and/or adjacent to the property that depict existing and proposed drainage patterns and the location of any proposed storm sewers.
 - a. Full Environmental Assessment Form: The applicant shall complete and submit a Full Environmental Assessment Form (EAF) with the EPOD development permit application.
 - b. Other Application Requirements: The applicant shall submit any other documents and documentation as the Town Planning Board deems necessary and appropriate for such Board to evaluate the EPOD development permit application.

F. Fees

The Town Board may, from time to time by resolution establish and amend the fees for development permits. The development permit fees shall be in addition to any other fees required.

G. Review Procedures

1. Whenever possible, the review of activities within EPODs shall be performed concurrently with other required approvals.
2. The Town Planning Board may refer the application to other appropriate boards and agencies for their review and recommendations. Such boards or agencies shall have thirty (30) days from the date of their receipt of a completed application in which to report their recommendations. Failure for any board or agency to respond within this timeframe shall not be cause for the Town Planning Board to postpone processing such application or action thereon. The timeline for Town Planning Board review shall be consistent with the review timeline prescribed for subdivision review if subdivision approval is required for the subject property. If subdivision approval is not required, the timeline for Town Planning Board approval shall be consistent with the review timeline prescribed for site plan review.
3. The Town Planning Board shall have the authority to approve, approve with conditions or deny an EPOD development permit for regulated activities subject to the standards, criteria, and other factors contained in this Local Law.

H. Public Notice

1. Public hearings and public notification thereof for a development permit shall be required only when associated with another activity that requires a public hearing.
2. Wherever possible, public hearings for a development permits shall be scheduled concurrent with public hearings required under site plan review, subdivision review or any actions that under the State Environmental Quality Review regulations require a public hearing.

I. Evaluation Criteria

1. The following criteria shall be used to determine whether a regulated activity should be permitted, not permitted, or permitted with conditions:
 - a. The activity is compatible with the preservation, protection and conservation of the environmentally sensitive area.
 - b. The activity will result in no more than nominal degradation to, or loss of, any part of the environmentally sensitive area.
 - c. The activity is compatible with the public health and welfare.
 - d. The activity conforms to additional standards and criteria of the individual EPOD, as noted elsewhere in this Local Law.
2. For proposed activities that do not comply with the above criteria, the applicant may propose a mitigation plan to offset, in whole or in part, the diminishment of the benefits derived from the environmentally sensitive area that would occur if the development permit were to be approved. The Town Planning Board shall evaluate the proposed mitigation plan to determine if the benefits that would be derived from the project exceed the net loss in benefits derived from the environmentally sensitive area.

J. Development Conditions

1. Any development permit approved in accordance with the provisions of this Local Law may be issued with conditions. Such conditions may be attached, as are deemed necessary, to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the purpose and intent and the specific provisions of this Local Law. Every development permit issued pursuant to this Local Law shall contain the following conditions:
 - a. The Land Use Officer and/or the Town Engineer and/or other appropriate Town official shall have the right to inspect the project from time to time.
 - b. The development permit shall expire one (1) year after the date of issuance if the approved action has not been initiated.

2. For projects requiring site plan or subdivision approval, the EPOD shall be shown on the final site plan map and/or final plat respectively, along with a statement that any future activity in the EPOD shall require development permits.
3. The Town Planning Board may incorporate permit conditions of other agencies into local approval conditions and/or supplement these with local conditions.
4. The Town Planning Board may require restrictive covenants to the Town over that portion of the parcel within an EPOD or EPODs. These restrictive covenants may restrict or prohibit the following activities within the EPOD area, provided such activity is not exempt from such restrictive covenants due to being located in a County Agricultural District:
 - a. Construction of buildings and structures.
 - b. Clear-cutting of trees or removal of vegetation or other ground cover.
 - c. The location of septic systems or other sewage disposal systems.
 - d. The use or deposit of fertilizers, pesticides, herbicides, toxic wastes or other hazardous substances.
 - e. The filling, changing or disturbing of natural water courses and wetlands.
 - f. The construction, use or location of roads, driveways, bridges, or other structures for the purpose of crossing EPOD areas.
 - g. The use of motorized vehicles, including, but not limited to, all-terrain vehicles, motorcycles, snowmobiles, motorbikes, etc.
 - h. Any change to the topography of the land.
 - i. The location of stormwater detention and retention drainage facilities.
 - j. The disturbing of archaeological resources.
 - k. Other activities, uses or construction, which in the opinion of the Town Planning Board, threaten the areas within the EPOD or EPODS.
5. The Town Planning Board may require engineering, design and construction plans to alleviate or mitigate adverse impacts that may be created by the proposed development.

6. The use of cluster development in accord with Section 278 of the New York State Town Law in conjunction with these regulations shall not be permitted where, in the opinion of the Town Planning Board, the concentration of individual sewage disposal systems may impair ground or surface waters.

K. Notice of Decision

1. All decisions shall require the Town Planning Board to make written findings consistent with the above.
2. Where applicable, notice of decisions shall be the same as required for subdivision approval, if subdivision approval is required, or the same required for site plan approval if subdivision approval is not required.

L. Requirements for Letter of Credit or Certified Check (Bond)

1. Following approval of a development permit and prior to the issuance of any building or other permit, the applicant shall furnish the Town with an irrevocable letter of credit or certified check in an amount determined by the Town Planning Board to be sufficient to ensure compliance with the provisions of this Local Law applicable to EPODs and any condition or conditions including remediation plans that may have been imposed on the activity or project at the time the development permit was issued.
2. The irrevocable letter of credit or certified check shall continue in full force and effect until such time as the Land Use Officer has inspected the completed work and certified that that the activity or project has complied with the requirements of this Article and the conditions, if any, set forth in the development permit whereupon the letter of credit shall be released or the certified check returned to the permittee.
3. Should the Land Use Officer determine at the time of inspection of the completed work or project that the development permit holder did not comply with some or all of the requirements of this Article and/or the conditions, if any, set forth in the development permit, the Town Planning Board may deduct an amount from the letter of credit or certified check as the Town Planning Board may determine appropriate as penalty for noncompliance.
4. The requirement for a letter of credit or similar financial guarantee may be waived by the Town Planning Board if such Board determines that such letter of credit or financial guarantee is not necessary to ensure compliance.

M. Suspension or Revocation of Permits

The Land Use Officer may temporarily suspend a development permit if the Land Use Officer determines that the permittee is not complying with any or all terms or conditions of such development permit, has exceeded the authority granted in the permit or has failed to undertake the project in the manner approved until such time as Town Planning Board reviews such temporary suspension. The Town Planning Board shall review such temporary suspension at the next duly called Town Planning Board meeting following the date of the temporary suspension of the development permit, but in no case shall the temporary suspension by the Land Use Officer exceed thirty (30) calendar days. Upon review, if the Town Planning Board determines that the permittee has failed to comply with any or all terms or conditions of such development permit, has exceeded the authority granted in the approval or has failed to undertake the project in the manner approved, the Town Planning Board may revoke the development permit after providing the permittee written notice five (5) days in advance. The Town Planning Board shall notify the permittee in writing of the findings of the Town Planning Board and the reasons for revoking the development permit.

SECTION 607 PENALTIES FOR OFFENSES

Failure to obtain an EPOD permit shall be considered a violation and shall be subject to penalties as specified elsewhere in this Local Law. The violator may be required to restore the resource to its original condition at his own expense.

SECTION 608 EPOD (1) STREAM AND CANAL CORRIDOR, LAKESHORE AND FLOODPLAIN PROTECTION DISTRICT

A. Purpose and Intent

The purpose of the Stream and Canal Corridor, Lakeshore and Flood Plain Protection District is to provide special controls to guide land development adjacent to water bodies and waterway corridors in the Town of Fayette. The district encourages development of land so as to protect and preserve the waterways, to prevent soil erosion and sedimentation due to removal of vegetation, dredging, filling, damming or channelization; and to prevent activities which degrade water quality or fish and wildlife habitat.

B. Delineation of District Boundaries

The boundaries of the Stream and Canal Corridor, Lakeshore and Flood Plain Protection District shall be based on the Town of Fayette EPOD Maps. The Stream and Canal Corridor, Lakeshore and Flood Plain Protection District as follows:

1. If along a stream and canal corridor, the Protection District shall include all those areas within fifty (50) feet of waterways measured horizontally from the centerline of the waterway, or if in a special flood hazard district, the Protection District shall

include all those areas within fifty (50) feet of the landward boundary of the special flood hazard, whichever is greater.

2. If along the Cayuga Lake shoreline, the Protection District shall include all those areas within fifty (50) feet measured horizontally from the mean high water mark of 383.50 feet above sea level using the National Geodetic Vertical Datum. Of along the Seneca Lake shoreline, the Protection District shall include all those areas within 50 (fifty) feet measured horizontal from the mean high water mark of 445.90 feet above sea level using the National Geodetic vertical datum.

C. Regulated Activities

1. Clearing or filling, dredging, excavating, depositing of natural or manmade materials or constructing buildings or structures on any land area which lies within the Stream and Canal Corridor, Lakeshore and Flood Plain Protection District boundaries except for those activities exempted from regulation as enumerated in Subsection B of Section 606.
2. The construction or placement of any sewage disposal system, including individual sewage disposal systems septic tanks, septic drainage or leach fields.
3. Any activity that would alter the natural flow patterns of a watercourse.
4. Any activity that would result in soil erosion into or sedimentation within a watercourse, Cayuga and Seneca Canal, and/or Cayuga Lake and/or Seneca Lake.
5. Additional Exempt Activities.
 - a. Construction of ponds.
 - b. Thinning of trees and shrubs provided that at least sixty percent (60%) of the flora remains.

D. Standards for Permit Review

1. General Regulations: Any applicant for a permit to undertake a regulated activity within a Stream and Canal Corridor, Lakeshore or Flood Plain Protection District shall be required to adequately demonstrate that the proposed activity shall in no way, at present or at any time in the future, adversely affect the following:
 - a. Water quality.
 - b. Watercourse flood-carrying capacities.
 - c. Rate of sedimentation.

- d. Rate or velocity of surface water run-off.
 - e. Natural characteristics of the water course and floodplain.
 - f. Soil stability.
 - g. Fish and wildlife habitat.
2. Specific Standards: No permit to undertake a regulated activity within the district shall be issued unless it is determined that the proposed project complies with the following additional standards:
- a. The proposed activity provides adequate measures to prevent disruption and pollution of fish and wildlife habitats and freshwater wetlands; change in water temperature due to removal of shade vegetation; or non-point sources of pollution due to storm water runoff, septic systems or any other activity on the site.
 - b. The project shall provide adequate measures to protect surface and ground waters from direct or indirect pollution and from overuse.
 - c. Fill shall not encroach on natural watercourses, constructed channels or floodway areas.
 - d. Roads, trails and walking paths along water bodies shall be sited and constructed so they are not a source of runoff and sedimentation.

E. Additional Procedures and Conditions

- 1. A vegetative buffer of fifty (50) feet shall be retained from the centerline of the watercourse or Cayuga and Seneca Canal from the landward boundary of a special hazard flood plain or from the high mean water mark of Cayuga and Seneca Lakes to trap sediments and to protect adjacent fish and wildlife habitats. Wherever possible, the buffer shall retain natural vegetation.
- 2. Site preparation, including the stripping of vegetative cover or grading, shall be undertaken so that the amount of time that disturbed ground surfaces are exposed to the energy of rainfall and runoff water is limited. Disturbed soils shall be stabilized and revegetated within fourteen (14) days of disturbance. During the interim period, erosion protection measures, including but not limited to vegetation, retention ponds, recharge basins, straw-bale berming or other type of berming, silt traps or fencing, hydro seeding and mulching, shall be used to ensure that sedimentation is minimized and mitigated.
- 3. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.

4. New structures, except for fences, bridges, boat docks, and boat houses shall not be constructed within fifty (50) feet of the stream or brook measured horizontally from the centerline of the watercourse, Cayuga and Seneca Canal, or within fifty (50) feet of Seneca and Cayuga Lakes measured horizontally from the optimum high water mark using National Geodetic vertical datum.
5. New structures shall be designed and constructed in accordance with erosion control standards and storm water control standards contained in the Best Management Practices for Storm Water Management Guidelines for New Development, as found in Chapter 6 of the New York State Department of Environmental Conservation's Stream Corridor Management Manual.

SECTION 609 EPOD (2) STEEP SLOPES PROTECTION DISTRICT

A. Purpose

The purpose of the steep slope protection district is to minimize the impacts of development activities on steep slopes in the Town of Fayette by regulating activities in such areas and by requiring review and permit approval prior to project commencement. The development impacts include soil erosion and sedimentation, destruction of vegetation, increased stormwater runoff rates, landslides and flooding and/or undermining of roadways. The regulations contained in this district are designed to minimize the disturbance or removal of existing vegetation, prevent increased erosion and stormwater runoff, maintain established drainage systems, locate development where it is less likely to cause future slope failures and to retain, as much as possible, the natural character of these areas.

B. Delineation of District Boundaries

The boundaries of the steep slope protection district shall be delineated on the Town of Fayette official maps and shall include all areas of eighteen percent (18%) or greater slopes, and all areas within fifty (50) feet of the crest or bottom of such slopes. The Town Planning Board may consult other information, including but not limited to the Soil Survey Map of Seneca County, topographic maps produced by the United State Geological Survey, filed surveys and other appropriate sources, in order to more accurately located and delineate steep slope protection district boundaries.

C. Regulate Activities

1. Clearing of or constructing on any land area within the Steep Slope Protection District including the construction buildings or structures, or clearing activities related to providing equipment access on the site except for those activities exempted from regulation as enumerated in Subsection B of Section 606.

2. The construction or placement of any sewage disposal system, including individual sewage disposal systems septic tanks, septic drainage or leach fields.
3. Clearing, filling, cutting or excavation operations
4. Discharge of stormwater and/or construction and placement of stormwater runoff systems.

D. Standards for Permit Review

1. General Regulations: No permit to undertake a regulated activity within a steep slope protection district in the Town of Fayette shall be issued unless the project complies with the following additional standards:
 - a. The stable angle of repose of the soil classes found on the site shall be used to determine the proper placement of structures and other development-related facilities within the plateau area. Site-specific calculations of the stable angle of repose for the site shall be determined by a professional soil scientist or engineer using the soil classes and nomenclature contained in the Soil Survey of Seneca County and obtained for the site by borings, as well as high-intensity soil survey data provided by the applicant.
 - b. The stability of soils will be maintained or increased to adequately support any construction thereon or to support any landscaping, agricultural or similar activities. This shall be documented by soil bearing data provided by a qualified testing laboratory or engineer and paid for by the developer.
 - c. No proposed activity will cause erosion or slipping of soil or cause sedimentation to be discharged into any stream, brook, tributary, wetlands or into Cayuga Lake and/or Seneca Lake and/or the Cayuga and Seneca Canal.
 - d. Plant life located on the slopes beyond the minimum area that needs to be disturbed for carrying on approved activities shall not be destroyed. Plants or other acceptable ground cover shall be reestablished in disturbed areas immediately upon completion of development activity so as to prevent any of the harmful effects set forth above to maintain the natural scenic characteristics of any steep slope.
 - e. Access down steep slopes shall be provided with ramps slopes no greater than one to six (1:6) and side slopes not greater than one to three (1:3) if not terraced or otherwise structurally stabilized. Disturbed nonroadway areas shall be stabilized and adequately drained.
 - f. There is no reasonable alternative for the proposed regulated activity on that portion of the site not containing steep slopes.
2. Specific Standards: Construction of erosion protection structures shall be permitted according to the following standards:

- a. All erosion protection structures shall be designed and constructed according to generally accepted engineering principles found in publications entitled “Stormwater Management Guidelines for New Development” and “Best Management Practices for Stormwater Runoff Management” as found in Chapter 6 of the New York State Department of Environmental Conservation Stream Corridor Management Manual.
- b. A long-term maintenance program shall be included in any application for construction, modification or restoration of an erosion protection structure, until ground cover has been reestablished. Such program shall include specifications for normal maintenance of degradable materials and the periodic removal of materials.
- c. The construction, modification or restoration of erosion protection structures shall not be likely to cause any measurable increase in erosion at the development site or other locations and prevent adverse effects to natural protective features, existing erosion protection structures and natural resources such as significant fish and wildlife habitats.
- d. Temporary erosion controls, i.e., straw-bale berming or other type of berming, siltation traps and fences, hydro seeding and mulching, shall be provided for all disturbed areas, shall be installed before work begins and shall be maintained until restoration is complete. The site plan shall identify the locations and methods of erosion/siltation controls.
- e. A construction and erosion control schedule should be required from the applicant as part of the permit application. All disturbed steep slope areas shall be regraded and stabilized as soon as possible, but in less than fourteen (14) days.
- f. Drainage of stormwater shall not cause erosion or siltation, contribute to slope failures, pollute groundwater or cause damage to, or flooding of, property. Drainage systems shall be designed and located to ensure slope stability.
- g. Any grading, excavating or other soil disturbance conducted on a steep slope shall not direct surface water runoff over the receding (downhill) edge during construction.
- h. Removal of existing mature trees from steep slope areas will be permitted only where absolutely necessary to allow the subject construction. All trees larger than three (3) inches in diameter to be removed shall be shown on the site plan.

3. Prior to receiving any approval or imposing any conditions of approval, the applicant for a development permit shall have the burden of demonstrating that the proposed regulated activity will be conducted in accordance with the standards and requirements of this Section, as well as any additional requirements which may be imposed by the Town Planning Board.

ARTICLE VII: GENERAL REGULATIONS

SECTION 700 APPLICATION OF REGULATIONS

No building, structure or land shall be used or occupied nor shall any building or structure or part thereof be constructed, erected, moved, enlarged or structurally altered unless in conformity with this Local Law. This Local Law shall not be applicable to routine maintenance of any structure. No manure storage facility, as defined herein, shall be constructed or operated except in conformance with this Local Law.

SECTION 702 NON-CONFORMING USES, LOTS AND STRUCTURES

It is the intent of this Local Law to permit non-conforming uses to continue. Lots, structures, uses of land, and characteristics of uses which lawfully existed at the time of the enactment of this Local Law and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions.

A. General Regulations

1. A pre-existing, non-conforming lot shall not be further reduced in size except in conformity to the requirements set forth in Paragraph D.3. of this Section.
2. A pre-existing, non-conforming use shall not be enlarged, increased nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of this Local Law.
3. A pre-existing, non-conforming use may be changed into a conforming use. When a non-conforming use is changed to conform to the requirements of this Local Law, the use of the building or parcel of land shall not be changed again except in accordance with this Local Law.
4. Should any structure be moved for any distance for any reason, it shall thereafter conform to the requirements for the land use district in which it is located after it is moved, except that a pre-existing, non-conforming manufactured home may be moved to a lot to replace a pre-existing, non-conforming manufactured home. Non-conforming farm labor housing on farms in any Seneca County Agricultural District shall be exempt from this provision.

B. Restoration and Alterations

1. A pre-existing, non-conforming building or structure may be enlarged or extended only if such action would not increase the degree to which the building is in nonconformance with this Local Law.
2. A pre-existing, non-conforming structure that is demolished, destroyed or damaged by fire or other causes may be repaired, rebuilt or replaced provided that the resulting structure does not increase the degree to which the building was in nonconformance with this Local Law prior to being demolished, destroyed or damaged and provided that:
 - a. The property owner provides the Land Use Officer an instrument survey demonstrating that the foundation lies totally within the property boundaries.
 - b. The owner provides evidence of applicable County Health Department approval for the new construction.
 - c. The new construction shall be in compliance with all other applicable laws and regulations.
3. Any structure or portions thereof declared unsafe by a proper authority may be restored to a safe condition.
4. Normal maintenance repairs and incidental alteration of a building or other structure containing a non-conforming use shall be permitted, provided it does not increase the degree of nonconformance to this Local Law.
5. Alterations or structural changes to a building that is non-conforming due to insufficient lot line setback distances or insufficient lot area, but which may be accomplished within the existing frame of said building are permitted.

C. Discontinuance

1. In any district, whenever a non-conforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such non-conforming use shall not thereafter be re-established, and all future uses shall be in conformity with the provisions of this Local Law.
2. Such discontinuance of the active and continuous operation of such non-conforming use, or part or portion thereof, for such period of one (1) year, is hereby construed and considered to be an abandonment of such non-conforming use, regardless of any reservation of intent not to abandon same or of intent to resume active operations.
3. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such non-conforming use of the land and

premises, the abandonment shall be construed and considered to be completed and all rights to re-establish or continue such non-conforming use shall thereupon terminate.

D. Existing Undersized Lots of Record

1. Any lot of record held in single and separate ownership prior to the adoption of this Local Law and whose area and/or width and/or depth are less than the minimum requirements specified herein for the land use district in which the lot is located shall be considered as complying with this Local Law, shall be considered a pre-existing, nonconforming buildable lot and no variance therefore shall be required provided any proposed structure meets the lot line setback requirements of this Local Law.
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 or owners' property or properties.

SECTION 704 FRONTAGE UPON A PUBLIC STREET

Every principal building shall be built upon a lot with frontage upon a public street, or private road or driveway improved to meet the standards of the Town of Fayette and in accordance with Section 280-a of the New York Town Law.

SECTION 706 LOT FOR EVERY RESIDENTIAL BUILDING AND OTHER PRINCIPAL USE

- A. Only one (1) principal use is permitted on any single lot except in the Hamlet District where mixed uses on a single lot are permitted or on farms which may contain a residence and a barn, which shall be considered joint principal buildings.
- B. Courtesy Split Lot: A courtesy split lot involves an action taken by the Town Assessor that results in what appears to be the creation of a new lot when, in fact, a new lot has not been created. A courtesy split lot will appear as a separate lot on the tax map with a separate tax map parcel number notwithstanding that a subdivision of land has not occurred. Although courtesy splits appear on tax maps and have separate tax map numbers and property tax bills, they do not constitute a bona fide and legal lot of record. Town of Fayette property owners are cautioned about the existence of courtesy split lots and it is incumbent on the property owner to determine the presence of courtesy split lots.

SECTION 708A FLAG LOTS

- A. The flagpole access strip shall be no less than 40 feet wide and shall provide access only to the lot to which it is attached.
- B. The minimum lot area required of the flag, i.e., interior portion of a flag lot, shall be 3 times the minimum lot area required for buildable lots in the land use district in which the flag lot is located and shall have a minimum lot width that at least satisfies the minimum requirements for the land use district in which such lot is located. The area contained within the flagpole access portion of the property shall not be included for determining the dimensions of developable lot nor shall any structure be constructed in the flag access portion of the lot.
- C. The Town Planning Board shall designate front, rear and side lot lines based on the following:
 - 1. The front lot line shall be the lot line generally parallel to the street to which the flagpole access road connects unless the owner of the lots can demonstrate to the satisfaction of the Town Planning Board that a different orientation is better suited for the development of the lot or lots.
- D. The driveway that runs through the flag access area shall be located no closer than 10 feet to either side lot lines of the flag access area.
- E. The flagpole access road shall be screened from adjoining properties as determined necessary by the Town Planning Board.

SECTION 708B COMMON ACCESS LOTS

- A. Common Access Lots shall comply with the following minimum requirements.
- B. The common access site shall have the following minimum frontage requirements where the site abuts a roadway, lake, the Canal or public or semi-public lands:

Number of Lots Served	Minimum Width of Access Strip
Less than 4	100 feet
4 through 10	150 feet
More than 10	150 feet plus 15 feet per each dwelling over 10

- C. The minimum width of the access driveway or roadway that runs through the Common Access Lot shall be 18 ft.

- D. The owner of the access driveway or roadway that runs through the Common Access Lot shall comply with the following:
1. The owner shall cause to be recorded in the Seneca County Clerk's office a declaration of covenants, restrictions and easements in a form acceptable to the Town Attorney, which shall at a minimum provide:
 - a. Reciprocal easements for use of said driveway by each owner of a lot served by said road.
 - b. A declaration that the Town has no responsibility for the maintenance of said road.
 - c. The maintenance of the private driveway through the common access lot shall be the responsibility of the owner or owners of the lots served by such common access lot. Such maintenance shall include normal upkeep, reconstruction, drainage, snow plowing and any other costs that may reasonably be associated with such private driveway.
 - d. That no certificate of occupancy be issued until the road is constructed in accordance with the above specifications to the satisfaction of the Town Superintendent of Highways.
 2. Adequate provisions shall be made for fire protection and emergency access. The developer shall demonstrate to the satisfaction of the Town Planning Board that access driveway construction standards, width, vehicle turnarounds to adequately accommodate fire trucks and other emergency vehicles.
- E. The driveway or access roadway shall be screened from adjoining properties as determined necessary by the Planning Board.

SECTION 709 PRIVATE ROADS

New private roads for private and/or semi-public use constructed after the adoption of this Local Law shall be constructed to Town standards and specifications. Pre-existing, non conforming private roads existing at the time of the adoption of this Local Law, are exempt, but are strongly encouraged to be improved as much as practical.

SECTION 710 CORNER LOTS AND THROUGH LOTS

On corner lots and through lots, the sides facing each road or street shall be considered front yards and shall comply with the minimum lot line setback requirements for front yards for the district in which such lot is located. The remaining two yards shall be considered side yards and shall comply with the minimum lot line setback requirements for side yards in the district in which such lot is located.

SECTION 712 INTERSECTION OF TWO (2) OR MORE STREETS

In order to provide visibility for traffic safety where roadways and streets intersect, corner lots shall be kept free of obstructions in the triangular area formed by drawing a straight line connecting the points located at the street lines a distance of 25 feet from the tangent points where the street lines meet the curve of the street intersection. If directed by the Town Planning Board or Town Highway Superintendent, site alterations may be required to achieve visibility and necessary easements may be required to enable the Town to maintain visibility.

SECTION 714 REDUCTION IN LOT SIZES, AREAS, PARKING

Except as otherwise permitted in this Local Law, the area or dimension of any lot, setback, parking area, or other space shall not be reduced to less than the minimum required by this Local Law, and if already lawfully less than the minimum required said area or dimension may be continued, but not further reduced in size.

SECTION 716 MINIMUM LOT SIZES FOR TWO FAMILY DWELLINGS WHERE BOTH PUBLIC WATER AND SEWER ARE NOT AVAILABLE

The size of lots to be developed for two family dwellings shall be 1-1/2 times the lot size required for single family dwellings in the land use district unless such lots are served by both public water and public sewer service in which case the size of lots for two-family dwellings may be the same size as for single-family dwellings.

SECTION 718 PARKING SPACE

Off-street parking space shall be provided as specified in Sections 800 through 802 of Article VIII of this Local Law, and shall be provided with necessary passageways and driveways. All such space shall be deemed to be required parking space on the lot on which the same is situated unless otherwise stated. Such required parking space and shall not be encroached upon or reduced in any manner.

Permanent parking spaces and facilities proposed to be located within the front yard setback are subject to site plan review and are permitted only if the site plan is approved by the Town Planning Board.

SECTION 720 HEIGHT REGULATIONS

No building or structure shall have a greater number of stories or be greater in height than are permitted in the district where such building or structure is located except that height limitations specified elsewhere in this Local Law shall not apply to church spires and belfries, water towers, chimneys not more than four feet above the highest point of a roof, non-commercial radio and television masts, towers and aerials, or to parapet walls no more than four feet above the limiting height of the building, or to farm buildings or farm structures.

SECTION 722 GENERAL AND MINIMUM REQUIREMENTS FOR SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL DWELLINGS

- A. The construction of single-family and two-family structures and the placement of manufactured homes shall be exempt from site plan review and approval except in the Lakeshore/Canal District where site plan review and approval shall be required prior to construction or siting of all structures. Farm residential dwellings and farm structures located in the Lakeshore/Canal District shall be exempt from site plan review and approval provided such farm dwelling or farm structure is also located within a Seneca County Agricultural District, otherwise such farm dwellings and structures shall be subject to site plan review if located within the Lakeshore/Canal District. Notwithstanding the foregoing exemptions from site plan review requirements, the construction of more than one residential structure on a single parcel, exclusive of farm labor housing, shall require site plan review and approval.
- B. The minimum width of all dwellings at their narrowest dimension, excluding porches and patios, shall be at least twenty (20) feet.
- C. All dwellings must have a concrete or masonry foundation that extends at least forty-two (42) inches below ground level except for manufactured homes which must have skirting that gives the appearance of a full perimeter masonry or stucco foundation and meets the anchoring requirements set forth in the New York State and Federal laws and regulations. Pressure treated lumber shall also be acceptable material for the skirting of manufactured homes.
- D. No cellar without a habitable structure constructed thereon and above-grade shall be occupied as a dwelling. This prohibition shall not apply to subterranean dwellings constructed in compliance with the New York State Uniform Fire Prevention and Building Code.
- E. The exterior siding of dwellings shall consist of vinyl, aluminum lap siding, wood, stucco or other material similar siding similar to the exterior siding commonly used in standard residential structures.
- F. The construction and installation of all structures, including seasonal dwellings, manufactured homes and appurtenances shall conform to the New York State Uniform Fire Prevention and Building Code as well as other applicable federal, State and local laws, ordinances and regulations.
- G. An order to protect the value of the property, adjacent properties, and neighborhood properties, as well as to ensure the long-term maintenance of the subject property, both single- and two-family residential dwellings shall have the appearance of a full perimeter masonry foundation. All construction shall have a foundation in accordance with the New York State Uniform Fire Prevention and Building Code.

SECTION 726 MANUFACTURED HOUSING REQUIREMENTS

- A. All manufactured housing units proposed to be located and occupied within the Town of Fayette shall bear a United States Department of Housing and Urban Development (HUD) Seal signifying compliance with the construction standards established by the HUD in effect at the time of the

construction of the manufactured housing unit, or shall bear a seal from the State of New York signifying compliance with the New York State Uniform Fire Prevention and Building Code in effect at the time of construction of the manufactured housing unit. Manufactured homes manufactured on or after January 1, 2006 shall bear a manufacturer's warranty seal in accord Part 1210 of the New York Code of Rules and Regulations (NYCRR) certifying that such manufactured home was constructed in accordance with applicable federal, state and local statutes, laws, codes, rules and regulations. All manufactured homes regardless of date of manufacture when installed or reinstalled shall bear an Installer's Warranty Seal certifying that the manufactured home was installed in accord with the Standards of the NYS Fire Prevention and Building Code, and that the installer is certified by the New York State Department of State in accord with Part 1210 NYCRR.

- B. Prior to locating a manufactured housing unit within the Town of Fayette, a building permit shall be obtained from the Seneca County Code Enforcement Officer. Applicants shall provide details of all improvements subject to the requirements of the New York State Uniform Fire Prevention and Building Code, including but not limited to entry stairs, foundation design including a copy of the manufacturer's specifications for the location of such foundations including all anchoring requirements, and utility hookups.
- C. Prior to occupancy of any manufactured housing unit within the Town of Fayette, a certificate of occupancy shall be obtained from the Seneca County Code Enforcement Officer. The Code Enforcement Officer shall inspect all footings, utility connections, access improvements such as entry stairs, and other site improvements to certify compliance with the New York State Uniform Fire Prevention and Building Code. During said inspection the Code Enforcement Officer shall verify the manufactured housing unit proposed to be occupied shall bear a HUD seal or a seal from the State of New York, an Installer's Warranty Certification and if manufactured on or after January 1, 2006, a Manufacturer's Warranty Certification in compliance with Paragraph A of this Section. During said inspection the Code Enforcement Officer shall verify that the current condition of said unit complies with the HUD or New York State standards in effect upon the date of manufacture of such a unit. In the absence of either a HUD or New York State seal the manufactured housing unit shall be required to conform to the current standards of the New York State Uniform Fire Prevention and Building Code, and shall be subject to obtaining a building permit prior to any site construction. At a minimum, all manufactured housing units shall be anchored in compliance with manufacturer's specifications. Any manufactured housing unit failing to comply with the requirements of this Section shall not be occupied within the Town of Fayette. The Code Enforcement Officer shall furnish the applicant with a written list of violations of said codes upon inspection. Such violations shall be remedied by the applicant prior to the issuance of an occupancy permit. If such violations are not remedied within 90 days, the unit shall not be occupied within the Town of Fayette and shall be removed from the property at the applicant's or owner's expense.
- D. Manufactured housing units which legally are located and occupied as of the date of the enactment of this Local Law shall not be subject to the requirements of Paragraph A, B and C of this Section provided that such units are not relocated. The replacement of any existing manufactured housing unit within the Town with another manufactured housing unit shall comply with Paragraphs A, B and C of this Section and all applicable setback requirements of this Local Law of the Town of Fayette.

SECTION 728 STORAGE OF MANURE

- A. It is recommended that animal manure storage facilities on commercial farms be located no closer than 100 ft. of any residential lot line if feasible.

- B. Any farm classified as consolidated animal feed operation (CAFO) that is required to obtain a State Pollution Discharge Elimination System (SPDES) permit from the New York State Department of Conservation for the design, siting and operation of a animal manure storage facility shall submit a copy of such SPDES permit to the Town Planning Board within 15 days of the issuance of such permit.

- C. Any type of land use that involves the storage of animal manure which is not exempt from local land use regulations shall comply with the following with respect to animal manure storage.
 - 1. No unenclosed storage area for manure or other material creating dust or odor shall be permitted within 100 ft. of any street or residential property line nor within 100 ft. of a stream or other water body or well providing a source of potable water. In no case shall a pasture be considered an unenclosed storage area for manure, nor shall a pasture be required to be set back 100 feet from any residential property line, street or water body. Any building occupied or structure used for the storage of manure or other materials creating dust or odor shall be located a minimum of 60 feet from any lot lines. Manure storage facilities shall be constructed a minimum of 120 feet from any residential building.

 - 2. Site plan review by the Town Planning Board shall be required for manure storage facilities or for any structure that is not completely enclosed that is used primarily for the storage of liquid agricultural or food processing waste.

SECTION 729 CONTROL OF STORM WATER RUNOFF

New development shall be designed and constructed in such a way so that there is no change in the quantity or quality of storm water runoff exiting the lot or tract after the development has been constructed than existed prior to the construction of such development.

SECTION 730 SETBACKS FROM EXISTING CEMETERIES

Any building or construction to be undertaken within 150 ft. of the boundary of a known active or inactive cemetery or Native American burial ground shall require site plan review by the Town Planning Board. No building or structures shall be located closer than 30 ft. to any lot line of any cemetery or burial ground.

ARTICLE VIII: - SUPPLEMENTARY REGULATIONS

SECTION 800 OFF-STREET PARKING

A. General Requirements

1. In all districts, an adequate number of off-street parking spaces shall be provided, at the time any building or structure is erected or enlarged or increased in capacity.
2. For residential developments, no fewer than two (2) parking spaces shall be provided per dwelling unit.
3. All developments shall comply with the parking standards set forth in Table 1 of this Section. Alternatives to the minimum number of parking spaces shown in Table 1 may be accepted by the Town Planning Board if the applicant demonstrates to the satisfaction of the Town Planning Board that such standards better reflect the anticipated parking needs of the development.
4. If adequate off-street parking pursuant to the provisions of this Local Law are physically impossible to meet for pre-existing structures such pre-existing structures shall be exempt from the parking provisions contained herein

B. Size and Access

1. Each off-street parking space shall have an area of not less than 200 square feet and shall have a minimum width of ten (10) feet. Except in the case of single-family residences, no parking area provided hereunder shall be established for less than three spaces.
2. There shall be adequate provision for ingress and egress to all parking spaces. Access drives or driveways serving a single parcel shall be not less than ten (10) feet wide.

- #### **C. Minimum requirements for off-street parking are shown in Table 1. For structures and land uses that do not fall into the categories listed below, a reasonable and sufficient number of off-street parking spaces shall be determined in each case by the Town Planning Board during site plan review. Handicap parking and access shall be provided in accordance with all applicable federal, state, and local requirements.**

TABLE 1 OFF-STREET PARKING

Use	Minimum Required Off-street Parking Spaces
One or two family dwelling	2 per dwelling unit
Churches and houses of worship	1 per 5 seats
Community buildings, used in connection with the operation of clubs, social halls, lodges, fraternal organizations, and similar uses	1 per 200 sq. ft. GFA
Home business	2 for each dwelling unit plus the number of spaces required for the proposed business
Garage or automobile repair shop	4 per bay or work area
Restaurant or other eating place	1 per 3 seats
Fast food restaurant	1 per 30 sq. ft. GFA
Retail or service business	1 per 300 sq. ft. GFA
Warehouse, distribution or other storage building	1 per 5000 sq. ft. GFA
Offices	1 per 250 sq. ft. GFA
Bank or other financial institution	1 per 300 sq. ft. GFA
Animal clinic/hospital/ commercial kennels	1 per 200 sq. ft. GFA

GFA: Gross Floor Area

Footnote: Upon determining the total required parking spaces any fraction shall be rounded up to the next highest whole number.

SECTION 802 OFF-STREET LOADING

- A. In any district, in connection with each building, or building group or part thereof hereafter erected, which is to be occupied for light-industrial or commercial uses or distribution by vehicle of material or merchandise, there shall be provided and maintained, on the same lot with such building, off-street loading berths in accordance with the requirements of Table 2 of this Section.

B. Size and Location:

Each loading space shall be not less than ten (10) feet in width, 35 feet in length, and have a minimum clearance of 14 feet and may occupy all or any part of any required yard unless it abuts a residential zone, in which case it must meet the requirements as set forth in the Schedule of Regulations. Larger loading spaces may be required by the Town Planning Board during site plan review if a larger size is warranted by the type of business. The minimum requirements for off-street loading are shown in Table 2

TABLE 2: OFF STREET LOADING

Uses	Square Feet of Floor Area (GFA)	Required Off-street Loadi Berths
Retail and Service Establishments,	5,000-25,000	1
Commercial, Wholesale,	25,000-40,000	2
Light Industrial, Storage and Miscellaneous Uses	40,000-60,000	3
	60,000-100,000	4
	For each additional 50,000 fraction thereof	1 additional

C. Joint Facilities for Parking or Loading:

Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use. However, joint facilities may permitted to provide a smaller number of parking spaces if it can be demonstrated to the satisfaction of the Town Planning Board that the uses occupying the premises will not require use of the parking spaces concurrently.

SECTION 806 ACCESSORY BUILDINGS AND STRUCTURES

A. Detached Accessory Buildings and Structures:

Accessory buildings and structures not attached to a principal building may be erected in accordance with the following conditions:

1. Detached accessory buildings and structures may be located anywhere on a parcel other than in the front yard as long as the setback requirements of the land use district are met except that in the Agricultural/Rural Residential and Lakeshore/Canal districts, accessory structures may be permitted to be located in front of the front building line of the principal structure if such accessory buildings meet the front setback requirements for principal structures and subject to site plan review. Accessory buildings in the Hamlet District shall not be located in the front yard under any circumstances.

2. Detached accessory buildings and structures shall be set back from side and rear property lines and separated from the principal building, and other accessory structures in accordance with the following:

	Required Setbacks and Separations from:	
Size of Detached Accessory Building or Structure	Side or Rear Property Line	Any Other building or Structure on the Property
Greater than 144 square feet	In accord with Dimensional Requirements Table	10 feet
144 square feet or less	5 feet	10 feet

B. Attached Accessory Buildings and Structures:

When an accessory building or structure is attached to the principal building, it shall comply in all respects with the requirements of this Local Law applicable to the principal building. At least twenty-five percent (25%) of the area of a wall of the accessory building shall be in common with and an integral part of the principal building to be considered an attached accessory structure.

SECTION 808 SIGNS

The regulations contained in this Section have been formulated for the safety of residents and motorists, to establish visual uniformity and to protect scenic viewsheds. Signs may be erected and maintained only when in compliance with the following regulations except that any sign communicating a noncommercial message expressing an opinion regarding choice of political parties or candidates, or regarding a matter of government or governmental policy are exempt from such regulations. Signs erected on active farms within a Seneca County Agricultural District, which are related to the agricultural use of the land, are exempt from the regulations contained in this Section.

A. Signs on residential properties and non-commercial, non-residential properties in all land use districts according to the following:

1. Nameplates and Identification Signs

- a. One (1) non-illuminated nameplate sign, situated within the property lines and bearing only the name of the principal occupant, or name of property or doing business as (DBA) and/or the street number of a private dwelling and not exceeding four (4) square feet in area on each side, or eight (8) square feet total area on two (2) sides.
- b. One (1) non-flashing, non-moving sign advertising a church or house of worship, residential subdivision or housing complex, library or museum, public building, park or playground, or other non-commercial, non-residential use permitted on such property, not exceeding 20 square feet area on each side, with no more than 2 sides, and located not less than ten (10) feet from any street or right-of-way or property line.
- c. Such signs may be located in any front or side yard, except in the Lakeshore/Canal District where they shall be located in the rear or side yard.

2. Sales, Lease or Rental Signs:

- a. A temporary non-flashing, non-moving sign advertising the rental, lease, sale or construction of the lot or building on which it is placed. Such a sign shall be located within the property lines and shall not exceed four (4) square feet of area if single-sided or eight (8) square feet total area if two-sided, and shall be removed after rental, lease, sale or construction is completed.
- b. Not more than two (2) such signs shall be placed upon any property unless such property fronts upon more than one street, in which case, two (2) additional signs may be erected on each additional frontage.
- c. Such signs may be located in any front or side yard, except in the Lakeshore/Canal District where such signs shall be located in the rear or side yard.

B. Signs on commercial and light-industrial properties:

One (1) non-flashing, non-moving sign situated on property that being used for commercial or light-industrial purposes may be erected as a free standing or attached to the building. Such sign shall not have a face area of more than 32 square feet if single-sided or 64 square feet total area if two-sided and shall be setback at least 15 feet from the side lot line and at least 10 feet from the highway right-of-way.

Exceptions for Automotive Vehicle Service Stations with fuel sales and convenience stores with fuel sales:

1. In addition the above-permitted sign, automotive vehicle serve stations with fuel sales and convenience stores with fuel sales shall be permitted to have one non-flashing, non-moving sign (1) freestanding or pylon sign setting forth the name of the station and of the principal products sold on the premises, including special company or brand name, insignia or emblem, provided that the area of such sign shall not exceed thirty-six (36) square feet per face. Such signs shall be erected no less than ten (10) feet above the ground nor more than twenty (20) feet above the ground as measured to the bottom of the sign.
2. One (1) temporary sign specifically setting forth special seasonal servicing of motor vehicles, provided the area of such sign does not exceed seven (7) square feet per face.

C. Signs for home occupations and home businesses

One (1) non-flashing, non-moving sign situated on the property on which the home occupation or home business is operating to identify the home occupation or home business. Such sign shall have no more than two sides. Such signs in all districts shall not exceed four (4) square feet in area per side. .

D. Sign Regulations Applicable in all Districts:

The following regulations shall apply to all permitted signs:

1. Maintenance: Signs shall be constructed of durable materials, maintained in good condition, and not permitted to become deteriorated or dilapidated. No person shall maintain or permit to be maintained on any premises owned, occupied or controlled by such person any sign which is either not structurally sound or creates an electrical hazard. Any such sign shall be removed or repaired by the owner or user of the sign or the owner of the premises.
2. Height of Signs
 - a. No sign located on the roof of any building shall be higher than the height limit for such building in the land use district where such sign is located.
 - b. No free-standing sign shall be lower than eight (8) feet above the ground nor higher than 20 feet above the ground as measured to the bottom of the sign unless the sign is erected so that the top of the sign is no higher than three (3) feet above the ground in which case the sign is exempted from the foregoing 8 foot minimum height requirement
 - c. If the elevation of the ground where the sign is being erected differs from the elevation of the shoulder of the road, the height of the sign shall be measured from the elevation of the shoulder of the road rather than from the ground beneath the sign. The baseline for measuring the height of the sign shall be determined by drawing an imaginary horizontal line between the shoulder of the road and the sign. Such imaginary baseline shall be at drawn at a right-angle to the roadway and at the same elevation as the shoulder of the roadway where such baseline intersects the roadway.
 - d. No sign shall be erected within a public road right-of-way or anywhere along a roadway where it would create a traffic or safety hazard by obscuring the vision of motorists.
3. Lighting and Light Pollution: Lighting for signs shall not be erected in excess of 20 feet above the ground level. Lighting fixtures shall be focused directly upon the face of sign which it is intended to illuminate, and the light fixtures shall be shielded so that the direct light beams from the light source shall not cast light on neighboring properties and roadways and the light bulbs and light elements shall not be directly visible from adjoining properties and highways. Signs and lighting devices must be arranged so that they do not interfere with traffic control devices or otherwise create a traffic hazard.
4. Signs shall be informative, enhance the character of the community, and shall be consistent with the Comprehensive Plan. In rural areas, signs that are manufactured from wood or stone, or with the appearance of natural wood or stone, are recommended.
5. Any sign located on property which becomes vacant and unoccupied for a period of six (6) months more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned and shall be removed by the owner of the sign or owner of the premises. The failure to remove an abandoned sign shall be a violation of this Local Law. The reuse of an abandoned, non-conforming sign shall be prohibited unless said sign is modified in such a way to bring it into compliance with this Local Law.

SECTION 809 BUFFERS AND SCREENING

- A. For any commercial or light-industrial or recreational use which by its nature may be deemed to generate substantial noise whether by mechanical or musical devices or by public participation or any other cause, the Town Planning Board may require such additional setbacks from property lines and other arrangements as it may deem necessary to insure that said noise will not be detrimental or annoying to neighboring properties. Shooting clubs and other types of sportspersons' clubs that have firearms shooting ranges are exempt from the provisions of this Section. The provisions of this Section are not applicable to any property used for hunting activities or other activities that involve the discharge of firearms such as for targeting shooting, the sighting in of firearms, shooting practice, plinking, etc. as long as such use is not prohibited by law.
- B. Business uses adjoining a residential use may be required by the Town Planning Board to install fences, walls, or dense evergreen hedges or shrubbery to screen the site from such residential uses if in the opinion of the Town Planning Board, such screening is necessary to protect such residential use.

SECTION 810 FENCES AND HEDGES

The purpose of these regulations is to prohibit the erection of fences and hedges in the Town of Fayette that obstruct a view from neighboring premises, particularly in the areas adjoining Cayuga and Seneca Lakes, or that obstruct visibility on streets and highways in more densely populated areas such as the hamlets.

A. General Requirements

- 1. A land use permit from the Land Use Officer shall be required to erect a fence within the Town of Fayette.
- 2. All fences and hedges shall be set back a minimum of two (2) feet from all property lines except for agricultural fences which may be erected on the property line. This requirement shall not apply for adjoining residential properties, however, if adjoining property owners agree, in writing, to place the fence along a property boundary and a copy of such signed agreement is provided to the Land Use Officer.
- 3. No fence or hedge shall be erected or planted so as to encroach upon a public or private right-of-way.
- 4. All fences and hedges must be maintained on all sides in a safe, sound, upright and good condition so as not to become an eyesore. The owner of the fence shall be responsible for the maintenance.
- 5. No solid or partly solid (more than 50 percent opaque) metal fence is permitted in the Town of Fayette.
- 6. In the Agricultural/Rural Residential and the Hamlet Districts, no fence or hedge over four (4) feet high shall be erected within a required front setback. No fence more than six (6) feet high shall be erected in any side or rear yard except as provided for in Subsection B of this Section. In the Lakeshore/Canal District, no fence higher than four (4) feet shall be permitted.

7. No restrictions shall apply to fences or hedges used for farm purposes, nor to any other hedges, hedgerows, or trees forming windbreaks in the Agricultural / Rural Residential District.
8. On properties used for commercial or light-industrial uses, no fence or hedge over four (4) feet high shall be erected or installed within 30 feet of the edge of a highway right-of-way. No fence or hedge over eight (8) feet tall shall be permitted on a lot line separating a commercial or light-industrial use from an adjoining residential use.

B. Parks, Playgrounds and Recreational Facilities

1. A fence not exceeding eight (8) feet in height is permitted anywhere on any public playground, public park, or private school premises. This requirement however, shall not apply to chain link fences used for baseball/softball backstops or around tennis courts or other recreational facilities.
2. Fences enclosing tennis courts or other private recreational facilities on residential property shall not be subject to the height limitations in Subsection A of this Section. Such fences, however, shall be subject to the setback requirements for principal structures.

C. Swimming Pools:

Outdoor swimming pools shall be enclosed by a protective fence in accordance with the requirements of the Building Code.

SECTION 812 BED AND BREAKFAST INN

- A. Bed and breakfast inns shall be permitted in all land use districts as accessory use in single-family dwellings only.
- B. The operator of the bed and breakfast inn shall reside on the premises.
- C. The dwelling shall not be altered in a manner, which would cause the premises to differ from its residential appearance or character.
- D. Outbuildings detached from the principal dwelling shall not be used for the purpose of lodging.
- E. No bed and breakfast inn shall be permitted where access is provided by a shared driveway.
- F. No fewer than two (2) parking spaces shall be provided for the dwelling, plus one (1) parking space for each bedroom offered for overnight accommodations. Each such parking space shall be at least 10 ft. by 20 ft. in size.
- G. Bed and breakfast inns shall comply fully with the State Sanitary Code, the New York State Uniform Fire Prevention and Building Code and all other applicable State and County regulations.
- H. Site plan review by the Town Planning Board shall be required.

**SECTION 814 AUTOMOTIVE SALES, REPAIR AND SERVICE ESTABLISHMENTS
WITH OR WITHOUT FUEL SALES**

The Town Planning Board may issue a special use permit in the Agricultural/ Rural Residential (AR) and Hamlet (H) Districts for automotive sales, repair and service businesses with or without fuel sales subject the standards and conditions set forth in this Section.

- A. Lot size shall be at least 2 acres.
- B. Lot frontage on any roadway shall be at least 150 feet.
- C. Lot depth shall be at least 125 feet.
- D. Entrance and exit driveways shall have an unrestricted width of not less than 20 feet and not more than 30 feet, shall be located not less than fifteen (15) feet from any property line, and shall be so laid out as to avoid the necessity of any vehicle backing out onto any public right-of-way. The appropriate access permit shall be obtained from the Town, County or State highway or transportation department.
- E. A suitable landscaped area shall be maintained at least five (5) feet in depth along all street frontage not used as a driveway. Such landscaped area shall be designed to prevent vehicles from accessing the property through the area landscaped.
- F. Side yards of not less than 25 feet shall be provided along all lot lines adjacent to property used for residential purposes.
- G. All area lighting fixtures shall be designed and located so that no light source is visible from outside the property line, no direct rays fall outside the property line and no light fixture is more than 20 feet above the finished grade.
- H. Each such lot shall be provided with an office structure, including all appropriate sanitary facilities.
- I. The sale of used cars may be permitted, provided that all such vehicles shall be at all times in a condition of repair so they can be operated under their own power in compliance with the requirements of the laws of the State of New York and rules and regulations promulgated thereunder for operation of motor vehicles on public highways.
- J. All service or repair of motor vehicles, other than such minor servicing such as changing tires or sale of gasoline or oil, shall be conducted within a building.
- K. No inoperative or partially dismantled motor vehicles shall be stored on the premises for more than 90 days. All motor vehicle parts, dismantled vehicles, partially dismantled vehicles and inoperative vehicles and similar articles shall be stored within a building or, if stored outdoors, shall be screened from view from adjacent properties and public streets with suitable fencing and/or hedges.
- L. No more than ten (10) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors for more than 48 hours, and these shall be in areas effectively screened from all property lines.

- M. One (1) sign per vehicle with a maximum area of one (1) square foot shall be permitted for each vehicle for sale. Such signs shall be displayed from inside the vehicle and no other advertising or devices to attract attention shall be placed on the vehicles.
- N. Additional requirements for motor vehicle fueling stations:
 - 1. All bulk petroleum products and/or other types of fuels shall be adequately screened from view from adjoining properties and public streets.
 - 2. No gasoline or fuel pumps or tanks shall be located less than 15 feet from any street right-of-way or property line, and 25 feet from any adjoining residential property.
- O. A facility offering or providing motor vehicle repair services shall have a valid license from New York State. A motor vehicle repair facility operating without approval from New York State shall not be considered to be a pre-existing, non-conforming use for the purpose of these regulations.

SECTION 815 CONVENIENCE STORES WITH OR WITHOUT FUEL SALES

The Town Planning Board may issue a special use permit for convenience stores with automotive fuel sales in the Agricultural/Rural Residential (AR) and Hamlet (H) Districts and convenience stores without fuel sales in the Agricultural/Rural Residential (AR) District subject to the standards and conditions set forth in this Section. Convenience stores without automotive fuels are a permitted use in the Hamlet District without a special use permit, but are subject to the standards and conditions set forth in this Section.

- A. Lot size shall be at least 1 acre.
- B. Lot frontage on any roadway shall be at least 150 feet.
- C. Lot depth shall be at least 125 feet.
- D. Entrance and exit driveways shall have an unrestricted width of not less than 20 feet and not more than 30 feet, shall be located not less than fifteen (15) feet from any property line, and shall be so laid out as to avoid the necessity of any vehicle backing out onto any public right-of-way. The appropriate access permit shall be obtained from the Town, County or State highway or transportation department.
- E. A suitable landscaped area shall be maintained at least five (5) feet in depth along all street frontage not used as a driveway. Such landscaped area shall be designed to prevent vehicles from accessing the property through the area landscaped.
- F. Side yards of not less than 25 feet shall be provided along all lot lines adjacent to property used for residential purposes.
- G. All area lighting fixtures shall be designed and located so that no light source is visible from outside the property line, no direct rays fall outside the property line and no light fixture is more than 20 feet above the finished grade.
- H. Additional requirements for motor vehicle fueling stations:
 - 1. All bulk petroleum products and/or other types of fuels shall be adequately screened from view from adjoining properties and public streets.

2. No gasoline or fuel pumps or tanks shall be located less than 15 feet from any street right-of-way or property line, and 25 feet from any adjoining residential property.

SECTION 816 OUTDOOR STORAGE

Outdoor storage in conjunction with a retail or wholesale business in Agricultural / Rural Residential (AR) and Hamlet (H) Districts is permitted, in accordance with the following requirements.

- A. Locations of all areas used for outdoor storage shall be shown on the site development plan.
- B. No outdoor storage shall be permitted within the setback required for accessory buildings, unless this requirement is specifically waived by the Town Planning Board during site plan review.
- C. In Agricultural/Rural Residential (AR) District, outdoor storage areas on any lot shall not exceed ten percent (10%) of the aggregate ground coverage of all buildings on the lot. In Hamlet (H) District, outdoor storage areas shall not exceed twenty percent (20%) of the area of the lot.
- D. All outdoor storage areas shall be enclosed, except for necessary access drives, by buildings and/or fences, walls, embankments or evergreen shrubs or hedges so as substantially to screen such areas from view from any roadway or residential property. However, the Town Planning Board may determine, during site plan review, that such enclosure are not necessary in connection with all or a portion of necessary and reasonable outdoor storage that is adjunct to retail sales.

SECTION 818 RECREATIONAL VEHICLES

Recreational vehicles shall not be parked, stored or located closer to than 10 feet to any lot line..

SECTION 820 HARBORING FARM ANIMALS

Farm animals kept as part of a commercial farm operation, which is the principal use of the parcel on which the farm animals are kept, shall not be subject to the regulations of this Section.

- A. The keeping of farm animals as an accessory use to a single-family residence within the Agricultural/ Rural Residential (AR) and the Lakeshore/Canal (L) Districts on a parcel of land that is not commercially farmed or is not in a County Agricultural District shall comply with the following conditions:
 1. No stable, similar animal housing, paddock or confining areas shall be permitted on any lot of less than 2 acres in size.
 2. No structure housing such animals shall be located closer than twenty-five (25) feet to any street or property line.
 3. Not more than one (1) animal unit may be kept per each one (1) acre of combined pasture and paddock area.
 4. Combinations of animals may be kept provided the cumulative total does not exceed one (1.0) animal unit per each one (1) acre of pasture and paddock combined.

5. Contiguous land not owned by the owner of livestock, but which is available to the owner of the livestock for grazing shall be considered when determining the number of animal units the livestock owner may harbor.
- B. The keeping of farm animals as an accessory use to a single-family residence within the Hamlet (H) District on a parcel of land that is not commercially farmed shall comply with the following conditions:
1. No stable, similar animal housing, paddock or confining areas shall be permitted on any lot of less than 3 acres in size.
 2. No structure housing such animals shall be located closer than forty (40) feet to any street or property line.
 3. Not more than one (1.0) animal unit may be kept per each one and one-half (1-1/2) acre of combined pasture and paddock area.
 4. Combinations of animals may be kept provided the cumulative total does not exceed one (1) animal unit per each one and one-half (1-1/2) acres of pasture and paddock combined.
 5. Contiguous land not owned by the owner of livestock, but which is available to the owner of the livestock for grazing shall be considered when determining the number of animal units the livestock owner may harbor.
- C. For purposes of this Section, the following table shall be used to determine animal units for various types of farm animals:

Type of Animal	Animal Units per Animal
Cows / Steers	1.0 unit
Horses	1.5 units
Goats / Sheep	0.25 unit
Swine	0.4 unit
Chickens / Ducks	0.035 unit
Turkeys	0.03 unit
Other farm animals not listed	Average weight of the animal divided by 1,000 lbs

SECTION 821 COMMERCIAL CAMPGROUNDS

The Town Planning Board may issue a special permit for commercial campgrounds in the Agricultural/Rural Residential (AR) and Lakeshore/Canal (L) Districts subject to the standards and conditions set forth in this Section.

- A. Campgrounds shall comply with the Sub-part 7-3 of the State Sanitary Code and any other pertinent regulations of the New York State Department of Health pertaining to campgrounds.
- B. The minimum campground area shall be 10 acres, of which 4 acres shall be recreation and open space areas. Such open space and recreational areas shall not include required lots, roads, streets, or parking areas.
- C. The minimum camping site shall be at least 2,500 square feet for tents and 3,500 square feet for all other sites. The camping sites shall be placed not closer than 20 feet to adjacent campground access and interior circulation roadways and adjacent camping units, and not closer than 150 feet from adjacent property lines, public road rights-of-way.
- D. Flexibility of campground site layout is encouraged, but with the following conditions:
 - 1. Each site shall have a permanent fire place and picnic table.
 - 2. Water and toilet facilities shall not be more than 500 feet from each camp site.
 - 3. Privies are not permitted.
- E. At least one (1) utility building is required which shall comply with the requirements of this Local Law and shall contain offices, telephone, first aid facilities, and portable fire protection equipment. All other uses shall be approved by the Town Planning Board.
- F. All internal streets and roads shall be at least 20 feet wide, shall have a hard surface, and shall be properly maintained.
- G. There shall be adequate shower, toilet, and sink facilities meeting the standards of the New York State Department of Health and the State Sanitary Code. All sewage disposal systems, including holding tanks, shall be designed by a licensed engineer.
- H. The campground area designed for the placement of camping units, streets, roads, accessory structures, shall have adequate drainage. All plans submitted with the special use permit application shall show finished grades and drainage.
- I. If the campground will utilize ponds or artificial lakes, the plans shall be prepared by a licensed engineer or other qualified professional. The Town Planning Board may require that the plans be reviewed by the USDA Natural Resource Conservation Service, the Soil and Water Conservation District, the Town Engineer, or other qualified professional.

- J. The campground owner or operator shall:
 - 1. Maintain order within the campground at all times.
 - 2. Prohibit the use of motorbikes, go-carts, all terrain vehicles (ATV's), motorcycles, or similar vehicles in the camping areas, unless such vehicles are licensed and operated by a licensed operator.
 - 3. Provide for daily collection of refuse from the campground and the measures to prevent an infestation of insects and rodents.
 - 4. Have an attendant responsible for the facility, who is at least 21 years of age, on site at all times while the campground is in operation.
- K. Campgrounds shall be operated only during the months of May through October, unless such term is otherwise specifically extended or limited in the permit issued to the applicant.

SECTION 822 CEMETERIES

The Town Planning Board may issue a special use permit for cemeteries in the Agricultural/Rural Residential (AR) District subject to the standards and conditions set forth in this Section. Cemeteries established as an accessory use to a church shall not be subject to these requirements, but shall comply with all other applicable State and local regulations.

- A. Minimum area shall be ten (10) acres and the minimum lot width shall be 300 feet at its narrowest point.
- B. No interment shall take place within 50 feet of any street or property line. Such buffer area adjoining residential uses shall be suitably landscaped so as to screen the cemetery from view insofar as is practicable.
- C. A crematory shall not be established at any cemetery.
- D. Caretakers' cottages, mausoleums and chapel/funeral homes, which are incidental to the cemetery, shall be permitted as accessory uses, provided that:
 - 1. Any such structure shall comply with the setback and yard requirements for single-family dwellings for the district in which it is located.
 - 2. Off-street parking shall be in accordance with Section 800.
- E. All cemeteries and mausoleums shall operate under applicable New York State, County and Town statutes, laws and ordinances and all rules and regulations promulgated pursuant to those statutes, laws and ordinances.
- F. Provisions shall be made for the perpetual maintenance of all cemeteries so as to minimize the future financial liability of the Town for the maintenance of abandoned cemeteries as required by New York State Law.
- G. Each cemetery shall post the hours of operation and use by the public including the telephone number to call for information or to report an incident.
- H. Existing cemeteries may be expanded only if the following conditions are satisfied.

1. The land being used for the expansion is a minimum of five (5) acres in size.
2. Such expansion shall utilize contiguous property only or property contiguous to a road or right-of-way which separates the two (2) properties.
3. Such additional land that is acquired shall remain in the same title as the existing cemetery.

SECTION 823 PUBLIC UTILITIES AND ESSENTIAL SERVICES

The Town Planning Board may issue a special use permit for public utilities and other essential service, excluding telecommunications facilities, in all land use district subject to the following standards and conditions:

- A. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential services or the satisfactory and convenient provision of service to the area in which the particular use is located.
- B. Such facility shall not be located on a residential street (unless no other site is available) and shall be so located as to draw a minimum of vehicular traffic to and through such streets.
- C. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property in the district in which it is to be located.
- D. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
- E. All above-ground electrical transformers, substations and switching equipment and all above-ground natural gas substations and pumping stations shall be secured by a fence at least eight (8) feet in height. The gate for the entrance to the site shall be locked at all times unless utility personal are at the site.
- F. Adequate off-street parking shall be provided.
- G. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground, if practical, as determined by the Town Planning Board during site plan review.
- H. No electrical transformer, substation or associated switches and no natural gas substation or pumping station shall be closer than 30 feet to the road right-of-way and 50 feet to any other property line.

SECTION 824 MINOR MINING (EXTRACTION OF STONE, SAND OR GRAVEL)

The Town Planning Board may issue a special permit for minor mining in the Agricultural/Rural Residential (AR) District subject to the following standards and conditions. Major mining, i.e., mining of such a scale that requires a mining permit issued by the New York State Department of Environmental Conservation is expressly prohibited in the Town of Fayette (See Section 210 Definitions).

- A. The extraction of stone, sand and gravel shall be in accordance with applicable statutory provisions.

- B. Notwithstanding the following regulations, property owners may conduct regrading, earthmoving, excavation and filling operations and may utilize gravel, stone or quarry in the preparation of building sites for activities in accordance with an approved final subdivision plat for agricultural purposes, and for other permitted uses.
- C. The applicant shall submit for Town Planning Board approval information regarding the following:
 - 1. areas to be excavated;
 - 2. the location and description of accessory uses;
 - 3. the location and description of fences and barricades;
 - 4. the location and description of easements;
 - 5. hours of operation;
 - 6. plans for control of noise and dust;
 - 7. slopes before and after excavation;
 - 8. drainage of surface water and groundwater before and after excavation;
 - 9. the proposed level of any impounded water;
 - 10. proposed revegetation after excavation; and
 - 11. the disposal of debris, refuse, tailings, waste or spoils.
 - 12. information from all serving utility companies as to the location of easements and underground facilities.
 - 13. anticipated number of tons per year to be excavated.
 - 14. any additional information required by the Town Planning Board to ensure that the provisions of this Section are complied with.
 - 15. soil erosion and sedimentation control plan.
- D. All excavations and reclamation shall be made only in accordance with plans approved by the Town Planning Board. These plans shall meet all applicable environmental protection codes established by Federal, State and County agencies having jurisdiction. In addition to the information required in Paragraph C of this Section., such plans shall show:
 - 1. the location of the site and its relation to neighboring properties and roads within 500 feet of the site;
 - 2. the location of access drives into the site;
 - 3. plans for erosion and sedimentation control during excavation and reclamation;
- E. A description of the mining method shall be provided indicating compliance with all applicable regulations and environmental codes. Such description shall include, but not necessarily be limited to, the method of extraction, the location and extent of any cut or excavation, the location and size of all stockpiles or spoil banks, the disposition of all materials used in and resulting from the mining and the location and treatment of haulageways.

- F. No excavation shall be closer than 100 feet to any street or roadway right-of-way or other property line nor closer than 200 feet to any natural stream or creek.
- G. Fences or barricades shall be erected on all sides of an excavation area that abuts a residential area or road to protect pedestrians and vehicles. All open pits or quarries shall be enclosed by fencing until they are refilled. The uphill side of side hill excavations shall be permanently fenced in a manner approved by the Town Planning Board.
- H. The hours of operation shall be only between 7:00 a.m. and 7:00 p.m. Mondays through Fridays and 7:00 a.m. to 5:00 p.m. on Saturdays. No operations shall be permitted on Sundays.
- I. All haulageways leading to public roads and highways shall be maintained dust and mud free. All precautions shall be taken to prevent dust and dirt from being blown from the premises, and soil and mud from being deposited on public roads and highways. The first 100 feet of access from public roads and highways shall be stoned.
- J. Erosion and sedimentation control measures shall be installed to keep all sediment damage on the applicant's property.
- K. The final slope of any excavated material shall not exceed the normal limiting angle of repose of such material, except where a suitable detaining wall is built to provide lateral support.
- L. Noise created by excavation and reclamation operations shall not be detrimental to adjacent property nor unduly interfere with the quiet enjoyment of the occupants of adjacent property.
- M. No rock crushing, cement plant or other crushing, grinding, polishing or cutting machines or other physical or chemical processes for treating the product of such excavation shall be permitted.
- N. All rock blasting shall occur during daylight hours Monday through Friday and shall be conducted in accordance with all applicable regulations under the personal supervision of a person holding a current license and certificate of competence from the New York State Department of Labor. Before any blasting occurs, the applicant shall file evidence of insurance or shall file a bond in such form, amount and coverage as determined by the Town Planning Board and Town Attorney to be adequate in each case to indemnify any injured parties against damages arising from the blasting.
- O. All operations shall be conducted in a safe manner with respect to the likelihood of hazard to persons, physical damage to adjacent land or improvements or damage to any road or highway or user of a road or highway by reason of slides, sinking or collapse.
- P. All debris, stumps, boulders and similar waste materials shall be removed from the site and properly disposed of or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of compacted soil.
- Q. Storage piles of materials obtained as a result of the mining operation, topsoil and waste materials, including but not limited to vegetation, subsoil, rock overburden and spoil, shall not be located closer to property lines than is permitted for excavations. Storage piles shall not include material classified as toxic by the New York State Department of Environmental Conservation. During excavation operations, all stockpiles of soil shall be seeded or otherwise treated to minimize the effects of erosion by wind or water upon public roads, streams or adjacent properties. After completion of excavation operations, waste materials shall be removed from the site or may be used in filling all open pits, quarries, etc. Piles of excess waste materials shall

be leveled and the excavated areas shall be graded, topsoil added, seeded and planted to prevent erosion.

- R. Subsoil and topsoil shall be respread over the excavation area to a minimum depth of one (1) foot [six (6) inches of topsoil and six (6) inches of subsoil]. This soil shall be treated with lime and fertilizer and seeded with a grass or legume mixture prescribed by the Town Planning Board. Trees or shrubs shall be planted in order to provide screening and natural beauty and to reduce erosion. The planted area shall be protected from erosion during the establishment period using generally accepted soil conservation practices. A plan describing the revegetation of reclaimed land, including the location, size and type of all materials to be planted and the type, location and rate of all seeding to be done, shall be included as part of the site plan submitted to the Town Planning Board.
- S. An adequate and comprehensive drainage system shall be provided to convey the stormwater runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total watershed area. During and upon completion of the excavation operation [within one (1) year after completion of the excavation operation] the land shall be left so that natural storm drainage leaves the property at the original drainage points. The rate of drainage to any point shall not be increased during the life of the mining operation or after reclamation.
- T. The reclamation method shall be such to allow for a future use permitted in the district in which the site is located. For sites to be reclaimed for residential purposes, a minimum depth of five (5) feet of undisturbed material above the water table shall be maintained during excavations.
- U. Within one (1) year after the termination of the excavation operation, all equipment, buildings and structures not consistent with the planned use of the reclaimed land and all unsightly evidence of the operation shall have been removed from the premises or disposed of by methods approved by the Town Planning Board or other authority having jurisdiction, and all restoration shall have been completed.
- V. Reclamation, where possible, shall provide for orderly, continuing reclamation concurrent with excavation operations, and all reclamation work shall be completed in accordance with a schedule accepted as a condition of the approved special use permit.
- W. The Town Planning Board shall require a cash bond or letter of credit to be posted, in an amount and form to be determined by such Board, ensuring conformance to approved excavation and reclamation plans and all applicable regulations.

SECTION 825 HOME BUSINESSES

- A. Intent: The Town of Fayette acknowledges the importance of home businesses as many Town residents earn their living, in whole or in part, by operating businesses based in or at their homes. The Town of Fayette also acknowledges that home businesses have the potential to adversely impact on residents residing in dwellings within the neighborhood from dust, noise, odors, vibrations and/or traffic attributable to the home business due to the type and/or size of such home business and/or its proximity to dwellings in the surrounding neighborhood. The intent of these regulations is to enable Town residents to continue to operate existing home businesses and start new home businesses while preserving the rural character of the Town and protecting the rights of neighboring Town residents to the peaceful enjoyment of their properties.

- B. An accessory use, other than a “Home Occupation” as defined herein, that is conducted within a single family, occupied dwelling and/or an attached or detached accessory structure to a single-family dwelling for gainful employment and involves the manufacture, provision or sale of goods and/or services principally on the premises. Agricultural-related business activities that are exempt from local land use regulations pursuant to New York State Agriculture and Markets Law shall be exempt from the provisions of this Section.

For purposes of this Local Law, Home Businesses shall be divided into two classes, Class A and Class B, with the distinction between the two classes being one of size and scale. No Home Business shall exceed such limitations as set forth below.

1. CLASS A HOME BUSINESS: A Home Business that employs no more than four (4) persons other than members of the family who reside on the premises and the aggregate amount of building space utilized for the Home Business does not exceed 1,500 sq. ft.
 2. CLASS B HOME BUSINESS: A Home Business that employees more than four (4), but less than eight (8) persons other than members of the family who reside on the premises and/or the aggregate amount of building space utilized for the Home Business exceeds 1,500 sq. ft, but does not exceed 3,500 sq. ft.
- C. The Town Planning Board may approve a Special Use Permit for a Class A or Class B home business in the Agricultural/Rural Residential District subject to the following standards and conditions:
1. Site Plan Review: Site plan review and approval shall be required in accord with Article XI of this Local Law.
 2. Type of Dwelling: Home Businesses shall be permitted in or on the premises containing a single-family dwellings only and may include accessory buildings.
 3. Shared Driveway: No Home Business shall be permitted where access is provided by a shared driveway.
 4. Number of Home Businesses: No more than one (1) Home Business shall be permitted in or on the premises containing a single-family dwelling.
 5. Owner Occupancy: The owner of the home business shall reside on the same lot as the home business.
 6. Maintenance of Residential Character: The appearance of the structure shall not be altered and the business within the residence shall not be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, constructions, lighting or the emission of noises, odors or vibrations.
 7. Parking: Adequate off-street parking shall be provided to accommodate the vehicles of employees, if any, and customers.

8. Additional Conditions: The Town Planning Board may impose additional conditions and/or restrictions as the Board deems appropriate and necessary to protect the health, safety and welfare of the community when issuing the special use permits depending on the size and type of businesses, its location, setting and proximity to neighboring residential properties, the volume of customer traffic, the volume of deliveries and shipments and the type and size of vehicles used for deliveries and/or shipments, and the potential adverse impact on neighboring properties. Matters on which the Town Planning Board may impose conditions or restrictions include, but are not limited to, the following:
 - a. Hours of operation
 - b. Visual screening and buffers
 - c. Lot line setback requirements
 - d. The outdoor display of products or goods for sale
 - e. The outdoor storage of materials, products, goods, and equipment used in conjunction with the Home Business
 - f. Lighting
9. Inspections: The Land Use Officer may periodically inspect the premises operating under the special use permit for compliance with these regulations and any restrictions or conditions established by the Town Planning Board.
10. Expansion of a Class A Home Business: No person shall enlarge or expand a Class A Home Business such that it falls within the definition of a Class B Home Business without first submitting an application for a special use permit for a Class B Home Business and receiving the advance approval of the Town Planning Board.

SECTION 826 VETERINARIAN OFFICE, VETERINARY CLINIC OR ANIMAL HOSPITAL

Veterinarian offices, veterinary clinics and animal hospitals are permitted uses in the Agricultural/Rural Residential District without a special use permit, but subject to the following conditions and standards.

- A. No structure to house animals within a kennel shall be closer than 10 feet to any side or rear property line.
- B. No outdoor area enclosed by fences for the use of animals shall be permitted within a front yard. All enclosed fence areas shall be set back not less than 50 feet from any side or rear property line.
- C. No excrement, manure or other odor- or dust-producing substance shall be stored or disposed of within 100 feet of any lot line.

- D. Cadavers, excrement and contaminated materials shall be disposed of in accordance with the applicable Town, County or State regulations.
- E. Adequate plantings and buffering shall be provided and maintained to minimize the impact of inherent nuisance such as noise and odor including visual screening so the animals harbored on the site cannot be seen from the adjoining properties.

SECTION 827 COMMERCIAL DOG KENNELS

The Town Planning Board may issue a special use permit for commercial dog kennels in the Agricultural/Rural Residential (AR) District subject to the following standards and conditions.

- A. Minimum lot size and width

Number of Dogs	Minimum Lot Size	Minimum Lot Width
4-10 dogs	3 acres	125 feet
11-20 dogs	6 acres	125 feet
21+ dogs	15 acres	125 feet

- B. Adequate landscaping or fencing shall be provided to create a complete visual buffer between outdoor runs and kennels to prevent the kenneled animals from seeing adjoining properties in order to reduce the potential for nuisance barking that would disturb the occupants of adjoining properties. Kennels must have a security fence at least six (6) feet in height around perimeter unless enclosed in a building
- C. No outdoor area enclosed by fences for the use of animals shall be permitted within a front yard. Fenced areas shall be setback not less than 50 feet from any side or rear property line.
- D. All animals shall be harbored in accord with the United States Department of Agriculture animal welfare guidelines.
- E. Adequate parking shall be provided in accordance with the size of the facility.
- F. Applicants must indicate on the special use permit application the methods that will be used for the disposal of animal waste and dead animals. Septic systems with 1,000 gallon tanks are recommended for the disposal of animal waste. The proposed method of disposal of waste and/ or dead animals shall be subject to review and approval by the Town Planning Board and the Seneca County Department of Health before any such method may be employed by any applicant.
- G. In issuing the special permit for animal kennels, the Town Planning Board may stipulate the maximum number animals to be boarded and/or trained.

SECTION 828 MARINAS AND YACHT CLUBS

The Town Planning Board may issue a special use permit for commercial or private marina and yacht clubs in the Lakeshore/Canal (L) District subject to the standards and conditions set forth in this Section.

- A. In general, all new marina projects and expansion of existing marinas shall, as appropriate, include sufficient on-site parking, park-like surroundings, toilet facilities and marine pump-out facilities.
- B. Site location and suitability. Before approving a marina, the Town Planning Board shall determine that the site is suitable for the intended use based on consideration of the following factors:
 - 1. Environmental sensitivity of the shoreline and adjacent areas.
 - a. The terrain conditions shall be such that the proposed use can be developed without extensive earthmoving or filling.
 - b. The aquatic conditions shall be such that the proposed use can be developed without extensive disruption of aquatic habitats.
 - 2. Compatibility with adjacent uses. The location of the proposed use and structures and the general character of the development proposed shall be compatible with their surroundings and such other requirements of this chapter as may apply.
 - 3. Access conditions.
 - a. Street access to the site shall be adequate for the intended level of use and shall not involve traffic of a type or intensity that would cause a detrimental effect on the character of the area and adjoining properties.
 - b. Water access to the site shall provide convenient passage for small boats.
- C. No amplified music or public address system shall be permitted outside of any buildings.
- D. New marina projects must incorporate best management practices in their design, in order to minimize stormwater runoff and to prevent polluted waters from reaching adjacent waters and wetlands. Acceptable methods include but are not limited to the following:
 - 1. Maximize pervious land surface and vegetative cover. Direct runoff away from adjacent waters and wetlands to the extent feasible by site grading or other methods.
 - 2. Treat runoff from parking lots, maintenance, fueling, and wash-down areas. Accepted treatment methods include oil and grease filtering catch basins, retention areas and exfiltration systems.
- E. The underwater portions of piers and docks, including piles, shall not be constructed using creosote-treated lumber.
- F. Outdoor lighting shall not project light onto nor shall light sources be visible from neighboring land properties. No marina light sources shall be more than twenty (20) feet above the ground or dock level beneath it. These provisions shall not exclude appropriate navigational aids deemed necessary by the Town. Lights shall be shielded so as light does not project into the lake more than is required for safe access and use of docks.
- G. Fuel storage facilities shall be adequately containerized so as to prevent spillage, leakage or damage from storms and shall be set back no less than 50 feet from the mean high-water line;

except that gasoline pumps may be located conveniently to service boats, provided that precautions are taken to prevent spillage in the lake waters. In no case shall fuel storage or service pumps be located less than 100 feet from adjacent lot lines, and the recommendations of the Fire Marshal serving the Town shall be considered.

- H. Accessory use may include the provision of fuel and supplies, minor and emergency repairs for recreational boats, boat rental, boat storage and sale and restaurant and related retail sales.
- I. The Planning Board shall require sufficient off-street parking spaces, under the ownership or control of the operator, to meet the expected need. A minimum of 1/2 space per boat slip shall be required, plus one (1) space for each employee and additional spaces as required for boat launches and other accessory uses.
- J. The number of boat slips and moorings shall be governed by the Town of Fayette Uniform Docking and Mooring Law.

SECTION 829 PUBLIC AND SEMI-PUBLIC BUILDINGS AND GROUNDS

The Town Planning Board may approve a special use permit for public and semi-public uses of an institutional, health, educational, recreational, religious or cultural nature as identified in Article V of this Local Law in the Agricultural / Rural Residential (AR), Hamlet (H) and Lakeshore/Canal (L) Districts subject to the following conditions and standards:

A. Requirements for All Public and Semi-Public Uses

1. The application shall include a statement setting forth the details of the operation of the use. All activities that may be included as part of the special permit use shall be identified and shall require specific approval by the Town Planning Board.
2. The Town Planning Board may establish the hours of operation for such special permitted use as part of the approval of the request.
3. The applicant shall provide evidence of approval, certificate of need, license or other similar document required to initiate or expand such a use from any and all appropriate regulating agencies.
4. Each special use shall have only a single point of access to each public street on which the use may have frontage. All off-street parking shall be designed to complement the internal circulation pattern and the point, or points, of access to the property.
5. If a bus is to be used as part of the operation of the special use, a designated parking area shall be provided for the storage of said vehicle. Such parking area shall be located behind the principal building and landscaped and buffered from any adjacent residential site. No unregistered vehicles shall be permitted to be stored on any property for which a special use permit has been approved. Should any special permitted use require more than one (1) bus to be used as part of the operations, the operator shall provide a separate designated parking area for each vehicle.
6. If the applicant proposes outdoor use of the property, the site plan should identify that portion of the site where such activities are to occur. Prior to the approval of any outdoor use of the property, the Planning Board shall consider how such outdoor use will impact on neighboring

areas. The Planning Board shall evaluate such concerns as noise, traffic congestion, traffic safety, off-street parking and neighborhood security as part of its process of deliberation.

7. Site lighting shall be provided as part of any special permitted use. Such lighting shall not illuminate adjacent residential sites. Site lighting shall be restricted to providing adequate security lighting for the property after the public use of the property has been concluded.
8. All public and semi-public uses shall maintain a landscaped buffer area of not less than 20 feet in depth around the perimeter of the property.
9. Water supply and sewage disposal plans shall be approved by the New York State Department of Health.
10. All such special uses shall be handicapped accessible and designed to meet the requirements of the Americans with Disabilities Act.
11. Minimum lot sizes shall be determined by the land use district in which the proposed use is located, and shall be sufficient to meet all required setbacks:
12. All uses shall provide for adequate water supply and sewage disposal.

B. Additional requirements for private schools

1. All outdoor recreation areas shall be maintained in the rear and/or side yard areas. Where such facilities are to be located adjacent to a residential site, dense landscaping shall be installed along the borders to mitigate the effects of noise on the adjacent residential sites.
2. If a play area or playground of a private school is within 150 feet of a roadway, fencing shall be installed to separate the play area from the roadway so as to prevent children from running into the roadway while playing outdoors and to prevent play equipment such as balls and flying disks from rolling or flying into the roadway.

C. Additional requirements for Membership/Social Clubs and Lodges

1. This special permitted use shall only serve or accommodate members and their guests.
2. Any retail sales of goods or the personal services provided in conjunction with this use shall only be for the benefit of members and their guests, or in conjunction with occasional fundraising activities and such use shall be incidental to the primary use or function of the facility.

SECTION 830 TELECOMMUNICATION FACILITY (a/k/a CELLULAR TOWERS)

The Town Planning Board may approve a special use permit for the use of land and buildings for a telecommunication facility in the Agricultural/ Rural Residential (AR) District subject to the standards and conditions set forth in this Section.

A. Purpose

The purpose of these supplemental regulations is to promote health, safety, and the general welfare of the residents of the Town of Fayette; to provide standards for safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of

existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment, and appropriate landscaping.

B. General Criteria

No special use permit or renewal thereof or modification of a current special use permit relating to a Telecommunications Facility shall be authorized by the Town Planning Board unless it finds that such Telecommunications Facility:

1. Is necessary to meet current or expected demands for service;
2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
3. Is designed and constructed in a manner which minimizes visual impact to the extent practical;
4. Complies with all other requirements of this Local Law, unless expressly superseded herein;
5. Is the most appropriate site among those available within the technically feasible area for the location of a Telecommunications Facility;
6. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one (1) other telecommunication service provider. Any subsequent location of telecommunication equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

C. Co-Location

The shared use of existing Telecommunications Facilities or other structures shall be preferred to the construction of new Facilities. Any special use permit applications, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing Telecommunication Facility or upon an existing structure. The application shall include an adequate inventory report specifying existing Telecommunication Facility sites and structures exceeding seventy-five percent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use an alternative to the proposed location.

The applicant must demonstrate that the proposed Telecommunication Facility cannot be accommodated on existing Telecommunications Facility sites in the inventory due to one (1) or more of the following reasons:

1. The planned equipment would exceed the structural capacity of existing and approved Telecommunication Facilities or other structures, considering existing and planned use for those facilities;

2. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
3. Existing or approved Telecommunications Facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
4. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
5. The property owner or owner of the existing Telecommunication Facility or other structure refuses to allow such co-location.

D. Dimensional Standards

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

E. Lighting and Marking

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

F. Appearance and Buffering

1. The use of any portion of a Telecommunications Facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
2. The facility shall have the least practical visual effect on the environment, as determined by the Town Planning Board. Any tower that is not subject to FAA marking, pursuant to Paragraphs E.1. and E.2. of this Subsection, shall otherwise:
 - a. have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Town Planning Board; or
 - b. be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the Facility to perform its designed function.
3. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
4. The Town Planning Board may require a State Environmental Quality Review (SEQR) Full EAF (Environmental Assessment Form) for proposed Facilities at key viewpoints in the community. A Visual Environmental Assessment Form (Visual EAF), may be required as an addendum to either the Full or Short EAF. The Town Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
5. The Town Planning Board shall require that the Facility have appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Town Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
6. Equipment or vehicles not used in direct support, renovations, additions or repair of any Telecommunications Facility shall not be stored or parked on the Facility site.

G. Access and Parking

1. Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for Telecommunications Facilities must be at least twenty (20) feet, but no more than thirty (30) feet wide, and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
2. The road surface (driveways) shall be centered within access ways and shall not comprise more than sixty (60%) of the width of the access way.

3. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
4. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

H. Security

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

I. Engineering and Maintenance

1. Site plans for all Telecommunications Facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
2. Every Facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the municipal Land Use Officer.
3. A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.
4. The municipality, at the expense of the applicant, may employ its own consulting assistance to review the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

J. Removal

1. At the time of submittal of the application of a special use permit for a Telecommunications Facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a Telecommunications Facility if such Facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said Facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
2. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the Telecommunications Facility and property restoration, with the municipality as the assignee, in an amount approved by the Town Planning Board, but not less than one hundred thousand (\$100,000) dollars.
3. At time of renewal or modification of the special use permit, the Town Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Telecommunications Facility and property restoration.

SECTION 831 ADULT ENTERTAINMENT USES

A. Intent

The Fayette Town Board has determined that adult entertainment businesses exhibit serious objectionable operational characteristics that often lead to significant adverse secondary impacts on the neighborhoods in which such businesses are located including, but not limited to, an increase in crime especially serious crimes such as rape, child molestation, assault, robbery, burglary, larceny; a depreciation in property values in general and in housing values in particular and a reduction in the marketability of residential properties, and the exposure of minors to graphic and explicit sexual images and unsavory persons. In making such determination, the Fayette Town Board relied on the following studies conducted to determine the adverse secondary impacts adult entertainment uses have on the neighborhoods in which they are located:

1. *Adult Entertainment Study* prepared by the New York City Department of City Planning
2. *Secondary Effects Analysis of Adult Oriented Businesses in the Town of Wilton* prepared by an Ad Hoc Committee to the Wilton, New York Town Board
3. *Study and Recommendations for Adult Entertainment Businesses in the Town of Islip* prepared by the Planning and Development Department of the Town of Islip, New York
4. *Adverse Secondary Impacts Associated with Adult Entertainment Uses: A Comparative Study of other Communities' Findings* prepared by RCMP on behalf of the City of Schenectady, New York.
5. *Adult Business Study* prepared by the Town and Village of Ellicottville, New York
6. *Secondary Effects Study of Adult Entertainment Uses* prepared by the Village Attorney and Village Planner for the Village of Scotia, New York.

Accordingly, special regulations of adult entertainment uses are necessary to protect the residential neighborhoods in the Town of Fayette from the adverse secondary impacts identified and documented in the foregoing studies and to protect the safety and general welfare of the residents of the Town of Fayette.

B. The Planning Board may issue a special use permit for adult entertainment uses in the Agricultural / Rural Residential (AR) District subject to the standards and conditions set forth in this Section.

1. No adult entertainment use shall be located within 2,000 foot radius of a public or private school, place of worship, library, public park or playground, public or

municipal building, cemetery, or public boating access points to the Seneca and Cayuga Lakes and the Cayuga and Seneca Canal.

2. No adult entertainment use shall be located within 1,500 foot radius of a residence.
3. No adult entertainment business shall be located along a Scenic Byway.
4. Not more than one (1) non-flashing sign, attached to the building in which the business is located or one (1) freestanding sign on the same property on which the business is located may be erected. Signs attached to the building may not exceed an area of 8 square feet if single sided or 16 square feet if two sided. Freestanding signs shall not exceed an area of 8 square feet if single sided or 16 square feet if two sided and shall not be placed closer than 15 feet from a public road right-of-way or any lot line.
5. No exterior signage or displays shall contain any photographic or artistic representation of a nude human body or bodies or parts thereof.
6. All adult entertainment uses shall be conducted in an enclosed building regardless of location or distance from public right-of-ways and adjoining properties.
7. All building openings, entrances, windows, doors shall be designed, located and/or screened in such a manner that members of the public cannot view the interior of the building from a public right-of-way or from adjoining properties.
8. No adult entertainment use shall be established in any building that is partially used for residential purposes and not residential uses may be established in any building or any part of which is used for adult entertainment.
9. No more than one Adult Entertainment Use shall be permitted on any lot.

SECTION 832 RURAL CLUSTER DEVELOPMENT

A. Intent

Rural Cluster Development is an alternative to conventional residential development. The purpose of the Rural Cluster Development regulations is to preserve farmland, natural resources, large areas of open land and the rural character of the Town while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:

1. To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
2. To maintain and protect the Town's rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive

natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, steep slopes, critical species habitat, and natural areas by setting them aside from development.

3. To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard district regulations in order to minimize the disturbance of rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
4. To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
5. To implement the objectives of the adopted Town Comprehensive Plan, or elements thereof.

B. The Town Planning Board is authorized to permit or require cluster development in the Agricultural/Rural Residential District and may issue a special permit for residential cluster development for detached, single-family residential dwelling units subject to the standards and conditions set forth in this Section.

C. Density and Dimensional Standards

1. The following density and dimensional standards shall apply to residential cluster development:

	Lots Served by Individual Septic Systems	Lots Served by Municip: Sewers
Minimum Tract Size	35 acres	25 acres
Maximum Density	1 dwelling unit per 2.5 net buildable acres	1 dwelling unit per 2.5 net buildable acres
Minimum Lot Size	1 acre	3/4 acre
Minimum Lot Width:		
Measured at Building Setback L	125 feet	90 feet
Measured at Front Lot Line	50 feet	50 feet
Minimum Front Lot Line Setback	50 feet	40 feet
Minimum Rear Lot Line Setback	50 feet	40 feet
Minimum Side Lot Line Setback	20 feet one side; 50 feet total	15 feet one side; 35 feet total
Accessory Building Setback (a)		
From Side Lot Line Setback	10 feet	10 feet
From Rear Lot Line Setback	10 feet	10 feet
Minimum Common Open space		

(percentage of gross acres)	50%	50%
Maximum Height		
Principal Structure	35 feet	35 feet
Accessory structure	18 feet	18 feet
Maximum Building coverage Per Lot	15 %	20%

(a) *Accessory buildings shall not be permitted in the front yard.*

2. Separation distances for cluster groups.

- a. The outer boundaries of all cluster groups shall conform to the following separation distances:
 - (1) From existing or proposed arterial street rights-of-way: 100 feet.
 - (2) From existing scenic highways or rustic roads: 100 feet.
 - (3) From all perimeter subdivision boundaries: 100 feet.
 - (4) From cropland or pasture land: 100 feet.
 - (5) From buildings or barnyards housing livestock: 300 feet.
 - (6) From other cluster groups: 100 feet.
 - (7) From wetlands, floodplains, or water courses: 50 feet.
 - (8) From active recreation areas, such as courts or playing fields: 100 feet.
- b. All separation areas for cluster groups along existing streets shall be landscaped in accordance with Subsection G of this Section in order to block views of new residential development, preserve scenic views, and protect rural landscape character.
- c. The dimensional standards specified in Subsection C.1 of this Section may be reduced under the following circumstances:
 - (1) The separation distances from existing arterial streets and the perimeter of the subdivision may be reduced to no less than 50 feet if the applicant can demonstrate to the satisfaction of the Town Planning Board that existing vegetation or topography or a combination of these form an effective visual screen.
 - (2) All other separation distances may be reduced by 50 percent if the applicant can demonstrate to the satisfaction of the Town Planning Board that such reduced setbacks improve the compliance of the proposed cluster development with the design standards set forth in

Subsection E of this Section, the intent of this Local Law, and the objectives of the Town's Comprehensive Plan.

D. Calculation of Site Capacity

1. For cluster development, the calculation of site capacity, or the number of dwelling units permitted on a tract, shall be based on net buildable acreage. The applicant shall determine the net buildable acreage (NBA) using the following method, substantiated by sufficient plans and data to verify the calculations:

Gross Acreage of Site:

_____ acres

From the gross acreage of the site, subtract a. through h. below:

- a. All lands located within existing street rights-of-way:
_____ acres
- b. All lands located within existing utility and railway rights-of-way:
_____ acres
- c. All lands located within a floodplain:
_____ acres
- d. All lands located within a wetland:
_____ acres
- e. All of the area located within a pond or lake:
_____ acres
- f. Fifty percent of lands having a slope between 15 and 20 percent:
_____ acres
- g. All of the land area having a slope of 20 percent or greater:
_____ acres
- h. Twenty-five percent of the area located within a woodland:
_____ acres

The result is the net buildable acreage (NBA):

_____ acres

2. In the calculation in Subsection D.1 above, the following shall apply:
 - a. Where two or more categories overlap, the overlapping acreage shall be counted only once, using the most restrictive classification.

- b. To determine the number of units permitted on a given site, the net buildable acreage shall be divided by 2.5, rounding to the nearest whole number.

[_____ acres NBA ÷ 2.5 = _____ dwelling units permitted.]

E. Design Standards for Cluster Groups. The following standards shall apply to all cluster groups:

1. All dwelling units shall be grouped into cluster groups, each of which shall be surrounded by open space.
2. A subdivision plat may contain one or more cluster groups.
3. Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and cluster group open space.
4. The outer boundaries of each cluster group shall meet the separation distance requirements specified in Subsection C.2 of this Section.
5. Cluster groups shall be defined and separated by open space in order to provide privacy to individual lot or yard areas.
6. All lots in a cluster group shall take access from interior streets.
7. All lots in a cluster group shall abut open space to the front or rear. Open space across a street shall qualify for this requirement.
8. In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 40 percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, private well, and private onsite sewage treatment system.

F. Design Standards for Common Open Space

On all tracts of land developed under the cluster development regulations, 50 percent of the gross land area shall be set aside as common open space for the residents residing in such cluster development. This common open space shall meet the following standards:

1. For the purposes of this Subsection, gross land area includes all lands within the tract being developed except existing street, railway, and utility rights-of-way.
2. Common open space shall comply with the following design standards:
 - a. All open space areas shall be part of a larger continuous and integrated open space system within the tract being developed. For the purposes of this Subsection, areas shall be considered contiguous if they are adjacent to each other and there are no impediments to access between the areas.
 - b. Common open space shall, to the greatest extent possible, protect site features having particular value in the context of preserving the agricultural and rural character of the Town, in compliance with the intent of this Local Law.
 - c. Natural features of the common open space shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes. Permitted modifications may include:
 - (1) Woodland management.
 - (2) Reforestation.
 - (3) Meadow management.
 - (4) Wetlands management.
 - (5) Stream bank protection.
 - (6) Buffer area landscaping.
 - d. The common open space shall maximize common boundaries with existing or future open space on adjacent lands.
 - e. To preserve scenic views, ridge tops and hilltops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
 - f. A minimum of 80 percent of the area of existing woodlands shall be contained within the open space. Up to 20 percent of the area of existing woodlands may be located within individual lots or used for residential development. This limitation may be exceeded under the following conditions:

- (1) The site is primarily wooded and development at the permitted density would not be possible without encroaching further into the woodlands.
 - (2) Any encroachment on woodlands beyond 20 percent shall be the minimum needed to achieve the maximum permitted density.
- g. Generally, no area of common open space shall be less than 30 feet in its smallest dimension or less than 10,000 square feet in area.
 - h. The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features should be added to distinguish where the common open space ends and private lot areas begin. Where structural demarcations, such as fences, are used, they shall be the minimum needed to accomplish this objective.
 - i. Trails in common open space that are located within 50 feet of homes in cluster groups shall be identified by plantings, fences, or other landscape.
 - j. Generally, common open space should not be isolated in one area of the development. Open space should be distributed appropriately throughout the development to properly serve and enhance all cluster dwelling units.
 - k. Open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets.
3. Safe and convenient pedestrian access and access for maintenance purposes shall be provided to any common open space preserved for common use:
- a. At least one access point per cluster group shall be provided for common open space preserved for common use, having a width equal to or greater than the minimum width of a lot within the cluster group. This width may be reduced to no less than 50 feet if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this Section.
 - b. Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.
4. The following areas shall not be included in the calculation of common open space areas:
- a. Private lot areas.
 - b. Street and highway rights-of-way, public or private.

- c. Railway and utility rights-of-way.

G. Landscaping

1. Preservation of Existing Natural Landscape.

- a. For the purpose of conserving the natural landscape and in recognition of the value of existing vegetation, the preservation of existing vegetation shall generally be preferred to the installation of new plant material.
- b. Existing woodlands and hedgerows shall be retained to maximum extent possible. Where possible, existing woodlands and hedgerows shall be incorporated into the required separation areas between cluster groups and external streets and site boundaries.
- c. Suitable existing vegetation shall be credited toward the landscaping requirements of this Subsection, when, in the opinion of the Town Planning Board, it would equal or exceed the visual impact of the new required plant material after two years of growth.

2. Street Trees

- a. Street trees shall be planted along internal streets within cluster groups.
- b. Street trees may be planted, but are not required, along internal streets passing through common open space.
- c. Informal arrangements are encouraged for street trees, to avoid the urban appearance that regular spacing may invoke.
- d. Street trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the street.

3. Buffers

- a. A planted buffer comprised of trees and/or tall shrubbery at least 25 feet in width shall be established within all required separation areas between external streets and cluster groups.
- b. Planted buffers within separation areas between cluster groups are encouraged to enhance privacy and a rural appearance between lots.
- c. Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape.

H. Ownership of Common Open Space and Facilities

To ensure adequate planning for ownership, operation, and maintenance of common open space and private streets (hereinafter referred to as common facilities), the following regulations shall apply:

1. Ownership.

The following methods may be used, either alone or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this Subsection, and then only when there is no change in the common facilities. Ownership methods shall conform to one or more of the following:

a. Homeowners Association.

Common facilities may be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein:

- (1) The applicant shall provide to the Town a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. Such documents shall be approved as to form by the Town Attorney.
- (2) The organization shall be established by the developer or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.
- (3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
- (4) The organization shall be responsible for maintenance and insurance of common facilities.
- (5) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.
- (6) The organization shall have or hire adequate staff to administer, maintain, and operate common facilities.
- (7) Written notice of any proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities must be given to all members of the organization and to the Town Planning Board at least 30 days prior to such event.

b. Condominium Agreements.

Common facilities may be controlled through the use of condominium agreements. Such agreements shall be approved as to form by the Town Attorney and shall comply with New York State Law. All common open space and other common facilities shall be held as “common elements” by the cluster dwelling unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of dwelling unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.

c. Fee simple dedication to a public agency.

The Town or other public agency acceptable to the Town Planning Board may, but shall not be required to, accept any portion of the common facilities, provided that:

- (1) There shall be no cost of acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
- (2) Any facilities so dedicated shall be accessible to the residents of the Town, if the Town so chooses.
- (3) The Town or other public agency shall maintain such facilities.

d. Dedication of conservation easements to a public agency.

The Town or other public agency acceptable to the Town Planning Board may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:

- (1) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
- (2) A satisfactory maintenance agreement shall be reached between the owner and the Town Planning Board.
- (3) Lands under a Town easement may or may not be accessible to residents of the Town.

e. Fee simple dedication to a not-for-profit conservation organization. With the approval of the Town Planning Board, an owner may dedicate any portion of the common facilities to a nonprofit conservation organization, provided that:

- (1) The organization is acceptable to the Town.
 - (2) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
 - (3) A maintenance agreement acceptable to the Town Planning Board is established between the owner and the organization.
- f. Dedication of conservation easements to a not-for-profit conservation organization. With the approval of the Town Planning Board, an owner may dedicate conservation easements on any portion of the common facilities to a not-for-profit conservation organization, provided that:
- (1) The organization is acceptable to Town Planning Board.
 - (2) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
 - (3) A maintenance agreement acceptable to the Town Planning Board is established between the owner and the organization.
- g. Ownership retained by the original landowner. Ownership of common open space and facilities may be retained by the original landowner provided that:
- (1) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
 - (2) The landowner develops a maintenance plan acceptable to the Town Planning Board.
- h. Other methods acceptable to the Town Planning Board upon recommendation by the Town Attorney.

I. Sewerage and Water Supply Facilities

1. Sewerage Facilities.

- a. Sewerage facilities for cluster development may consist of any system meeting the requirements of the New York State Department of Health, the Seneca County Department of Health, and the New York State Department of Environmental Conservation.

- b. If approved by the Town Planning Board, municipal sewerage facilities or portions thereof may be located within common open space areas.

2. Water Supply Facilities.

- a. Water supply facilities may consist of any of following systems, provided they meet the requirements of the Seneca County Department of Health, New York State Department of Health and the New York State Department of Environmental Conservation:

- (1) Private, individual wells.
- (2) Public water supply system.

- b. If approved by the Town Planning Board, municipal water facilities or portions thereof may be located within common open space areas.

SECTION 833 WINDMILLS, WINDPUMPS AND WIND TURBINES

The Town Planning Board may approve a special use permit for non-commercial windmills, wind-powered pumps and electric-generating wind turbines as an accessory use on non-agricultural residential properties in the Agricultural/Rural Residential (AR) District and on all agricultural and non-agricultural properties in the Lakeshore/Canal (L) District subject to the standards and conditions set forth in this Section. Windmills, wind-powered pumps and electric-generating wind turbines shall be permitted as an accessory use in the Agricultural-Residential Districts on land used for commercial farming purposes without a special use permit subject to the standards and conditions set forth in this Section.

- A. The minimum parcel size shall be three (3) acres
- B. No more than one (1) wind-powered device shall be permitted on any single parcel of land. Agricultural uses that generate electricity to supply the farm are exempt from this restriction provided that the amount of electricity produced does not exceed 110 percent of the anticipated or actual energy use by the farm based on current and anticipated needs of the farm operation.
- C. No such wind device, including blades shall extend more than 100 feet above the average ground level measured at the base of the tower.
- D. The minimum distance between the ground and the lowest point of the arc of the blades shall not be less than ten (10) feet.
- E. No wind device shall be erected in any location where its overall height, including blades, is greater than the distance from its base to any property line.
- F. No wind device shall be erected in a location that is in close proximity to overhead electric, telephone and/or cable television wires such that the operation of the wind-powered device will interfere or damage such overhead wires and cables or that in the event the tower

holding such wind device were to fall the tower or wind device would strike such overhead wires and cables.

- G. Wind-powered devices shall be located in the rear or side yard only, but preferably in the rear yard. Applicants seeking a side yard siting shall demonstrate that such a location is essential for the efficient operation of the device.
- H. Access to the tower shall be limited either by means of a fence six (6) feet in height around the tower base with a locking gate or limiting tower-climbing apparatus to no lower than 12 feet from the ground.
- I. No wind-powered device shall be installed in any location along the major axis of an existing microwave communications link where the operation of the wind device is likely to produce an unacceptable level of electromagnetic interference.
- J. Any site proposed for a wind-powered device shall have sufficient access to unimpeded air flow for adequate operation. The *Siting Handbook for Small Wind Energy Conversion Systems*, PNL-2521, or other nationally recognized reference should be used as a guide.
- K. No windmill shall be installed in a location where the impact on the neighborhood character is determined by the Town Planning Board to be detrimental.
- L. Guy wires and anchors for towers shall not be located closer to any lot line than the setback required for accessory structures.
- M. All wind-powered devices shall be designed with an automatic brake to prevent excessive speed and/or excessive pressure on the tower structure.

SECTION 834 RENTAL STORAGE BUILDINGS AND SELF-SERVICE STORAGE FACILITIES

The Town Planning Board may issue a special use permit for rental storage buildings and self-service storage buildings not used for agricultural purposes the Agricultural/Rural Residential (AR) District subject to the following standards and conditions:

- A. Storage and/or use for the following are prohibited:
 - 1. the storage of inflammable liquids, radioactive, hazardous chemicals, or illegal substances.
 - 2. the repair, servicing, or painting of automotive equipment, boats, trailers, lawnmowers, household appliances or similar equipment or appliances.
 - 3. for auctions, garage sales or tag sales or any other commercial or private sales of goods.
 - 4. for harboring of pets or any type of animals.
 - 5. for residential dwelling
- B. All storage shall be in enclosed buildings; outside storage is prohibited.

- C. If the site is fenced, the driveway gate shall be set back a minimum from the public road or highway adjoining the parcel. Aisle width between buildings and between buildings and fences shall be a minimum of 12 feet for one-way traffic flow or 24 feet for two-way traffic flow.
- D. Accessory uses: A leasing office for the purpose of leasing storage units for the facility may be provided on site.
- E. The hours the facility is open to lessees and the telephone number to call for information or to report an incident shall be posted on the entrance gate.

SECTION 835 PHYSICIAN AND DENTIST OFFICES

The Town Planning Board may issue a special use permit for physician and dentist' offices in the Agricultural/Rural Residential (AR) District subject to the standards and conditions set forth in this Section. Physician and dentist offices are permitted in the Hamlet District, but without a special use permit subject to the standards and conditions set forth in this Section.

- A. Physician and dentist offices may be operated out of a building operated for commercial purposes or in a residential dwelling that has been converted for such use.
- B. On-site, off-street parking for employees and patients shall be required. All off-street parking lots shall be located in the rear yard of the premises if possible. Off-street parking may be provided in the side yard if the amount of space in the rear yard is insufficient or cannot be made accessible. Front yard parking is to be avoided.

One parking space shall be provided per each physician or dentist and one parking space per each person employed by the medical or dental practice and working at the location. If medical or dental service is provided by appointment only, at least three patient parking spaces per physician or dentist shall be provided as well. If medical service is not provided by appointment, at least five parking spaces per physician or dentist shall be provided. The building in which the medical practice is located contains residential dwellings, at least two parking spaces shall be provided for each residential dwelling.

SECTION 836 CHURCHES AND PLACES OF WORSHIP

The Town Planning Board may issue a Special Use Permit for churches and places of worship in the Agricultural/Rural Residential (AR) and Hamlet (H) Districts subject to the conditions with a special use permit subject to the standards and conditions set forth in this Section.

- A. Access driveways shall be located no closer than 20 feet to side lot lines.
- B. Off-street parking shall be provided in accord with this Local Law. Said parking shall be located in the side and/or rear yard areas. Each off-street parking area shall be adequately illuminated, landscaped and screened from any adjoining residential site so as to prevent the illumination of adjoining residential properties by motor vehicle headlights utilizing the

parking lot. All off-street parking shall be designed to complement the internal circulation pattern and the point or points of access to the property.

- C. If a bus is to be used as part of the conditional use, a designated parking area shall be provided for the storage of said vehicle. Such parking area shall be located behind the principal building.
- D. Site lighting shall be provided and so as to not illuminate adjoining residential sites. Site lighting shall be restricted to providing adequate security lighting for the property after the public use of the property has been concluded for the day.
- E. All special permitted uses shall provide acceptable facilities for the storage of trash. In no instance shall any trash be stored outside of enclosed containers. All outdoor storage areas shall be screened from the view of adjoining properties with a fence or shrubs.
- F. One unanimated, non-illuminated flat or window sign and one unanimated, free-standing sign, each not to exceed four (4) square feet per side, shall be permitted. Illuminated signs may be permitted subject to the review and approval of the Town Planning Board.

SECTION 837 LIBRARIES AND MUSEUMS

Non-commercial libraries and museums are permitted in the Agricultural/Rural Residential (AR) and Hamlet Commercial Districts without a special use permit and in the Hamlet Residential District with a special use permit subject to the standards and conditions set forth in this Section.

- A. Off-street parking shall be provided in accord with this Local Law. Said parking shall be located in the side and/or rear yard areas. Each off-street parking area shall be illuminated, landscaped and screened from any adjoining residential site so as to prevent the illumination of adjoining residential properties by motor vehicle headlights utilizing the parking lot. All off-street parking shall be designed to complement the internal circulation pattern and the point, or points of access to the property
- B. Access driveways shall be located no closer than 20 feet to side lot lines.
- C. Site lighting shall be provided as part of any special use permit. Such lighting shall not illuminate adjoining residential sites. Site lighting shall be restricted to providing adequate security lighting for the property after the public use of the property has been concluded for the day.
- D. All special uses permitted shall provide acceptable facilities for the storage of trash. In no instance shall any trash be stored outside of enclosed containers. All outdoor storage areas shall be screened from the view of adjoining properties with a fence or shrubs.
- E. One unanimated, non-illuminated flat or window sign and one unanimated, free-standing sign, each not to exceed four (4) square feet per side, shall be permitted. Illuminated signs may be permitted subject to the review and approval of the Town Planning Board.

SECTION 838 PRIVATE SCHOOLS AND PRESCHOOLS

Private schools and pre-schools are permitted in the Agricultural/Rural Residential (AR) District without a special use permit, but subject to the standards and conditions set forth in this Section.

- A. Off-Street parking shall be provided in accordance with this Local Law. Said parking shall be located in the rear and/or side yard areas of the site. Each off-street parking area shall be illuminated, landscaped and buffered from any adjacent residential site so as to prevent the illumination of adjoining residential properties by motor vehicle headlights utilizing the parking lot.
- B. All outdoor recreation areas shall be located in the rear and/or side yard areas. Where such facilities are to be located adjacent to a residential site, hedges or similar type of landscaping shall be installed along the borders to mitigate the effects of noise on the adjacent residential sites. Where such areas abut roadways, suitable fencing shall be installed to prevent children from straying into the roadway.

SECTION 839 CIVIC AND SOCIAL CLUBS AND LODGES

The Town Planning Board may issue a special use permit for civic and social clubs and lodges in the Hamlet Residential (HR) District subject to the standards and conditions set forth in this Section. Civic and social clubs and lodges are permitted in the Hamlet Commercial (HC) and General Commercial (GC) Districts without a special use permit subject to the standards and conditions set forth in this Section.

- A. Civic and social clubs and lodges shall serve or accommodate only members and their guests.
- B. Any retail sales of goods or the personal services provided in conjunction with this use shall only be for the benefit of members and their guests, or in conjunction with occasional fundraising activities and such use shall be incidental to the primary use or function of the facility.
- C. Landscaping areas or screening adequate to protect adjacent properties and land uses shall be provided on all side and rear lot lines.
- D. Off-street parking shall be located in the side and/or rear yard areas. Each off-street parking area shall be illuminated, landscaped and screened from any adjoining residential site so as to prevent the illumination of adjoining residential properties by motor vehicle headlights utilizing the parking lot. All off-street parking shall be designed to complement the internal circulation pattern and the point, or points of access to the property.
- E. Access to the site shall be from major or secondary roads.

SECTION 840 RESTAURANTS, SNACK SHOPS, COFFEE SHOPS AND TAVERNS

The Town Planning Board may issue a special use permit for a restaurant, snack shop, coffee shop, tavern or similar type of eatery in the Agricultural/Rural Residential and Lakeshore/Canal Districts subject to the standards and conditions set forth in this Section.

- A. Landscaping buffers and/berming shall be provided around the perimeter of the parking lot and/or along any lot line abutting a residential use to visually screen the adjoining properties from the headlights of motor vehicles using the parking lot.
- B. No more than two (2) driveways into the site shall be permitted. Entrance and exist driveways shall have an unrestricted width of not less than 25 feet and not more than 30 feet and shall not be located closer than 15 feet to any property line apart from the property line adjoining the highway. Driveways shall be separated from each other by a landscaped buffer that provides sufficient barriers to prevent motor vehicles from access the site anywhere but via the driveways..
- C. Landscaping buffers and/berming shall be provided around the perimeter of the parking lot and/or along any lot line abutting a residential use to visually screen the adjoining properties from the headlights of motor vehicles using the parking lot.
- D. The entire areas of the site traveled by motor vehicle shall have a hard surface and shall be maintained in a dust-free condition.

SECTION 841 ASSEMBLY HALLS

The Town Planning Board may issue a special use permit for an assembly hall in the Agricultural/Rural Residential District subject to the standards and conditions set forth in this Section.

- A. Landscaping buffers and/berming shall be provided around the perimeter of the parking lot and/or along any lot line abutting a residential use to visually screen the adjoining properties from the headlights of motor vehicles using the parking lot.
- B. No parking lot shall be closer than 50 feet to the lot line of any adjoining residential property.
- C. Off-street parking shall be located in the side and/or rear yard areas. Each off-street parking area shall be illuminated, landscaped and visually screened from any adjoining residential site so as to prevent the illumination of adjoining residential properties by motor vehicles utilizing the parking lot. All off-street parking shall be designated to compliment the internal circulation pattern and the point or points of access to the property.
- D. No more than two (2) access driveways into the site shall be permitted

SECTION 842 HARDWARE STORES AND BUILDING SUPPLY STORES

The Town Planning Board may issue a special use permit for hardware stores and building supply stores with or without outdoor storage in the Agricultural/Rural Residential District subject to the standards and conditions set forth in this Section.

- A. Outdoor storage yards, if any, shall be located in the side and rear yards only. Outdoor storage is permitted in front yard immediately adjacent to the building and the area not exceeding a distance of 15 feet from the building wall. Outdoor storage areas shall be located no closer than 30 feet from any residential property line.
- B. No more than two (2) driveways into the site shall be permitted and access shall be from a State or County highway only. Entrance and exist driveways shall have an unrestricted width of not less than 25 feet and not more than 30 feet and shall not be located closer than 15 feet to any property line apart from the property line adjoining the highway. Driveways shall be separated from each other by a landscaped buffer that provides sufficient barriers to prevent motor vehicles from access the site anywhere but via the driveways.
- C. Landscaping buffers and/or landscaped berms shall be provided around the perimeter of the parking lot and/or along any lot line abutting a residential use to visually screen the adjoining properties from the headlights of motor vehicles using the parking lot. Landscaping buffers and/or landscaped berms shall be provided along any property line adjoining a residential property to visually screen outdoor storage areas from such residential properties.
- D. No outdoor public address system shall be permitted, except where such system will not be audible at any property line.

SECTION 843 SPECIALTY MERCHANDISE SHOPS

- A. Intent: The intent of this Section is to permit small-scale, specialty merchandise shops in the Lakeshore/Canal District that will complement and support water-based recreational activities and leisure pursuits as well as enhance the tourist appeal of the Lakeshore/Canal District. Such specialty shops may include, fishing tackle shops, boat supply shops, gift shops, wine shops and cheese shops, antique shops, art and crafts shops, and gift shops.
- B. The Town Planning Board may issue a special use permit for specialty merchandise shops in the Lakeshore/Canal District subject to the standards and conditions set forth in this Section.
- C. Specialty shops shall be small-scale operating in individual buildings with a gross floor area not exceeding 3,500 sq. ft.
- D. Landscaping buffers and/or landscaped berms shall be provided around the perimeter of the parking lot and/or along any lot line abutting a residential use to visually screen the adjoining properties from the headlights of motor vehicles using the parking lot. Landscaping buffers and/or landscaped berms shall be provided along any property line adjoining a residential property to visually screen outdoor storage areas from such residential properties.

- E. Outdoor storage shall be prohibited. All merchandise, products and goods shall be stored indoors.

SECTION 844 LIGHT MANUFACTURING AND CUSTOM SHOPS

- A. Intent: The intent of this Section is to permit the types of businesses that are compatible with and complementary with agricultural land uses to be established and to operate in the Town of Fayette.
- B. The Town Planning Board may issue a special use permit for the following types of light manufacturing and custom shops in the Agricultural / Rural Residential District.
 - 1. welding and fabrication shops
 - 2. machine shops
 - 3. tool and die manufacturing shops
 - 4. electrical shops
 - 5. heating and plumbing shops
 - 6. woodworking shops
- C. The Town encourages the appropriate screening of materials stored outdoors.
- D. The site shall have the appropriate frontage for the land use district in which it is located.
- E. Landscaping buffers and/or landscaped berms shall be provided along any lot line abutting a residential use to visually screen the shop from adjoining residential uses.

SECTION 850 GOLF COURSES (EXCLUDING MINIATURE GOLF COURSES, BUT INCLUDING DRIVING RANGES)

The Town Planning Board may issue a special use permit for a golf course in the Agricultural/Rural Residential (AR) and Lakeshore/Canal (L) District subject to the conditions and standards set forth in this Section.

- A. No building, structure, parking lot or unenclosed recreational facility shall be located within 50 feet of any side or rear property line, unless the Town Planning Board determines that a smaller buffer is acceptable.
- B. No public address system is permitted, except where such system will not be audible at any property line.
- C. Outdoor lighting shall not project light onto, nor shall light sources be visible from, neighboring properties or public or private roads, streets, or vehicular right-of-ways.
- D. Access to the facility shall be from a State or County highway or Town road, but not from a residential subdivision street. Location and design of entrance drives shall be such as to minimize traffic hazard and nuisance factors.

- E. All required parking spaces shall be provided on the site in appropriate areas sufficient in size to meet demand during special events and other peak loading periods.
- F. Retail sales that are clearly accessory and subordinate to the principal use are permissible.
- G. Access drives shall be adequate to accommodate vehicles queued for admission without traffic backup into the road right-of-way.
- H. Sanitary facilities, sewage disposal and water supply shall be adequate and in compliance with applicable State and local regulations.
- I. A golf course shall have at least 9 holes and shall not be constructed on a site having less than 50 acres, with another 50 acres for each additional 9 holes or fraction thereof.
- J. A practice driving range shall be permitted as an accessory use to a golf course, provided that there shall be no more than one (1) driving tee for each acre in the total tract and no artificial lighting shall be allowed. Driving ranges shall also constitute a principal use and be subject to special use permit approval as a golf course provided that there shall be no more than one (1) driving tee for each acre of land.
- K. There shall be no more than one (1) accessory clubhouse or other building designed to provide for lockers, enclosed eating facilities without takeout privileges and shop for the sale of golf equipment.
- L. Additional accessory buildings may be permitted subject to the approval of the Town Planning Board, including buildings for the storage and maintenance of equipment and machinery used in connection with a golf course.
- M. Drought-tolerant grasses shall be required on all golf courses in order to minimize irrigation and the need for fertilizers.
- N. All buildings, parking areas, greens, tees and similar sources of noise shall be designed to assure the quiet enjoyment of adjacent properties and shall be set back not less than 100 feet from an adjacent property line.
- O. Not more than five percent (5%) of the site shall be covered by buildings.
- P. The golf course and any accessory driving range shall be designed to minimize stray golf balls crossing onto private properties or public rights-of-way. A dense vegetated buffer area of not less than 20 feet in depth shall be provided along the boundaries of the golf course property. Tee areas and greens shall be located no closer than 100 ft. to any property line.
- Q. Any seasonal use of the golf course for such activities as cross-country skiing or snow mobile trails shall be subject to Planning Board approval. The operator shall submit a proposed site plan to the Planning Board delineating the locations proposed for such activities.
- R. Fertilizers and chemicals shall be applied in such a manner so as not to affect the quality of groundwater or streams.

SECTION 852 OUTDOOR APPLIANCES

Due the typically short chimneys or lack of chimneys on Outdoor Appliances and the tendency of such appliances to emit substantial amounts of smoke and particulate matter into the atmosphere

which often adversely affects the occupants of adjoining and neighboring lots, the Town Board has determined that it is appropriate to require a special use permit for such uses to provide Town officials with an opportunity to carefully consider and review each such application on a case-by-case basis. The Town Planning Board may issue a special use permit for an Outdoor Appliance in the Agricultural/Rural Residential (AR) District subject to the conditions and standards set forth in this Section except that a special use permit shall not be required for Outdoor Appliances used in conjunction with farm operations that are within a Seneca County Agricultural District

- A. The location of the proposed Outdoor Appliance in relation to the direction of the prevailing winds and residential and/or commercial uses on adjoining and neighboring lots shall be such that the potential for smoke and particulate matter discharged into the atmosphere will not drift or move in such a manner or direction that it would expose the occupants of adjoining and neighboring parcels to the smoke and particulates such that the smoke and particulates may be inhaled.
- B. An Outdoor Appliance shall generally be located on the subject property where it will be at the maximum distance from and downwind of neighboring structures.
- C. Site plan review and approval shall be required for all proposed Outdoor Appliances.

SECTION 853 **MOTORIZED RACE TRACKS**

A. Intent

The purpose of this Section is to project the public health and safety and well being by obviating public nuisances attending to the use of private property by the property owner and/or the property owner's family members and/or guests as formal or informal race tracks for the operation of motorized vehicles.

B. Definitions

The following definitions uses in this Section shall have the following meaning:

1. Race Track: Any ground, area or track upon which motorized vehicles, as defined in this Section, are used for formal or informal racing contests or demonstrations of skills and stunts.
2. Motorized Vehicle: Any vehicle, propelled by an internal combustion engine including, but not limited to go-carts, automobiles, midget automobiles, motor scooters, motorcycles, trucks, all-terrain vehicles or any similar type of vehicle.

C. Prohibition of Race Tracks

The formal or informal use of any property within the Town of Fayette as a rack track shall be prohibited. The recreational use of motorized vehicles by property owners and guests shall not be prohibited provided such motorized vehicles are equipped with fully functional mufflers.

ARTICLE IX: ADMINISTRATION AND ENFORCEMENT

SECTION 900 ENFORCEMENT

The duty of administering and enforcing the provisions of this Local Law is hereby conferred upon the Land Use Officer who shall be appointed by the Town Board and shall carry out any directives of such Board relative to the duties of the position set forth below. The Land Use Officer shall receive such compensation as the Town Board shall determine.

SECTION 901 DUTIES AND PROCEDURES OF THE LAND USE OFFICER

A. Administration of the Land Use Local Law

1. The Land Use Officer shall review all applications for land use permits and, if the minimum requirements of this Local Law are met, the Land Use Officer shall issue a land use permit. If the applicant's plans do not meet the requirements of this Local Law, the Land Use Officer shall deny the permit. The Land Use Officer may not use discretionary judgment and is required to enforce the "Letter of the Law."
2. When a special use permit is required, the Land Use Officer shall not issue a land use permit unless and until the Town Planning Board approves the special use permit and provides the Land Use Officer with a written directive to issue such land use permit. Any special conditions imposed by the Town Planning Board on the special use permit approved shall be enumerated on the land use permit.
3. When a variance is required, the Land Use Officer shall not issue a land use permit unless and until the Board of Appeals approves the variance or variances and provides the Land Use Officer with a written directive to issue such land use permit. Any specific conditions imposed by the Board of Appeals on the variance(s) granted shall be enumerated on the land use permit.
4. The Land Use Officer shall create and maintain a current list of non-conforming uses and a map depicting the locations of such non-conforming uses in order to monitor such properties to determine if discontinuance, destruction, changes in use or vacancy has occurred.
5. The Land Use Officer shall establish and maintain a current list of variances approved and special use permits issued and a map depicting the locations of the properties for which such variances were approved and such special use permits were issued to determine continued compliance with the conditions and safeguards placed on said variances and special use permits.

B. Referral of Appeals to the Board of Appeals

In the event that a applicant for a land use permit files an appeal from an order, requirement, decision, interpretation or determination issued by the Land Use Officer, or an appeal for a variance from the provisions of this Local Law, the Land Use Officer shall notify the Chairperson of the Board of Appeals and shall forward the appeal and all necessary supporting information and documentation to the Chairperson.

C. Referral to Town Planning Board

Any application for a special use permit or a land use permit for a land use and/or structure that requires site plan review shall be forwarded by the Land Use Officer to the Chairperson of the Town Planning Board along with all necessary supporting information and documentation.

D. Citing Land Use Violations and Issuing Appearance Tickets

1. For any plans, construction, building, use of land and premise found in violation of this Local Law, the Land Use Officer shall order the responsible party, in writing, to remedy the violation(s). The Land Use Officer shall have the authority to commence proceedings to punish violations pursuant to Article I of this Local Law.
2. The Land Use Officer may enter any premise or building during reasonable hours in the course of his duties in accordance with State and federal laws after duly providing the property owner with written notice.
3. The Land Use Officer shall be authorized and empowered to issue appearance tickets pursuant to the New York State Criminal Procedure Law.

E. Report to Town Board

The Land Use Officer will provide a monthly report to the Town Board describing and enumerating actions taken and permits issued shall be given.

F. Public Record

The Land Use Officer shall file all permit actions with the Town Clerk. Each order, requirement, decision, interpretation or determination of the Land Use Officer shall be filed in the office of the Town Clerk within five (5) business days from the day it is rendered.

SECTION 902 THE TOWN PLANNING BOARD

A. Appointment of Town Planning Board

The Town Board authorizes the creation of a five (5) member Town Planning Board pursuant to Section 271 of the New York State Town Law. The members of the Town Planning Board shall, by resolution, be appointed by the Town Board for terms of five (6) years. Terms of all Town Planning Board members shall be staggered as required by law. The Town Board may designate the Chairperson of the Town Planning Board or on failure of the Town Board to do so, the Town Planning Board may designate a chairperson from its own members.

Two (2) alternate members of the Town Planning Board may be appointed by the Town Board for terms of five (5) years. All provisions of State Law relating to Town Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation and attendance shall also apply to the alternate members of the Town Planning Board.

The Chairperson of the Town Planning Board may designate one or more alternative members of the Town Planning Board to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board. Such designation and its expiration shall be entered into the minutes of the Town Planning Board. When so designated, the alternate member of the Town Planning Board shall possess all the powers and responsibilities of a member of such Board.

No member of the Town Board shall be eligible to be appointed to the Town Planning Board, but no persons shall be disqualified from serving as a member of the Town Planning Board while serving as a member of the County Planning Board.

B. Removal of Town Planning Board Members

The Town Board shall have the power to remove, after public hearing, any member of the Town Planning Board for cause. Any Town Planning Board member may be removed for noncompliance with the minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.

C. Town Planning Board Rules, Expenses and Training

1. The Town Planning Board may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Town Planning Board.
2. The Town Board shall provide an appropriation to the Town Planning Board to cover necessary expenses including the means for the Town Planning Board to maintain a written record of its meetings and public hearings.

3. The Town Board may require Town Planning Board members to complete training and continuing education courses in accordance with any State and local requirements for the training of such members and may reimburse Town Planning Board members for appropriate expenses incurred in obtaining such training or continuing education.

D. Duties of the Town Planning Board

1. To prepare, review and/or recommend revisions to the comprehensive plan for the development of the Town as provided under Section 272-a of New York State Town Law and/or Town Board Resolution.
2. To review and comment on all proposed land use amendments before referral to the County Planning Board
3. To conduct site plan review as authorized by Section 274-a of New York State Town Law and prescribed in Article XI of this Local Law.
4. To review and grant or deny special use permits as authorized by Section 274-b of the New York State Town Law and prescribed in Article X of this Local Law.
5. To review and approve the subdivision of parcels as authorized by Sections 276, 277, 278, and 279 of the New York State Town Law and pursuant to Section 278 to require owners of property being subdivided to submit cluster development plats subject to the criteria for cluster development set forth in this Local Law.
6. To render assistance to the Board of Appeals at its request.
7. To research and report on any matter referred to it by the Town Board. .
8. To make investigations, maps, reports, and recommendations in any matter related to planning and development as it seems desirable providing expenditures of the Town Planning Board do not exceed the budget appropriations for the Town Planning Board.
9. To review and comment on mining permit applications filed with the New York State Department of Environmental Conservation and to make recommendations to such State agency with regard to the following:
 - a. setbacks from property lines and rights-of-way
 - b. barriers designed to restrict access
 - c. dust control
 - d. hours of operation

10. All such powers and duties as are conferred upon the Town Planning Board and subject to the limitations set forth in Sections 271, 272-a, 273, 274-a, 274-b, 276, 277, 278, 279, and 280-a of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Town Planning Boards.

E. Town Planning Board Members

1. The Town Planning Board shall hold regularly scheduled monthly meetings provided there are meeting agenda items for Board consideration and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three (3) or more members.
2. The presence of three (3) members of the Board shall constitute a quorum which shall be necessary to act on any application for a special use permit, site plan review and to decide upon any other matter brought before the Board, unless otherwise stipulated in this Local Law.
3. All votes of the Town Planning Board shall be taken by roll call. Town Planning Board decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accord with Section 904 of this Local Law.
4. Any Town Planning Board member having a conflict of interest shall abstain from any discussion or voting on that matter.
5. The Town Planning Board may request and obtain from the Town Attorney any advice or opinions on the law relating to any matter before the Board, and require the Town Attorney to attend its meetings.
6. The Town Planning Board may require the Land Use Officer to attend its meetings to present any facts relating to any matter before the Board.
7. All meetings of the Town Planning Board shall be open to the public.
8. The Town Planning Board shall make a factual record of all its proceedings including: public hearings, deliberations, voting and decisions. The factual record shall be taken by the secretary of the Town Planning Board.

F. County Planning Board Representatives

The Town Board may nominate a member of the Town Planning Board or the Board of Appeals to serve on the County Planning Board when vacancies occur. Appointment to the County Planning Board is made by the County Legislature.

SECTION 903 BOARD OF APPEALS

A. Appointment of Board of Appeals

The Town Board authorizes the appointment of a five (5) member Board of Appeals pursuant to Section 267 of New York State Town Law. The members of the Board of Appeals shall be appointed by the Town Board for terms of five (5) years. Terms of all Board of Appeals members shall be staggered as required by law. The Town Board may also appoint the chairperson of the Board of Appeals, or on failure to do so, the Board of Appeals shall elect a chairperson from its own members.

Two (2) alternate members of the Board of Appeals may be appointed by the Town Board for terms of five (5) years. All provisions of State Law relating to Board of Appeals member eligibility, vacancy in office, removal, compatibility in office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation and attendance shall also apply to the alternate members of the Board of Appeals.

The Chairperson of the Board of Appeals may designate an alternate member of the Board of Appeals to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board. Such designation and its expiration shall be entered into the minutes of the Board of Appeals. When so designated, the alternate member of the Board of Appeals shall possess all the powers and responsibilities of a member of such Board.

B. Removal of Board of Appeals Members

The Town Board shall have the power to remove, after public hearing, any member of the Board of Appeals for cause. Any Board of Appeals member may be removed for noncompliance with the minimum requirements relating to meeting attendance and training as established by the Town Board by local law or ordinance.

C. Rules, Expenses and Training

1. The Board of Appeals may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Town Planning Board.
2. The Town Board shall provide an appropriation to the Board of Appeals to cover necessary expenses including the means for the Board of Appeals to maintain a written record of its meetings and public hearings.
3. The Town Board may require Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Board of Appeals members for appropriate expenses incurred in obtaining such training or continuing education.

D. Authority and Duties of the Board of Appeals

The jurisdiction of the Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation or determination made by the Land Use Officer. Board of Appeals shall decide any question involving the interpretation of such provisions as more fully described in this Section.

1. Reversing or Affirming Orders, Requirements, Decisions, Interpretations and Determinations

The Board of Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the Land Use Officer and to that end shall have all the powers of the Land Use Officer.

2. Granting Area or Dimensional Variances

a. The Board of Appeals shall have the power, on appeal from a decision or determination of the Land Use Officer, to grant area variances as defined herein. In making its determination, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) whether the requested area variance is substantial;
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and,
- (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

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

- c. The Board of Appeals shall, in the granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of this Local Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

3. Granting Use Variances

- a. The Board of Appeals, on appeal from the decision or determination of the Land Use Officer, shall have the power to grant use variances as defined herein.
- b. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable land use regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that:
 - (1) under applicable land use regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
 - (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) that the alleged hardship has not been self-created.
- c. The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- d. The Board of Appeals shall, in the granting of a use variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the land use regulations contained in this Local Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

E. Procedures for Processing Land Use Appeal

1. Each order, requirement, decision, interpretation or determination of the Land Use Officer shall be filed in the office of the Town Clerk within five (5) business days from the day it is rendered. An appeal shall be taken within sixty (60) calendar days after the filing of any order, requirement, decisions interpretation or determination of the Land Use Officer and shall be filed with the Land Use Officer or the Town Clerk at least fourteen (14) days prior a scheduled meeting of the Board of Appeals for the application to be considered at such scheduled meeting. All appeals shall be in writing on forms established by the Board of Appeals which shall be available from the Land Use Officer and Town Clerk and shall refer to the specific provision of this Local Law involved and establish the details of why the order, requirement, decision, interpretation and/or determination of the Land Use Officer should be reversed or why a variance should be granted and shall address the considerations described in Subsections D.2 and D.3 of this Section if the appeal is for a variance.
2. Any appeal for an area variance shall be accompanied by a sketch plan depicting the following information:
 - a. a north arrow;
 - b. the dimensions and location of the lot;
 - c. size and location of all existing and proposed buildings on the lot;
 - d. proposed location of water supply and sewage disposal systems;
 - e. parking areas and driveway locations;
 - f. natural water courses, ponds, surface drainage patterns;
 - g. location of existing or proposed easements
 - h. Information that demonstrates how the proposed use will comply with the applicable provisions of this Article.
3. Any appeal for a use variance for property wholly or partially within a County agricultural district containing a farm operation or for property with boundaries within five hundred (500) feet of a farm operation located wholly or partially within in a County agricultural district, shall include an Agricultural Data Statement with the application. The applicant shall mail, via registered mail, return receipt requested, written notice of such application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice and Agricultural Data Statement shall conform to the requirements set forth in Article XII of this Local Law. The cost of mailing said notice shall be borne by the applicant.
4. Upon receipt of the completed appeal form, the Board of Appeals shall:
 - a. Schedule a public hearing.

- b. Arrange for publication of notice of the public hearing as described in Subsection E.1 of this Section.
 - c. Refer the application to the County Planning Board in accord with Section 239-m of the New York State General Municipal Law, if required
 - d. Determine whether a draft Environmental Impact Statement should be required.
5. Within sixty-two (62) days of the public hearing, the Board of Appeals shall render a decision. If the matter was referred to the County Planning Board, a copy of the Board of Appeals findings and decision shall be sent to the County Planning Board.

F. Public Hearing and Board of Appeals Decision

1. Public hearings shall be scheduled within sixty-two (62) days from the date that the Board of Appeals receives the appeal. Any such appeal shall be deemed received when the appeal is first presented at a duly called meeting of the Board of Appeals. Notice of the public hearing shall be published in the official newspaper of the Town at least five (5) days prior to the date of the hearing. Such notice shall briefly describe the nature of the appeal and the time and place of the hearing. If the matter has been referred to the Seneca County Planning Board pursuant to Section 239-m of the New York State General Municipal Law, a notice of the public hearing shall also be mailed to the Seneca County Planning Board at least five (5) days prior to the date of such hearing.
2. A copy of the public notice may be sent to adjacent property owners within the Town, but failure to send such notice shall not affect the jurisdiction of the Board of Appeals or the legality of the decision of the Board of Appeals.
3. Public records shall be taken by stenographic and/or tape recorder means and shall be transcribed accurately into a narrative form which may or may not be a verbatim transcript.

G. Board of Appeals Meetings

1. The Board of Appeals shall hold regularly scheduled monthly meetings provided there are meeting agenda items for Board consideration and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three (3) or more members.
2. The presence of three (3) members shall constitute a quorum for the conduct of business before the Board of Appeals.
3. The presence of three (3) members of the Board 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 Local Law.

4. All votes of the Board of Appeals shall be taken by roll call. Board of Appeals decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accord with Section 904 of this Local Law.
5. Any Board of Appeals member having a conflict of interest shall abstain from any discussion or voting on that matter.
6. The Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board, and may require the Town Attorney to attend its meetings.
7. The Board of Appeals may require the Land Use Officer to attend its meetings to present any facts relating to any matter before the Board.
8. All meetings of the Board of Appeals shall be open to the public.
9. The Board of Appeals shall make a factual record of all its proceedings including the reading of the cases, public hearings, deliberations, voting and decisions. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurately transcribed into a narrative form, but not necessarily a verbatim transcript. The factual record shall be taken by the secretary for the Board of Appeals.

SECTION 904 REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD

The State enabling laws require that any of the following local land use actions must be referred to the Seneca County Planning Board prior to action by any local board. Any proposal for a special use permit, (variance, Site Plan approval, change in the land use law text or land use maps) which would affect real property that is within a distance of 500 feet from the boundary of any of the following:

1. county, city, village or town
2. existing or proposed County or State park.
3. right-of-way of any County or State road or parkway,
4. stream or canal owned by the County.
5. existing or proposed County or State owned land on which a public building or institution is situated

must be referred to the Seneca County Planning Board which shall have thirty (30) days from the date the County Planning Board receives such referral to take action on the matter. By mutual agreement of the County and the Town such thirty (30) day period may be extended in special cases.

A. Effect of County Planning Board Review

1. If the County Planning Board recommends the approval of a matter referred to it, the local board's decision is governed by a simple majority vote.
2. 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.

B. Report on Final Location Action

Within thirty (30) days following a local board's final decision on a matter referred to the County Planning Board, the local board shall provide a copy of its final decision and reasons for such decision to the County Planning Board.

ARTICLE X: SPECIAL USE PERMITS AND PROCEDURES

SECTION 1000 PURPOSE

It is the intent of this Local Law to use special use permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. All such conditional uses may possess unique and special characteristics that such uses shall be considered on an individual, case-by-case basis. Special use permits provide needed flexibility and individuality to the otherwise rigid controls of land use regulations. Conditional uses permitted by special use permits shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the additional requirements and standards set forth in this article as well as any additional conditions the Town Planning Board may impose when issuing such special use permits. Special use permits are not required for agricultural structures and/or uses proposed to be constructed or established on agricultural land located within a Seneca County Agricultural District and which are considered by the New York State Department of Agriculture and Markets to be customary farm structures and/or uses.

SECTION 1002 ADMINISTRATION

The Town Planning Board shall administer special use permits. The Town Planning Board is authorized to review and approve, approve with conditions or deny applications for special use permits.

SECTION 1004 PROCEDURE

A. Filing of Special Use Permit Application

1. Applications for a special use permit shall be in writing on forms provided by the Town of Fayette and filed with the Land Use Officer. All applications shall be signed by the legal owner of the premises for which the special use permit is sought.
2. Each application for a special use permit shall be accompanied by a proposed sketch plan depicting the following information:
 - a. a north arrow;
 - b. the dimensions and location of the lot;
 - c. size and location of all existing and proposed buildings on the lot;
 - d. proposed location of water supply and sewage disposal systems;
 - e. parking areas and driveway locations;
 - f. natural water courses, ponds, surface drainage patterns;
 - g. location of existing or proposed easements
 - h. Information that demonstrates how the proposed use will comply with the applicable provisions of this Article.

3. All special uses approved by the Town Planning Board shall also require site plan approval by the Town Planning Board. Applicants for special use permits may apply for Site plan review concurrently, in which case applicants may submit a Site Plan application along with a Site Plan prepared in accord with Article XI in lieu of the sketch plans required for a special use permit.
4. Any application for a special use permit approval for property entirely or partly within an County agricultural district containing a farm operation or for property with a boundary or boundaries within 500 feet of a farm operation located within a County agricultural district, shall include an Agricultural Data Statement as specified in Article XII of this Local Law.
5. Applications must be submitted to the Town Clerk or Land Use Officer at least fourteen (14) days prior to a scheduled Planning Board meeting for the Planning Board to consider the application at such scheduled meeting. The Land Use Officer shall refer the completed special use permit application to the Town Planning Board and shall concurrently transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law. The information required by an Agricultural Data Statement may be included as part of any other application form required by local law, ordinance or regulation.
6. No application shall be deemed complete if the Land Use Officer determines that a variance would be required from the Board of Appeals in connection with the proposed use of the premises. The Land Use Officer shall notify the applicant of the need for such variance. No application for a special use permit for which a variance is required shall be considered by the Town Planning Board until after the Board of Appeals has issued all necessary area and/or use variances.

B. Public Hearing and Notification

1. Prior to taking action on an application for a special use permit, the Town Planning Board shall conduct a public hearing. Such hearing shall be conducted within sixty-two (62) days following the receipt of a complete application and supporting documents from the Land Use Officer or Town Clerk. Any such application shall be deemed received when the completed application is first presented at a duly called Town Planning Board meeting.
2. The Town Planning Board shall publish a notice of the public hearing in the official newspaper, one of general circulation in the Town at least ten (10) days prior to the date of the public hearing. Such notice shall include sufficient information so as to identify the property involved and the nature of the proposed action. The Town Planning Board may also mail a notice of the public hearing to the applicant and to the owners of property adjoining the subject property and within 500 feet of the boundary of the subject property at least ten (10) days prior to the public hearing. If

required under Article 12-B, 239-m of the General Municipal Law, such public hearing notification shall also to the County Planning Board at least ten (10) days prior to the date of the public hearing.

3. The applicant shall also place one (1) sign on the property for which the special use permit has been requested. Said sign shall be provided by the Land Use Officer. Such sign shall be placed in a location on the subject property so as to be easily readable from a public roadway. The sign shall specify the date, time and place of the public hearing and the telephone number to call for more information. Such sign shall be placed on the subject property not less than ten (10) days prior to the public hearing and shall be brought to the public hearing by the applicant or his designated representative.

C. Special Use Permit Decision

1. The Town Planning Board may approve a special use permit for uses described in Article VIII of this Local Law provided all requirements and conditions set forth in such Article are complied with.
2. No person shall be issued a special use permit for property upon which there is an existing violation of this or any other ordinance or local law.
3. The Town Planning Board shall render its decision on the special use permit application, either approving, approving with conditions, or denying, within sixty-two (62) days after the public hearing unless the time period is extended by the mutual consent of the Town Planning Board and the applicant. If the application is required to be referred to the County Planning Board under Article 12-B, 239-m of the General Municipal Law, the Town Planning Board shall not act within the first thirty (30) days following the referral to the County Planning Board unless the County Planning Board provides a written reply to the Town Planning Board within such thirty (30) day period.

SECTION 1006 FINDINGS

- A. The Town Planning Board shall make a written factual record and findings of all its proceedings involving the granting of a special use permit. Compliance with the requirements of this Article of this Local Law shall be substantiated:
- B. The Town Planning Board shall make written findings for each special use permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision.

The following considerations shall apply to all special use permit applications:

1. Ingress and egress to the property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
 2. Off-street parking and loading areas where required, and the noise, glare or odor effects of the conditional use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special use permit use.
 3. Refuse and service areas.
 4. Utilities as appropriate, with reference to locations, availability and compatibility.
 5. Storm drainage, including potential impact on downstream properties.
 6. Screening and buffering, with reference to type, dimensions and character.
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
 8. Required yards and other open space.
 9. General compatibility with adjacent properties and other properties in the land use district.
 10. The Agricultural Data Statement, if any, shall be evaluated and considered as to the possible impacts of the special use on the agricultural district.
- C. The Town Planning Board may impose any additional conditions and requirements on the special use permit it deems necessary to conform to the goals and objectives of the Town's Comprehensive Plan and its principles of land use and development, and to protect the health, safety and general welfare of the public. Such conditions and requirements shall be clearly documented in the findings and reflected on the approved special use permit.
- D. General Conditions and Standards for all Special Uses
1. That the use will not be detrimental in any way to the health, safety, and welfare of the residents of the Town of Fayette.
 2. That the proposed use will be in harmony with the existing development of the neighborhood in which premises are situated.
 3. That the proposed use will not be detrimental to residents of the neighborhood in which the use is situated or cause a substantial decrease in the value of surrounding properties.
 4. That the proposed use will not cause an undue increase in the town population or result in an undue concentration of residents in any one area.

5. That the proposed use will not create any substantial increase in traffic volume and shall be located on or have direct access to, public highways of sufficient size, volume and construction to accommodate safely and adequately without congestion, any projected traffic the use may generate, along with the actual and projected traffic for the area.
6. That the orderly development of the Town will be insured and any proposed use shall not cause an increase in town residents or an influx of persons beyond that which can be adequately accommodated by schools, highways and other governmental facilities and services, giving due consideration to the general projected increase of town residents.
7. That the proposed use and its facilities and appurtenances will in no way, directly or indirectly, materially alter the ecology or increase the eutrophication, or in any other manner contribute to the degrading and deterioration of the quality of waters of Cayuga and/or Seneca Lakes and/or Cayuga and Seneca Canal and tributary streams.

SECTION 1008 SPECIAL USE PERMIT APPROVAL / DISAPPROVAL

- A. If an application for a special use permit is approved by the Town Planning Board, the Board shall furnish the Land Use Officer with a copy of the approving resolution with written direction to issue the applicant a land use permit in accord with the conditions of the special use permit.

If any special use permit issued under this Local Law shall remain unexercised for a period of one (1) year from the date of issuance or if any conditional use permitted by a special use permit shall be discontinued for a period of one (1) year for any reason, the Special Use Permit shall become null and void at the expiration of such one (1) year time period. The use permitted by the special use permit prior to the expiration of the one (1) year time period shall not be commenced or continued until a new application therefore has been made to and approved by the Town Planning Board in accord with the provisions of this Article.

- B. If an application is disapproved by the Town Planning Board, the reasons for such denial shall be set forth in the Town Planning Board resolution and a copy of such resolution shall be furnished to the Land Use Officer with written direction to deny the land use permit and to provide the applicant with a copy of the Town Planning Board resolution.

SECTION 1009 MAINTENANCE OF SPECIAL USE PERMIT CONDITIONS

- A. The Land Use Officer may inspect the premises of a conditional use authorized and approved with a special use permit annually. The inspection shall determine that the use is being operated consistent with the conditions and standards set forth in this Local Law for such uses as well as with any conditions imposed by the Town Planning Board at the time the special use permit was approved
- B. If the Land Use Officer determines that the use of the premises is not being operated in compliance with the special use permit, the Land Use Officer shall find the owner or operator of the use in violation of this Local Law and shall issue a notice of violation to the owner or

operator. If such violation is not corrected within sixty (60) days of issuance the notice of violation, the special use permit shall become null and void, and the owner or operator shall cease use of the property until such time as a new special use permit application is submitted and approved in accord with the provisions of this Article.

ARTICLE XI: SITE PLAN REVIEW

SECTION 1100 PURPOSE

The intent of this Article is to set forth additional general standards applying to certain uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Local Law.

SECTION 1102 APPLICABILITY

No land use permit shall be issued until all the requirements of this Article and all other applicable provisions of this Local Law have been met. Site plan review shall be required for all applications for land use permits, land use and area variances, or special use permits except the following which are exempt from site plan review:

- A. Agricultural and farm uses and structures in any Seneca County Agricultural District including the farm dwelling, farm labor housing, and principal and accessory farm buildings and structures including other buildings and structures that the New York State Department of Agriculture and Markets deems to be farm buildings and/or structures. .
- B. Single-family and two-family dwellings, any additions thereto customary accessory structures for such residential dwellings if located in the Agricultural/Rural Residential or Hamlet Districts. Such dwellings, buildings and structures located in the Lakeshore/Canal District are not exempt from site plan review.

Notwithstanding the exemptions in Paragraphs A and B of this Section, site plan shall be required for all land use permits, land use and area variances and/or special use permits that will result in the construction of more than one residential structure on one lot exclusive of farm labor housing.

SECTION 1104 APPLICATION PROCEDURE

- A. Site Plan Applications: Applications for site plan review shall be in writing, shall be accompanied by a site plan, and shall be filed with the Land Use Officer or Town Clerk at least fourteen (14) days prior to a scheduled Planning Board meeting for the application to be considered at such scheduled meeting. The Land Use Officer or Town Clerk shall refer such application and site plan to the Town Planning Board. The Land Use Officer shall also transmit a copy of the application and site plan to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law. The applicant should attend the Town Planning Board meeting to answer questions concerning the application.
- B. Timeframe for Decisions: Within sixty-two (62) days of receipt of the complete application and site plan, the Town Planning Board shall render a decision to approve, approve with conditions, or deny, and shall forward the decisions to the Land Use Officer unless the time period is extended by the mutual consent of the Town Planning Board and the applicant. Said sixty-two (62) day time period shall commence at the time the complete application and site plan are first presented at a

duly called Town Planning Board meeting. If the application is required to be referred to the County Planning Board in accord with Article 12-B, 239-m of the General Municipal Law, the Town Planning Board shall not act within the first thirty (30) days following the referral to the County Planning Board unless the County Planning Board provides a written reply within the thirty (30) days. If the Town Planning Board fails to act within said sixty-two (62) day period or extension that has been granted, the site plan shall be considered approved.

C. Agricultural Data Statement

1. Site plan review applications for any project that would occur on property within a County agricultural district containing a farm operation or on property with boundaries within five hundred (500) feet of a farm operation located within a County agricultural district, shall be accompanied by an Agricultural Data Statement prepared by the applicant in accord with Article XII of this Local Law.
2. The Town Planning Board shall evaluate and consider the Agricultural Data Statement in its review of the possible impacts of the project on the agricultural district.
3. Upon the receipt of such application by the Town Planning Board, the secretary of such board shall send written notice of such application via certified mail to the owners of land identified by the applicant in the Agricultural Data Statements. The cost of mailing the notice shall be borne by the applicant.

D. The Town Planning Board is hereby authorized to any of the requirements in this Article for site plan review, if it finds that such requirements are not needed to protect public health, safety or general welfare, or are inappropriate to the particular site plan under consideration.

E. A full written record of the Town Planning Board minutes and decisions together with all documents pertaining to the case shall be filed in the Office of the Land Use Officers and a copy shall be mailed to the applicant.

SECTION 1106 PRE-APPLICATION CONFERENCE / SKETCH PLAN

A pre-application conference may be held between the Town Planning Board and prospective applicant to review the basic site plan design concept and generally determine the information to be required on the site plan and/or to review and provide feedback on a preliminary sketch plan prepared by the applicant prior to formally applying for site plan review. Sketch plans are to be submitted to the Land Use Officer who will forward the sketch plan to the Town Planning Board. Sketch plans should be submitted as far in advance of the pre-application co

SECTION 1108 APPLICATION FOR SITE PLAN APPROVAL

An application for site plan approval shall be made in writing to the Land Use Officer and shall be accompanied by information drawn from the following checklist. The Town Planning Board may require additional information, if necessary, to complete its review. In cases where subdivision approval is also required for the project, applicants may substitute the proposed subdivision plat for the site plan provided the subdivision plat contains all of the information and detail that are required in a site plan.

A. Required 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 watercourse and bodies of water.
5. Location of any slopes of 15% or greater.
6. Existing surface drainage patterns, proposed grading and proposed drainage patterns and the location of any proposed storm sewers.
7. Location, proposed use and height of all buildings, structures and site improvements including culverts, drains, retaining walls and fences. The existing and proposed buildings, structures site improvements shall be drawn to scale and the measurements of the distances between each other and the parcel boundaries shall be depicted on the site plan.
8. The location of existing utility lines, sanitary and storm sewers, septic systems, water supply wells, and agricultural drainage tiles, ditches and swales.
9. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
10. Location of outdoor storage, if any.
11. Description of the method of sewage disposal and location of the sewage disposal facilities.
12. The location and facilities for solid waste storage if a business is involved.
13. Identification of the type and location of the source of water.
14. Location, size and design and construction materials of all proposed signs.
15. Location and proposed development of all buffer areas, including existing vegetation cover.
16. Location and design of outdoor lighting facilities
17. General landscaping plan.

- B. As necessary, the Town Planning Board may require the following additional information on the site plan:
1. Provision for pedestrian access, if necessary.
 2. Location of fire lanes, and fire hydrants if municipal water service is provided in the vicinity of the site.
 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 Town Planning Board.
- C. Additional site plan information required for boat marinas and yacht clubs:
1. Appropriate plantings and screening of parking and storage yards.
 2. Architectural treatment of all structures and visible site improvements.
 3. Facilities for the handling, holding and transportation of wastewater from recreational boats. Such facilities shall be approved by all appropriate agencies having jurisdiction.
 4. Protection of the shoreline and docked boats from erosion by wind or wave action.
 5. Detailed design of any shoreline structures, such as bulkheads, piers or launching ramps.
- D. Additional site plan information required for windmills, wind-powered water pumps and electric-generating wind turbines:
1. The proposed location of the tower on the site, including the maximum height of the components and ground clearing of moving components.
 2. All above-ground utility lines within a radius from the tower base equal to the proposed tower height, including blades.
 3. Dimensional representation of the various structural components of the tower construction including the base and footings.
 4. Design data indicating the basis of design, including manufacturer's dimensional drawings, installation and operation instructions.
 5. Design data indicating the basis of design, including manufacturer's certification that the tower design is sufficient to withstand the wind load requirements for the structure.

- E. Additional site plan information required for Outdoor Appliances.
1. A recent aerial photograph or tax map which depicts the subject parcel on which the Outdoor Appliance is proposed and neighboring, parcels within 300 yards of the subject parcel. The types and locations of structures, if any, on the neighboring properties and the distances between such structures and the proposed site of the Outdoor Appliance shall be displayed on such photograph or tax map.
 2. A United States Geological Survey (USGS) topographical map that depicts the contours and elevations of the land within 300 yards of the site proposed for the Outdoor Appliance.
 3. Any other information the Planning Board deems that it needs to evaluate the potential for the proposed Outdoor Appliance being a nuisance to the occupants of neighboring properties.
- F. Agricultural Data Statement Required: Any application for a site plan review and approval for property within a County agricultural district containing a farm operation or for property with boundaries within 500 feet of a farm operation located in a County agricultural district, shall include an Agricultural Data Statement as specified in Article XII of this Local Law.

SECTION 1110 TOWN 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. Including the maximum feasible redesign of private roads to conform to public access and rights of way.
 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 and design and general site compatibility of buildings, lighting and signs.
 5. Adequacy of storm-water and drainage facilities.
 6. Adequacy of water supply and sewage disposal facilities.
 7. Adequacy of solid waste storage facilities.

8. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
10. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants, if applicable.
11. Special attention to the adequacy of structures, Towns and landscaping in areas with susceptibility to ponding flooding and or erosion.
12. Special attention to the productive use and access with "backlot" areas, indicating present and future intended uses
13. Consistency with the general intent of the Town's Comprehensive Plan.

B. Additional Considerations Relating to Minor Mining and Excavation Operations.

1. Whether the proposed restoration plan are in accord with the intent of the Town of Fayette Comprehensive Plan.
2. Whether the creation of permanent pits or holes which may be hazardous or dangerous will result.
3. Whether soil erosion or the depletion of vegetation will occur.
4. Whether the land will be rendered unproductive or unsuitable for agricultural or developmental purposes.
5. Whether the aesthetic or natural environment of the land surrounding the mine or excavation will be impaired.
6. Whether the character of surrounding land use will be adversely affected.
7. Whether they will create excessive traffic or impair the quality of the existing and proposed thoroughfare facilities, community facilities and drainage.
8. Whether they will affect the control of nuisances.
9. Whether the areas excavated can be effectively restored and revegetated.
10. Whether the resultant drainage will be adversely affected.

C. Reimbursable Costs / Consultation

The Town Planning Board may consult with the Land Use Officer, County Code Enforcement Officer, Building Inspector, Fire Commissioners, highway departments, County Planning Department, other local and 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, and with private architects and engineers. All consultant review expenses and fees, and other extraordinary expenses shall be paid by the applicant.

D. Public Hearing

The Town Planning Board may conduct a public hearing of the site plan if a public hearing is considered desirable by a majority of the Town Planning Board. A public hearing shall be conducted within sixty-two (62) days of the receipt of the application. The Town Planning Board shall mail a notice of the public hearing to the applicant at least ten (10) days prior to the date of the public hearing and shall give public notice in the official newspaper of the Town at least five (5) days prior to the date of the public hearing. Any such application shall be deemed received when the complete application and site plan are first presented at a duly called Town Planning Board meeting. If referral of the application to the County Planning Board is required in accord with Article 12-B, 239-m of the General Municipal Law, a copy of the hearing notice shall also be mailed to the County Planning Board at least ten (10) days prior to the date of such public hearing. Decisions shall be rendered within sixty-two (62) days following the public hearing, but no sooner than thirty (30) days following the referral of the matter to the County Planning Board unless the County Planning Board provides its written recommendation within thirty (30) days of receiving such referral.

E. Coordination with Other Reviews

Whenever a proposed development requires a special use permit and/or subdivision approval, the Town Planning Board will attempt to coordinate and integrate the site plan review procedures with the procedural and submission requirements for such other compliance to reduce the amount of time required to comply with these various requirements.

F. Expiration of Site Plan Approval

Any site plan approved with automatically terminate two (2) years after the same was approved by the Town Planning Board unless all site plan construction and improvements have been completed on the project in accord with the site plan. The Town Planning Board may approve a one (1) year extension if the applicant applies for such extension prior to the expiration of the initial two (2) year period and provided that at least 50% of the improvements contained on the approved site plan have been completed. Any modification of an approved site plan shall require the applicant to resubmit a revised site plan and application for the review and approval of the Town Planning Board.

G. Inspection of Improvements

The Land Use Officer shall have responsibility for inspecting the site improvements in order to confirm such improvements were made in accord with the approved site plan.

ARTICLE XII: AGRICULTURAL DATA STATEMENTS

SECTION 1200 APPLICABILITY

Any application for a (1) special use permit, (2) site plan approval, (2) use variance or (4) subdivision review and approval by the Town Planning Board, Board of Appeals or Town Board that would occur on property within a County agricultural district established pursuant to Article 25-AA of the New York State Agriculture and Markets Law and which contains a farm operation or on property with boundaries that are within five hundred (500) feet of a parcel or parcels of land containing a farm operation which is located in a County agricultural district, shall include an agricultural data statement. The Town Planning Board, Board of Appeals or Town Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district.

SECTION 1201 NOTICE TO LAND OWNERS

Upon the receipt of such application by the Town Planning Board, Board of Appeals or Town Board, the clerk of such board shall mail written notice of such application to the owners of land as identified in the agricultural data statement by the applicant. Such notice shall include description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for said project. The cost of mailing said notice shall be borne by the applicant.

SECTION 1202 CONTENTS OF AN AGRICULTURAL DATA STATEMENT

The agricultural data statement shall including the following information:

- A. the name and address of the applicant;
- B. a description of the proposed project and its location;
- C. the name and address of any owner of land within the County agricultural district districts which contains a farm operation and is located within five hundred (500) feet of the boundary of the property upon which the project is proposed; and
- D. a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

ARTICLE XIII: HISTORIC PRESERVATION

It is the intent of the Town of Fayette to encourage the owners of historically significant structures that are 100 years old or older to preserve the historic integrity of such structures. The Town formally establishes a Historic Preservation Commission to watch over our historic properties that are listed on the New York State Register of Historic Places. Members of the Commission will be appointed by the Town Board and the terms of the members will be determined by the Town Board. This Local Law does not create a Historic District, therefore there are no regulations that would impinge on the rights of property owners to utilize their properties as each may deem appropriate.

Inasmuch as the identity of a people is founded on its past, and inasmuch as the Town of Fayette has many significant historic, architectural and cultural resources which constitute its heritage, this act is intended to:

- A. protect and enhance the landmarks and historic sites which represent distinctive elements of Fayette's historic, architectural, and cultural heritage;
- B. foster civic pride in the accomplishments of the past;
- C. project and enhance the Town of Fayette's attractiveness to visitors and the support and stimulus to the economy thereby provided, and
- D. insure the harmonious orderly, and efficient growth and development of our hamlets and Town.

Accordingly, Town official and/or Town boards responsible for issuing land use permits, special use permits, site plan review approvals or granting land use and/or area variances for historic properties shall notify an applicant and/or appellant and the Historic Preservation Commission of the potential impact on the historic significance of his or her structure and may request the applicant and/or appellant to postpone taking action that would destroy or diminish the historic value of such property for a period of thirty (30) calendar days from the time of receipt of such notice by the Commission.. Such postponement of action would be requested to encourage the applicant/appellant to reconsider his or her proposed action and to provide historic preservation groups and agencies with an opportunity to propose to the property owner alternative courses of action that could be pursued that would protect the historical significance of the structures. Such alternative courses of action may include, but are not limited to the purchase of the real property and structure, the purchase and relocation of the structure to another parcel of land, or the payment of funds to the property owner as an inducement to preserve the historical significance of such structure.