ARTICLE 1  TITLE, PURPOSE, AUTHORITY

1.0  Short Title

This Law shall be known as the "Zoning Law of the Town of Ashland, N.Y.", and may be cited as "TOWN OF ASHLAND ZONING LAW".

1.1  Authority

Pursuant to the Article 16 of the Town Law of the State of New York, the Town Board of the Town of Ashland, in the County of Chemung, State of New York, hereby resolves, enacts and publishes as follows:

1.2  Purpose

The Zoning Regulations and Districts herein set forth and as identified upon the Zoning Map of the Town of Ashland are made to promote the public health, public safety, and general welfare of the Town of Ashland; and specifically:

A.  To encourage the most appropriate use of land in the community in order to conserve the value of property;

B.  To eliminate the spread of strip business development and provide for more adequate and suitably-located commercial facilities and consequently eliminate many road-side hazards and add to community attractiveness;

C.  To create a suitable system of open spaces and recreation areas, and to protect and enhance existing wooded areas, scenic areas, farmland and waterways;

D.  To ensure the adequate and safe, control and conveyance of stormwater flows generated by new development;

E.  To regulate building densities in order to assure access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, to lessen congestion on streets and highways, to provide efficient municipal utility services, and to accommodate solar energy systems and equipment and access to sunlight necessary therefore;

F.  To improve transportation facilities and traffic circulation, and to provide adequate off-street parking and loading facilities;

G.  To assure privacy for residents and freedom from nuisances and things harmful to the health, safety and general welfare of the public.

H.  To protect the community against unsightly, obtrusive, and nuisance land uses and operations;
I. To enhance the aesthetic aspects throughout the entire Town and maintain its natural beauty; and

J. To provide an opportunity for occupancy of housing or use of land to all people regardless of race, creed, sex or color.

This Law has been made with reasonable consideration for the character of each District and a District's suitability for particular uses, and, with a view to conserving the value of the property, to encourage the most appropriate use of the land throughout the Town.

These purposes are achieved through this Law regulating and restricting the height, number of stories and size of buildings and other structures; restricting the density of population; regulating the size of yards and other open spaces; regulating and restricting the location and use of buildings, structures and land for trade, industry, residential or other purposes; creating districts for such purposes and establishing boundaries; continuing a Zoning Board of Appeals to determine and vary the application of various provisions of this Law in harmony with its general purposes and intent and in accordance with general and specific rules herein contained; and providing for the enforcement of such Law.
ARTICLE 2 INTERPRETATION

2.0 INTERPRETATION, SEPARABILITY AND CONFLICT

A. The following rules of construction of language shall apply to the text of this Law.
   1. Words used in the present tense include the future tense.
   2. Words used in the singular include the plural, and words used in the plural include the singular.
   3. Words used in the masculine form shall also include the feminine.
   4. The word "person" includes an individual, firm or corporation.
   5. The word "shall" is mandatory; the word "may" is permissive.
   6. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".
   7. A "building" or "structure" includes any part thereof.
   8. The phrases, "to erect", "to construct", and "to build" each has the same meaning and includes to excavate for a building and to relocate a building by moving it from one location to another.
   9. Other words not defined above or in Section 2.1 Definitions shall be as defined in the NYS Uniform Fire Prevention and Building Code, or as used in their common meaning.

B. If any section, paragraph, subdivision or provision of this Law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudicated invalid, and the remainder of this Law shall remain valid and in full effect.

C. This Law shall be interpreted in such a way wherever possible so that the meaning of the words, phrases and sections herein shall make them valid and legal in their effect.

D. Whenever the requirements of this Law are at variance with the requirements of other lawfully adopted laws, rules, regulations or ordinances of the Town, the one of these with the most restrictive provisions or those imposing the higher standard shall govern.
2.1 DEFINITIONS

The following words or phrases as used in this Law are defined as follows:

AGRICULTURE, CROP - The raising and incidental storage of agricultural products (including farm crops, fruits, vegetables or nursery stock) for sale, gain or commercial purposes. This term does not include the manufacturing or processing of agricultural products as the PRINCIPAL USE.

AGRICULTURE, LIVESTOCK - The raising of agricultural products (including livestock, poultry, dairy cattle, fur-bearing animals, bees, other such animals, and associated feed crops) for sale, gain or commercial purposes. This term does not include riding academies, PRIVATE STABLES or manufacturing or processing of agricultural products as the PRINCIPAL USE.

AGRI-BUSINESS - A PRINCIPAL USE that involves the following:

(a) Wholesale raising, processing, packaging or other handling of non-food plant crops such as annual and/or perennial plant production and may include minor retail sales as accessory use; or

(b) Any business that has as the primary function support service of active agricultural operations; or

(c) Any business that provides processing, packaging, or handling of agricultural products to prepare them for transport to a manufacturing facility or retail market. This use does not include cooking, canning, or other preparation of food stuffs.

AIRPORT - Any LOT or other facility, designed to be used and/or operated either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings.

ALTERATION - Any change, rearrangement, addition or enlargement to a BUILDING, other than repairs, and any modification in construction.

AMUSEMENT GAME CENTER - A continuous commercial USE in which six (6) or more mechanical, electrical or electronic machines or devices used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin or token or for their operation or use of which a charge is made.

ANTENNA - A fixed-base structure for the purposes of receiving or transmitting television and/or radio signals from orbiting satellites, other electro-magnetic, or digital transmissions.

ATTIC - That space of BUILDING which is between the top of the uppermost floor construction and the underside of the roof. (See "STORY")

APPLICANT - OWNER of a PARCEL on which a DEVELOPMENT is proposed, and the DEVELOPER of such PARCEL.
AUTO SALVAGE YARD - SEE SALVAGE YARD

BAR - A business establishment licensed by the State of New York to serve alcoholic beverages and which establishment is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.

BASEMENT - Any space of a BUILDING which is partly below finished grade, but having more than one-half of its height measured from floor to ceiling above average finished grade. (See also "CELLAR")

BED AND BREAKFAST - A BUILDING containing a single dwelling unit in which at least one, but not more than four, sleeping rooms are provided by the owner for compensation, for the accommodation of transient guests with no more than one meal served daily and the entire service is to be included in one stated price.

BOARDING HOUSE - A BUILDING, other than a HOTEL, containing a general kitchen and a general dining room, in which at least three, but no more than six, sleeping rooms are offered for rent, with or without meals to non-transient guests. A lodging house, or rooming house shall be deemed a boarding house.

BUFFER - An area of land forming a visual and/or physical separation or barrier between two uses. In the case of a visual barrier, the land shall be covered with natural plantings or man-made material to provide a continuous physical screen preventing visual access and reducing noise.

BUILDING - Any STRUCTURE which is wholly or partially enclosed within exterior walls, 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, ACCESSORY - A detached BUILDING subordinate to a PRINCIPAL BUILDING used for purposes customarily incidental to those of the principal BUILDING.

BUILDING, AREA - The total of areas taken on a horizontal plane at the main grade level of the PRINCIPAL BUILDING and all ACCESSORY BUILDINGS including open or enclosed porches, attached carport or garage but exclusive of terraces, and uncovered steps. Such horizontal area of each BUILDING is the area within which and circumscribed by the exterior faces of the outer walls and/or architectural elements of the BUILDING.

BUILDING GROUP - A group of two or more PRINCIPAL BUILDINGS and any BUILDINGS accessory thereto, occupying a lot in one ownership and having any yard in common.

BUILDING, HEIGHT - The vertical distance measured from the average finished grade to the highest point and to the mean height between the eaves and ridge for a pitched, gable, hip, gambrel and mansard roof.
BUILDING LINE - The line, established by statute or local law, beyond which the exterior surface of a building on any side shall not extend, as specifically provided in Article 5 of this Law. In the instance of a cantilevered section of a building or projected roof or porch, the building line shall be measured from the most projected surface.

BUILDING, PRINCIPAL - A BUILDING in which is conducted the main, primary or PRINCIPAL USE of the LOT on which said BUILDING is situated.

BUILDING, SEMI-DETACHED - A BUILDING attached by a party wall to another building normally of the same type on another lot, but having one SIDE YARD.

BULK - A term to describe the size, volume, area and shape of STRUCTURES, and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building; and of all open spaces required in connection with a structure, or parcel.

BULK, NON-CONFORMING - That part of a STRUCTURE or tract of land which does not conform to one or more of the applicable DENSITY CONTROL AND BULK REGULATIONS of this Zoning Law, either following its effective date or as a result of subsequent amendment thereto.

BULK STORAGE - Materials stored in large quantities which are dispensed in smaller units for use or consumption as regulated by NYS Department of Environmental Conservation (NYSDEC).

CAR WASH - A building, premises or portions thereof where vehicles are washed either by the patron or others using machinery and mechanical devices specifically designed for this purpose.

CELLAR - That space of a BUILDING that is considered non-habital and is partly or entirely below average finished grade, which has more than half its height, measured from the floor to ceiling, below the average established finished grade of the ground adjoining the building. (See also "BASEMENT")

CHURCH OR PLACE OF WORSHIP - A BUILDING or premises used exclusively for public worship by members or representatives of a religious sect, group, or organization as recognized by State statute.

CLUB, MEMBERSHIP - An organization catering exclusively to members and their guests, or premises and buildings for social, educational, service, recreational or athletic purposes, which are not conducted primarily for gain, providing there are not conducted any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club.

CODE ENFORCEMENT OFFICER - An official designated by the Town Board for the purpose of enforcing codes, laws, ordinances, and conditions set by Planning Board or Zoning Board of Appeals resolutions.

COMMERCIAL VEHICLE - Any vehicle with a net vehicle weight of five (5) tons or more and/or more than six (6) axles, or trailer longer than 18'-0" used for the transportation of persons or goods primarily for gain.
CONDOMINIUM - A BUILDING or group of BUILDINGS, in which residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

CONSULTED AGENCIES - shall include the following: Code Enforcement Officer, Town Highway Department, Fire Commissioners, Town Water Department, Chemung County Sewer District #1, Chemung County Elmira Sewer District, Chemung County Department of Public Works, other local and County officials, designated private consultants, representatives from federal and state agencies including, but not limited to the Natural Resources Conservation Department, Department of Transportation, and the Department of Environmental Conservation.

CONTRACTOR'S EQUIPMENT YARD - Any space, whether inside or outside a BUILDING, used for the storage or keeping of construction equipment, machinery, or vehicles, or parts thereof, and/or building materials and soil/stone stockpiles.

CONVALESCENT HOME - A BUILDING used for accommodation and care of persons receiving non-skilled, long-term care, meeting the NYS Department of Social Services (NYSDSS) definition of a "Proprietary" facility. (See also "NURSING HOME")

CONVENIENCE FOOD MART - A commercial retail use that combines two PRINCIPAL USES on a single parcel; the sale of motor vehicle fuel and accessory substances, as well as the sale of groceries.

COVERAGE - That LOT AREA or percentage of lot area covered by BUILDINGS, including ACCESSORY STRUCTURES and all other impervious surfaces.

DAY CARE OF ADULTS - Shall be as defined by the New York State Department of Social Services (NYSDSS) and as may be amended.

DAY CARE OF CHILDREN - Shall be as defined by the NYSDSS and as may be amended, to include care provided for three or more children away from their own homes in a day care center, excluding those children receiving family day care as defined in this law. Such care shall be for more than three (3) hours and less than twenty-four (24) hours per day per child to any child accepted for care therein. The term day care of children includes services provided with or without compensation or payment.

DAY CARE CENTER - A place, person association, corporation, institution, or agency which provides day care for children as defined and regulated by NYSDSS regulations. The name, description, or form of the entity which operates a day care center shall not affect its status as a day care center.

The term day care center shall not refer to care provided in:

(i) A day camp as defined in the State Sanitary Code (10 NYCRR Chapter I).

(ii) An after school program operated for the primary purpose of religious education.
(iii) A facility:
   (a) operated by a public school district, or
   (b) providing day services under an operating certificate issued by the
       Department of Mental Health.

DAY CARE, FAMILY HOME - Day care provided in the care giver's residence in accordance with NYSDSS definitions and regulations.

DAY CARE, GROUP FAMILY HOME - Day care provided in the care giver's residence in accordance with NYSDSS definitions and regulations.

DEVELOPER - Any entity to undertake a proposed DEVELOPMENT.

DEVELOPMENT - Any man-made changes to improved or unimproved real estate, including but not limited to, the construction or reconstruction of buildings, construction of tanks or other storage facilities, pumps, pumping stations, waste treatment or disposal facilities or commercial excavation, dredging, filling, mining, or grading.

DISTRICT - That mapped portion of the Town within which specific uses are permitted according to the designation applied thereto in Article 3 and in conformity with the provisions of this Law.

DRIVE-THROUGH USE - Any commercial or business activity which incorporates as a principal or accessory feature a service window, booth or other like arrangement on the exterior of the building or structure designed primarily for drive-through or carry-out service.

DUMP - SEE SOLID WASTE DISPOSAL FACILITY.

DWELLING, IN-GROUND - A DWELLING that is constructed principally below the finished average grade elevation of the lot on which it is located and with at least one wall open for a height of at least six (6) feet and/or provide for special light and ventilation designs.

DWELLING, ONE-UNIT - A BUILDING containing one DWELLING UNIT.

   DETACHED - Shall have two side yards.

   SEMI-DETACHED - Shall have only one side yard and one common party wall.

DWELLING, TWO-UNIT - A BUILDING containing two DWELLING UNITS.

DWELLING, MULTI-UNIT - A BUILDING containing three or more DWELLING UNITS with shared or individual entrances and shared or individual other essential facilities and services.

DWELLING UNIT - One or more rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, living, sanitary and sleeping facilities. This term shall include mobile homes and factory manufactured units provided they meet the standards
of this Law and the Uniform Fire Prevention and Building Code as may be hereafter amended. It shall not include MOTEL, HOTEL, BOARDING HOUSE and lodging establishments.

FACTORY MANUFACTURED HOME - A DWELLING UNIT constructed off-site, consisting of one or more segments and designed to be permanently anchored to and supported by a foundation, to become a fixed part of the real estate. Such dwelling unit shall bear an insignia of approval issued by the Division of Housing and Community Renewal of the State of New York.

FAMILY - A "family" shall consist of the following: (a) one person maintaining a household for him or herself, or (b) two or more persons whether or not related by blood, marriage or adoption maintaining a common household, or (c) not more than five (5) persons not related by blood, marriage or adoption, who live together in a single dwelling unit and do not maintain a common household.

FENCE - An artificially constructed barrier of wood, masonry, stone, wire metal or any other manufactured material or combination of materials erected within a minimum SETBACK.

FLEA MARKET - A lot or parcel with only outdoor stalls, booths, or selling spaces rented for the purposes of selling used and new consumer merchandise, antiques, art, craft items and collectibles.

FINISHED GRADE - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal the finished grade in computing height of buildings and other structures or for other purposes - shall be the average elevation of all finished grade elevations around the periphery of the building.

FLOOR AREA - The aggregate sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior walls or from the centerlines of walls separating the buildings. The "floor area" of a building or buildings shall include:

(1) Basement space.
(2) Elevator shafts and stairwells at each floor.
(3) Floor space for mechanical equipment, with structural headroom of 7'6" or more.
(4) Penthouses.
(5) Attic space (whether or not a floor has actually been laid) providing structural headroom of 7'6" or more for at least 50% of the area.
(6) Interior balconies and mezzanines.
(7) Enclosed porches.
(8) Accessory uses, exclusive of space for accessory off-street parking.

However, the "floor area" of a building shall not include:

(1) Cellar space, except that cellar space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
(2) Elevator and stair bulkheads, accessory water tanks, and cooling towers.
(3) Floor space used for mechanical equipment, with structural headroom of less than 7'6".
(4) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than 7'6" for 50% of the area.
(5) Uncovered steps and/or exterior fire escapes.
(6) Terraces, breezeways, open porches, and outside balconies and open spaces.
(7) Accessory off-street parking spaces.
(8) Accessory off-street loading berths.

FOOTPRINT - The perimeter of a STRUCTURE at ground level as depicted on a scaled drawing.

HELIPORT - Any LOT or other facility, designed to be used and/or operated either publicly or privately by any person for the landing and taking off of helicopters, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings.

HOME OCCUPATION - A business conducted as an ACCESSORY USE, which is clearly incidental to or secondary to the residential use of a DWELLING UNIT and does not change the character thereof, and which is carried on wholly within the enclosed walls of a DWELLING UNIT or ACCESSORY BUILDING by the business proprietor of such use, who shall be an occupant of such dwelling unit, and, if desired by other occupants of such dwelling unit.

HOSPITAL - An institution for the care and treatment of sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury who may require bed care. Source: #206-a Public Health Law

HOTEL/MOTEL - A BUILDING, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may or may not include dining and/or meeting facilities. This term shall not be deemed to include an BED & BREAKFAST, or BOARDING HOUSE.

IMPROVEMENT - Private driveways, County sewer, Town and domestic water supply, and other such facilities in as much as the responsibility for maintenance is that of a public entity, the stormwater management system and its components, traffic control devices, and roadway improvements.

INDUSTRIAL USE - Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or any part of which is marketed off the premises or marketed to other than the ultimate consumer.

KENNEL - Any premises maintained for animals wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.
KINDERGARTEN - Any place operated on a regular basis for the purpose of providing state certified instruction for children at least five years of age by December 1 of the entry year and no older than six years of age by the same date. The term school includes kindergarten.

LARGE TREE(S) - A live deciduous tree that is a minimum of 12" dbh (diameter breast height).

LOT - A measured unit of land having a fixed boundaries and designated on a plot or survey devoted to a specific USE or occupied by a building or a group of buildings united by a common interest, use or ownership, which abuts and is accessible from a PRIVATE or PUBLIC ROAD.

LOT, AREA - The total area within the lot boundary lines excluding any area included in a right-of-way and any area within twenty-five (25) feet of the centerline of a private road.

LOT, CORNER - A LOT situated at the junction of and adjacent to two or more intersecting streets when the interior angle or intersection does not exceed 135 degrees.

LOT, COVERAGE - See "COVERAGE".

LOT, DEPTH OF - The mean distance from the front lot line to rear lot line.

LOT LINES - The lines bounding a LOT defined herein.

LOT LINES, FRONT - A lot line which is coincident with the right-of-way line of a public road or which is measured 25 feet from the center line of a private road.

LOT, THROUGH - A lot which faces on two ROADS at opposite ends of the lot and which is not a corner lot.

LOT WIDTH - The width of a LOT measured along the minimum FRONT YARD SETBACK.

MEDICAL CLINIC - A place where medical or dental care is furnished to persons on an out-patient basis by three (3) or more physicians who have common offices in a building which shall also offer laboratory, medical procedures, and testing facilities to patients on an out-patient basis and not just in conjunction with normal clinic services.

MINI-STORAGE FACILITY - A BUILDING or grouping of BUILDINGS designed and constructed with individual partitions or compartments for the storage of private property by individuals. The wholesale storage and/or transfer of goods by commercial enterprises shall not meet this definition.

MOBILE HOME - A DWELLING UNIT bearing a seal issued by the Federal Department of Housing & Urban Development that is manufactured as a relocatable living unit, which is designed to be transported on a single permanent chassis and to be installed on a site with or without a permanent foundation when connected to utilities. This does not include
Department of Motor Vehicle registered recreation vehicles, travel trailers or dwelling units that are prebuilt in one or more parts and transported to and assembled on a permanent foundation.

**MOBILE HOME PARK** - A contiguous PARCEL of land under single ownership on which two (2) or more mobile homes are located.

**NOTICE OF COMPLIANCE** - A NOTICE issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building and/or land. The Notice shall acknowledge completion of all requirements of this Law, any conditions of approval attached to such use by the authorized Board, and any adjustments thereto granted by the Zoning Board of Appeals. The NOTICE is a permit to occupy and use the STRUCTURE and/or LOT in accordance with the approval.

**NURSERY SCHOOL/PRE-KINDERGARTEN** - A non-public school organized for the purpose of educating three (3) or more children less than seven (7) years of age for less than three (3) hours per day, two (2) sessions may be held daily, as registered and certified by the NYS Education Department under 8 NYCRR 125. (See also DAY CARE CENTERS)

**NURSING HOME** - A skilled nursing care facility as defined by the NYS Department of Social Services Regulations and as may be amended from time to time.

**OFFICE, GENERAL BUSINESS** - A non-retail, office or agency providing service to the general public or other offices and agencies, such as insurance brokers, real estate and/or travel agents, computer programming, consulting organizations, etc.

**OFFICE, PROFESSIONAL** - An office principally occupied by a professional licensed by the State of New York such as a lawyer, engineer, architect, accountant, physicians, dentists, or similar occupation.

**PARCEL** - (SEE LOT)

**PARKING LOT** - Any tract of land the PRINCIPAL USE of which is the storage of motor vehicles not as accessory to any other use on the same or any other lot, and which may contain parking space rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

**PERMIT, BUILDING** - A PERMIT issued by the Town of Ashland Code Enforcement Officer in conformance with the New York State Uniform Fire Prevention and Building Code and/or any additional building code standards adopted by the Town.

**PERMIT, ZONING** - A PERMIT issued by the Town of Ashland Code Enforcement Officer in conformance with this Local Law.

**PERSONAL SERVICE ESTABLISHMENT** - A non-retail use providing services related to an individuals' care and upkeep needs, and/or the care and upkeep of personal attire, such as a tailor, seamstress, or manicurist.
PLAZA, MALL - A BUILDING or group of BUILDINGS containing a combination of three (3) or more separate shops, stores or offices on a single lot providing primarily retail services with supporting service and office establishments.

REPAIR SHOP, PERSONAL SERVICE - A non-retail service use that provides repair of personal customer items, such as shoes, clothing, jewelry, etc.

RESTAURANT, FAST FOOD - An establishment where food and/or beverages are sold in a form ready for consumption and where, by design or packaging techniques, all or a significant portion of the consumption may take place outside the confines of the building.

RESTAURANT, STANDARD - Any establishment, however designated, whose primary use is preparation and sale of food for consumption to patrons seated within an enclosed building or on the premises. However a snack bar or refreshment stand at a public or quasi-public facility which is a community swimming pool, playground, playfield or park operated by the agency or group or an approved vendor operating the recreational facility and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RETAIL USE - A business or commercial use or activity involving primarily the sale of merchandise or stock-in-trade to the public which may include some fabrication on premises of merchandise/materials that are sold on the premises.

RIGHT-OF-WAY - The property under public control, ownership, easement, by deed or by adverse possession normally used for movement of vehicles, and or persons, including, but not restricted to, any paved area.

ROAD - An existing public or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on the official map and recorded in the office of the County Clerk.

ROAD, LOCAL - A road designed primarily to provide access to abutting properties.

ROAD, MARGINAL ACCESS - Those roads which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

ROAD, PRIMARY - A ROAD which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic areas.

ROAD, PRIVATE - A drive that services or is designed to serve no more than two principal uses and is built to Town specifications that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the town.

ROAD, PUBLIC - A ROAD that serves three or more PRINCIPAL USES, that is built to town specifications and is dedicated to the town for maintenance.
ROAD, SECONDARY - A PUBLIC ROAD which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a PRIMARY ROAD.

ROADSIDE STAND - A light weight structure with a roof, either attached to the ground or movable, that is accessory to a principal use, not for year-round use and at which agricultural produce grown on the premises is offered for sale to the general public.

SALVAGE YARD - An area of land with or without buildings used for or occupied by the storage, keeping, or the salvage of junk material, including processing such as sorting, baling, packing, disassembly, exchange and/or purchase and sale of materials, and including scrap metals or other scrap, used or salvaged building materials, or the dismantling or demolition of automobiles or other vehicles, machinery or parts thereof with the exception of agricultural machinery.

SCHOOL, PRIVATE - An elementary or secondary school facility as established by a person, persons, firm, corporation, or other than a public school authorities, giving instruction in the ten (10) common branches of arithmetic, reading, spelling, writing, the English language, geography, history, civics, hygiene and physical training, registered and/or certified under the regulations of the Commissioner of the NYS Department of Education or chartered by the Regents of the University of the State of New York.

SETBACK - The required distance in feet from:

a. any survey boundary forming a LOT or contiguous parcel
b. the right-of-way of a public ROAD
c. a distance measured 25 feet from the centerline of a private road,

to a BUILDING LINE or regulated USE. on a LOT.

SIGN - Any letter(s), number(s), mark(s), symbol(s), figure(s), picture(s), exemplary devices and/or banner(s) (each and/or all hereafter referred to by the term "symbol(s)") positioned in near spatial relationship as a collection/aggregation thereof expressing an idea, instruction, product, commodity, business, service and/or other entertainment, and which includes any surface area or portion of a structure in immediate proximity to and to which such symbol(s) is (are) attached, or such structure designed or intended to be in immediate proximity to and to have such symbol(s) attached thereto.

SIGN, ACCESSORY - A SIGN other than the principal business SIGN which relates to the business or profession conducted or to a goods or service sold or offered for sale on the premises.

SIGN, ADVERTISING - A SIGN that directs attention to a business, goods, service or entertainment conducted, sold, or offered elsewhere than on the premises and only incidentally on the premises if at all.

SIGN, AREA - The area within the fewest and shortest straight lines that can be drawn around the outside perimeter of a SIGN including all decorations and lights
but excluding the supports if they are not used for advertising purposes. Each separate face of a SIGN shall be counted as part of the SIGN AREA, except that any neon tube, string of lights, or similar device shall be deemed to have minimum dimensions of one foot within a SIGN.

SIGN, DIRECTIONAL - A SIGN that directs travelers to essential services such as gas, food and lodging.

SIGN, ILLUMINATED - A SIGN that; (1) is designed to give forth any artificial light, optically enhanced natural light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection; and (2) any illumination elements that function(s) to attract attention as a SIGN expressing an idea, instruction, product, commodity, business, service and/or entertainment.

SIGN, DIRECTLY ILLUMINATED - A SIGN that incorporates any artificial lighting as an inherent part of feature or which depends for its illumination on transparent or translucent materials or electricity or radioactivated or gaseous material or substance.

SIGN, FLASHING - An illuminated SIGN on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

SIGN, INDIRECTLY ILLUMINATED - A SIGN illuminated with an artificial light which is separated from or is not an intrinsic part of the SIGN itself.

SIGN, OFF-PREMISE - A SIGN or structure which directs attention to an idea, product, business activity, service, or entertainment which is conducted, sold, or offered elsewhere than upon the lot on which such SIGN is situated.

SIGN, PORTABLE - Any SIGN that is not permanently affixed to the ground or another structure, and is capable of being easily transported or moved by the property or business owner.

SIGN, PRINCIPAL BUSINESS - The primary SIGN or SIGNS which include the business name and direct attention to a business or profession conducted on the premises. A "For Sale" SIGN or a "To Let" SIGN relating to the property on which it is displayed shall be deemed a "PRINCIPAL BUSINESS SIGN".

SIGN, REPRESENTATIONAL - Any three-dimensional SIGN which is built so as to physically represent the object advertised.
SINGLE OWNERSHIP - Possession of a lot under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than ten years, regardless of any division of such land into parcels for the purpose of financing.

SITE PLAN - Maps and supporting information required pursuant to Article 9 for uses specified in Section 4.5 - Use Regulation Table.

SOLAR COLLECTOR - A device, or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy, and that contributes to a structure's energy supply, and components for containing and supporting such device.

SOLAR COLLECTOR, DETACHED - A solar collector, as defined herein physically detached from the structure for which solar energy is to be supplied.

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

SOLAR REFLECTOR - A device for which the sole purpose is to increase the solar radiation received by the solar collector.

SOLID WASTE DISPOSAL FACILITY - Any facility as defined and regulated in 6NYCRR Part 360, and as hereafter amended.

SPECIALIZED REPAIR - A BUILDING or premises used primarily for the indoor repair of highly technical specialized equipment, such as: electronic equipment, electrical systems, computer systems and circuits, and other similar operating and support systems. A use that is primarily devoted to the general mechanical and body repair of motor vehicles shall not be deemed to meet this definition.

STABLE, COMMERCIAL - Any establishment where horses are kept for training, riding, driving or stabling, for compensation or incidental to the operation of any club, association or similar establishment.

STABLES, PRIVATE - An ACCESSORY BUILDING to a residential use in which horses are kept for private use and not for remuneration.

STORAGE FACILITY - A BUILDING or grouping of BUILDINGs designed and constructed for the common, long-term and/or seasonal interior storage of individual or business property. The wholesale storage and/or transfer of goods by commercial enterprises shall not meet this definition.
STORY, HEIGHT - The height in stories of a building shall be determined from the datum established by the average elevation of the finished grade adjoining the exterior walls of a BUILDING or STRUCTURE, where such walls face legal open space or abut other open space which is level for ten (10) feet or more. Areaways, driveways and entrances of abrupt change in elevation totaling ten percent (10%) or less of the length of the wall shall not be included in determining the average elevation.

The following locations shall not be deemed to be a story:

(1) a basement where the finished floor immediately above is less than seven feet above the average elevation of the finished grade as described in this section;
(2) a CELLAR
(3) an attic not meeting the requirements for habitable space;
(4) roof construction enclosing stairs or equipment other than elevators, provided they are less than twelve (12) feet in height and do not occupy more than thirty percent (30%) of the area of the roof on which they are located; and elevator hoistway and elevator machine rooms;
(5) for one- and two-family dwellings, a mezzanine with a floor area less than one-third (1/3) of the floor immediately below;
(6) for multiple dwellings, a mezzanine with a floor area less than 5,000 square feet and less than one-third (1/3) of the floor area space wherein the mezzanine is contained;
(7) for general building construction, a mezzanine with a floor area less than 10,000 square feet and less than one-third (1/3) of the floor area space wherein the mezzanine is contained;

STRUCTURE - A static construction of building materials, framed of component structural parts for occupancy or use, including but not limited to, buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, fences, reviewing stands and gasoline pumps.

STRUCTURE, ACCESSORY - A STRUCTURE detached from, on the same lot, and subordinate to a PRINCIPAL STRUCTURE used for purposes customarily incidental to those of the PRINCIPAL STRUCTURE. Accessory structures include but are not limited to, portable, removable or permanent enclosures, shade structures, carports, garages and storage sheds.

STRUCTURE, PRINCIPAL - A STRUCTURE in which is conducted the main or PRINCIPAL USE of the LOT on which said STRUCTURE is situated. Such STRUCTURE(S) include any open or enclosed porch, carport, garage, or similar STRUCTURE attached to such STRUCTURE.

TOWNHOUSE - A BUILDING consisting of three or more attached single-unit DWELLING UNITS each having separate entrances and common vertical party walls. (See also BUILDING, SEMI-DETACHED).

TRACT - Contiguous land under the control of the APPLICANT or his agent that is not divided by any natural or man-made barriers such as existing streets and highways, public rights-of-way identified on the official map and is not bisected by waterbodies.
TRANSIENT GUEST - Any person who shares a dwelling unit on a non-permanent basis for not more than thirty (30) days (Chapter 1, Title 10, Part 21, New York State Sanitary Code.)

TRAVEL TRAILER - A registered vehicle which is used, or designed to be used, for seasonal and/or temporary living or sleeping purposes, and which is customarily standing on wheels or rigid supports. A recreational vehicle (RV) is also considered a travel trailer.

TRUCKING TERMINALS - A building or part of a building or premises used for the short-term storage and/or transfer of goods, wares and merchandise for the owner or others by truck transport.

USE - Includes the following:

   a. The purpose for which any LOT or STRUCTURE may be arranged, designed, intended, maintained, or occupied; and/or

   b. Any occupation, activity, or operation conducted in any STRUCTURE, or on LOT.

USE, ACCESSORY - A USE which includes all of the following:

   a. Controlled by the person exercising the PRINCIPAL USE

   b. Incidental and customarily associated in the Town of Ashland with the PRINCIPAL USE

   c. Located on the same LOT with such PRINCIPAL USE or BUILDING

   d. Does not have any greater impact on the environment than the PRINCIPAL USE

USE, ADULT - A public or private business or establishment or any part thereof, which excludes persons under eighteen (18) years of age and which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental and/or display of materials, products, entertainment or services which are of a sexually explicit nature. (See Section 9.23).

USE, EX extrACTIVE - The removal and sale of any soil, gravel or earth product from a property. Grading in preparation for site construction under approved plans, where earth material is moved on-site or removed off-site incidental to construction activities, shall not be deemed an extractive use.

USE, NON-CONFORMING - A use of land, existing legally at the time of enactment of this Law, which does not conform to the zoning regulations of the DISTRICT in which it is situated.
USE, PRINCIPAL - The main or primary permitted USE of a LOT or STRUCTURE.

VEHICLE FILLING STATION - An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle fuel or oil and other lubricating substances, which may include as accessory uses sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing, (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding or painting.

VEHICLE REPAIR - A BUILDING or premises used for the general mechanical and/or body repair of licensed motor vehicles, including painting, and the accessory sale of related vehicle parts, maintenance products, and accessories. A salvage yard is not to be considered as meeting this definition.

VEHICLE SALES - A LOT or STRUCTURE for the display, sale, or lease of new or used automobiles, trucks, trailers, motorcycles, recreational vehicles, snowmobiles, boats, lawn and garden vehicles, and light industrial vehicles.

VEHICLE SALES, HEAVY EQUIPMENT - A LOT or STRUCTURE for the display, sale, lease or repair of new or used heavy construction and large scale agricultural equipment.

VETERINARY HOSPITAL - A building for the treatment and/or examination of animals illness including facilities for boarding animals receiving examination or treatment. This definition is deemed to include animal hospital or clinic.

WAREHOUSE - A building or premises; for storing of goods, wares, and merchandise, whether for the owner or for others, prior to shipment to final retail sale operation, whether it is in public or private ownership and use.

WATERCOURSE - Any river, stream or naturally occurring channel of water or any man-made culvert which flows directly into one of the aforementioned.

WHOLESALE (STORE, BUSINESS, ESTABLISHMENT) - any LOT, PREMISES or STRUCTURE which is engaged in selling to retailers or jobbers rather than directly to customers.

YARD, FRONT - An open area extending equidistant between a FRONT LOT LINE and the rear line of a minimum FRONT YARD SETBACK and projecting to the side LOT LINE(S).

YARD, REAR - An open area extending equidistant between the rear LOT LINE and the minimum REAR YARD SETBACK and extending the full width between the minimum SIDE YARD SETBACKS.

YARD, SIDE - An open area extending equidistant between the minimum SIDE YARD SETBACK and the side line of a LOT, and extending from the rear line of the FRONT YARD to a LOT LINE opposite to the FRONT LOT LINE.
ARTICLE 3. ESTABLISHMENT OF DISTRICTS

3.0 APPLICATION OF REGULATIONS

No BUILDING or land shall hereafter be used or occupied, and no building or STRUCTURE or part thereof shall be erected, moved, or altered, unless in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

3.1 GENERAL REGULATIONS

A. No BUILDING or STRUCTURE shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of LOT AREA, or to have narrower or smaller rear yards, front yards or side yards, than is specified herein for the district in which Such BUILDING or STRUCTURE is located.

B. No part of a required yard or other open space about any BUILDING required for the purpose of complying with the provisions of this Law shall be included as part of a yard or other open space similarly required for another BUILDING.

C. No LOT shall be so reduced in size that its area or any of its dimensions or open spaces shall be smaller than required by this Law.

D. No BUILDING or land shall be used for any USE other than those USES permitted in the Use Regulation Table, Section 4.5, for the Zoning DISTRICT.

E. In their interpretation and application, the provisions of this Zoning Law shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

F. Any uses not specifically permitted shall be deemed to be prohibited.

G. Regardless of any other provisions of this Law, or Chapter, any use that is noxious or offensive by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public health safety, is prohibited.

H. Approval of a USE under this Local law shall not abrogate an APPLICANT'S responsibility to obtain all other local, State or Federal approvals as appropriate.

3.2 ZONING DISTRICTS

A. In order to fulfill the purpose of this Zoning Law, the Law establishes the following Districts:

AR - Agricultural Rural Residential  
RT - Residential Transition  
C - Commercial  
HC - Highway Commercial  
I - Industrial
B. Floating District - Planned Multiple Residential Development (PMRD)

This Law also establishes a flexible, Floating District, the Planned Multiple Residential Development (PMRD) which may be applicable in the Town as long as specified criteria and conditions are met.

C. Overlay Districts - Flood Damage Prevention Overlay (FDPO)

Areas of special environmental concern exist in the Town which cut across zoning DISTRICT boundaries. This Law, therefore establishes a Flood Damage Prevention Overlay (FDPO) area of special restrictions which "overlay" other zoning DISTRICTS and requirements, and adopts by reference all of the procedures, standards and requirements established in the Town of Ashland Flood Damage Prevention Local Law, as may be amended.

3.3 ZONING MAP

The location and boundaries of said zoning districts are hereby established on a map designated "Zoning Map of the Law" which maps are kept on file and will be available for public viewing in the office of the Town Clerk, and such maps are hereby declared to be part of this Zoning Law.

3.4 INTERPRETATION OF DISTRICT BOUNDARIES

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

A. Centerlines and Right-of-Way Lines.

Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a centerline or right-of-way of such street, highway, public utility or watercourse is moved not more than twenty (20) feet.

B. Lot or Boundary Lines.

Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

C. Parallel to Lot or Boundary Lines.

Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
D. District boundaries shall be determined by use of the scale on the Zoning Map. In no instances shall a District boundary be set at less than the minimum lot depth required in the Density Control Schedule.

E. In the event of a questionable District boundary, the questionable boundary shall be referred to the Board of Zoning Appeals, and they shall, to the best of their ability, establish the exact boundary.

F. The copy of the Zoning Map showing any such determinations under this section shall be on file at the office of the Town Clerk.

G. Precise zone boundary determinations made by the Zoning Board of Appeals in accordance with the above rules shall be considered final and conclusive, and may only be altered by amendment of the Zoning Map by the Town Board.

H. **Lots Divided by Zoning District Lines.**

Where a LOT is divided by a DISTRICT boundary line, the regulations for each respective district shall apply except:

1. In all cases where a LOT in one ownership, other than a THROUGH LOT, is divided by a DISTRICT boundary so that 50 percent or more of such LOT lies in the less restricted district, the regulations prescribed for such less restricted district shall apply to the more restricted portion of said LOT for a distance of 30 feet from the zoning DISTRICT boundary. For purposes of this Law, the more restricted DISTRICT shall be deemed that district which is subject to regulations which prohibit the particular use intended to be made of said LOT or which regulations set higher standards with respect to SETBACK, coverage, yards, screening, landscaping and similar requirements.

2. In all cases where a DISTRICT boundary line is located not farther than 15 feet away from a LOT LINE of record, the regulations applicable to the greater part of the LOT shall be deemed to apply to the entire LOT.

I. **Buildings Divided by Zoning District Lines.**

Where a DISTRICT boundary line divides a BUILDING existing on the effective date of this Law, so that 50 percent or more of such BUILDING lies within the less restricted DISTRICT, the regulations prescribed by this Law for such less restricted DISTRICT (as defined in H above) shall apply to the entire BUILDING. Such provisions shall apply only if, and as long as, the BUILDING is in single ownership and its structural characteristics prevent its USE in conformity with the requirements of each DISTRICT.
ARTICLE 4.0 USE DISTRICTS APRIL 27, 2006

4.0 AGRICULTURAL - RURAL RESIDENTIAL (AR) INTENT:

To delineate those existing substantially undeveloped portions of the Town that exhibit a rural character due to the lack of services to support intensive development, such as ROAD networks, water and sewer service, and where serious limitations to development such as, steep slopes, poor development soils, and other natural features are predominant, and to conserve these areas for less intensive, low density residential USES and where appropriate AGRICULTURAL, AGRI-BUSINESS USES, and certain non-residential USES that can be developed in conformance with the natural and man-made limitations of the specific sites.

4.1 RESIDENTIAL TRANSITION (RT) INTENT

To establish strategically located areas within the Town located on major State and/or County ROADS where limited business development can occur as a convenience for surrounding RESIDENTIAL development and consistent with the adjacent RESIDENTIAL community, and where it is desirable that such commercial development be concentrated and restricted so as to preserve the RESIDENTIAL character of adjacent areas and where certain RESIDENTIAL USES may also be located. To be consistent with the RESIDENTIAL community, such business development shall include USES that, with the exception of regulated signs and parking areas, have no major exterior ACCESSORY USES or appurtenances. BUILDINGS shall be designed to be at a scale consistent with the RESIDENTIAL USES; no more than two STORIES in height and of an individual size that is consistent with the adjacent RESIDENTIAL areas. Finally, these USES shall be characterized as not creating noise, dust, or other such conditions that would adversely impact on the adjoining RESIDENTIAL community.

4.1.1 OVERLAY DISTRICT (O) INTENT

To establish areas within the RESIDENTIAL TRANSITION (RT) DISTRICT in the Town located on major State and/or County ROADS where public water service is available to support a higher intensity of BUSINESS USES in addition to those USES permitted in the underlying DISTRICT. All of the INTENT and conditions outlined for the RESIDENTIAL TRANSITION DISTRICT continue to apply so as to preserve the RESIDENTIAL character of adjacent areas and where certain RESIDENTIAL USES may also be located. To be consistent with the RESIDENTIAL community and the availability of public water which supports higher intensity USES, business development shall include USES that, shall be designed to be at a scale consistent with the RESIDENTIAL USES; no more than two STORIES in height and of an individual size that is consistent with the adjacent RESIDENTIAL areas. Finally, these USES shall be characterized as not creating noise, dust, or other such conditions that would adversely impact on the adjoining RESIDENTIAL community.
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SITE PLAN REQUIREMENTS AS SPECIFIED IN ARTICLE 9 SHALL BE WAIVED
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**ZONING DISTRICTS:**

AR - AGRICULTURAL RESIDENTIAL
C - COMMERCIAL
RT - RESIDENTIAL TRANSITION
HC - HIGHWAY COMMERCIAL
I - INDUSTRIAL
O - OVERLAY

**KEY**

P - PERMITTED AS OF RIGHT
S - PERMITTED UNDER SITE PLAN
F - APPROVAL BY PLANNING BOARD
G - FLOATING
BLANK - NOT PERMITTED IN THAT DISTRICT

4 - 5
ARTICLE 4.0 USE DISTRICTS

4.0 AGRICULTURAL - RURAL RESIDENTIAL (AR) INTENT:

To delineate those existing substantially undeveloped portions of the Town that exhibit a rural character due to the lack of services to support intensive development, such as ROAD networks, water and sewer service, and where serious limitations to development such as, steep slopes, poor development soils, and other natural features are predominant, and to conserve these areas for less intensive, low density residential USES and where appropriate AGRICULTURAL, AGRI-BUSINESS USES, and certain non-residential USES that can be developed in conformance with the natural and man-made limitations of the specific sites.

4.1 RESIDENTIAL TRANSITION (RT) INTENT

To establish strategically located areas within the Town located on major State and/or County ROADS where limited business development can occur as a convenience for surrounding RESIDENTIAL development and consistent with the adjacent RESIDENTIAL community, and where it is desirable that such commercial development be concentrated and restricted so as to preserve the RESIDENTIAL character of adjacent areas and where certain RESIDENTIAL USES may also be located. To be consistent with the RESIDENTIAL community, such business development shall include USES that, with the exception of regulated signs and parking areas, have no major exterior ACCESSORY USES or appurtenances. BUILDINGS shall be designed to be at a scale consistent with the RESIDENTIAL USES; no more than two STORIES in height and of an individual size that is consistent with the adjacent RESIDENTIAL areas. Finally, these USES shall be characterized as not creating noise, dust, or other such conditions that would adversely impact on the adjoining RESIDENTIAL community.

4.2 COMMERCIAL - (C) INTENT

This district delineates that area in the Town where the nature of the existing business development and availability of transportation network, water and sewer service, major business Development can and/or should occur. It is established to concentrate RETAIL USES, transient accommodations, and service activities within defined and established regulations.

4.3 HIGHWAY COMMERCIAL (HC) INTENT:

This district delineates that area in the Town that is situated along a major State Route and Interchange where motor vehicle oriented business development already exists or should occur. It is established to concentrate major non-residential commercial, business and light manufacturing uses in those areas best suited to this type of intense development within specific site limitations, and defined and established regulations.
4.4 INDUSTRIAL (I) INTENT

To delineate those areas in the Town that are now utilized for and appropriately suited to manufacturing, process and industrial USES, and to preserve these areas for such USES and related USES that will not create a detrimental or significant adverse impact on the environment and the welfare of the community.

4.5 USE REGULATION TABLE

The permitted, SITE PLAN and SPECIAL PERMIT USES for each zoning DISTRICT shall be as specified in the following Use Regulation Table:
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<tr>
<th>USE</th>
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<th>DISTRICT</th>
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**KEY**

AR - AGRICULTURAL/RESIDENTIAL  
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S - PERMITTED UNDER SITE PLAN APPROVAL BY PLANNING BOARD  
F - PERMITTED IN FLOATING ZONE  
BLANK - NOT PERMITTED IN THAT DISTRICT
4.6 ACTIVITIES PROHIBITED IN ALL DISTRICTS.

A. No effluent or matter of any kind shall be discharged into any stream or body of surface water which violates established stream standards of the NYS Department of Environmental Conservation or otherwise causes odors or fumes or which is poisonous or injurious to human, plant or animal life.

B. The practice of soil stripping shall be limited to incidental filling of areas within the Town to bring them up to grade, except insofar as is necessary or incidental to excavations for cellars and other structures.

C. Unless conducted under proper and adequate standards, no USE shall be permitted which will produce corrosive, toxic or noxious fumes, gas, materials, glare, fire explosion, electromagnetic disturbance, radiation, smoke, odors, dust, waste, noise or vibration, or other objectional features so as to be detrimental to the public health, public safety, or general welfare.

D. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way shall not be permitted.
ARTICLE 5  AREA AND BULK REGULATIONS - DENSITY CONTROL SCHEDULE

5.0  INTENT

This Article is established in the interest of promoting public health, safety and welfare by providing open space for: the access of light and air circulation, preventing, conflagration, facilitating firefighting, meeting current and future septic disposal needs, protecting water supplies and environmentally sensitive areas, uncongested traffic movements, and protecting views.

5.1  DENSITY/BULK CONTROL SCHEDULE

The Density/Bulk Control Schedule of required conditions for each zoning DISTRICT is as follows:
## TOWN OF ASHLAND

### DENSITY/BULK CONTROL SCHEDULE

<table>
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<th>DISTRICT USE</th>
<th>MINIMUM LOT AREA PER PRINCIPAL USE (SQ. FT.)</th>
<th>MIN. LOT WIDTH (FT.)</th>
<th>MINIMUM YARD REQUIREMENTS (SETBACKS)</th>
<th>MAXIMUM LOT COVERAGE (%)</th>
<th>MAXIMUM BUILDING HEIGHT FEET</th>
<th>STORIES</th>
<th>MINIMUM HABITABLE DWELLING AREA PER UNIT (SQ. FT.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ONE-UNIT DWELLING</td>
<td>3 Acres</td>
<td>200</td>
<td>FRONT (FT.)</td>
<td>SIDE (FT.)</td>
<td>REAR (FT.)</td>
<td>5%</td>
<td>35</td>
</tr>
<tr>
<td>ONE-UNIT DWELLING</td>
<td>2.5 Acres</td>
<td>150</td>
<td>65</td>
<td>20</td>
<td>50</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>ONE-UNIT DWELLING</td>
<td>30,000</td>
<td>100</td>
<td>50</td>
<td>20</td>
<td>45</td>
<td>15%</td>
<td></td>
</tr>
<tr>
<td>TWO-UNIT DWELLING</td>
<td>6 Acres</td>
<td>350</td>
<td>65</td>
<td>40</td>
<td>75</td>
<td>5%</td>
<td>35</td>
</tr>
<tr>
<td>AGRICULTURE - CROPS ONLY (MAY INCLUDE RESID. @ MIN. REG)</td>
<td>10 Acres</td>
<td>500</td>
<td>65</td>
<td>75</td>
<td>100</td>
<td>10%</td>
<td>35</td>
</tr>
<tr>
<td>AGRICULTURE - LIVESTOCK (MAY INCLUDE RESID. @ MIN. REG)</td>
<td>10 Acres</td>
<td>500</td>
<td>65</td>
<td>75</td>
<td>100</td>
<td>10%</td>
<td>35</td>
</tr>
<tr>
<td>PUBLIC UTILITY TOWER</td>
<td>1 Acre</td>
<td>200</td>
<td>(1)</td>
<td>(1)</td>
<td>(1)</td>
<td>10%</td>
<td>35</td>
</tr>
<tr>
<td>STABLE - PRIVATE &amp; COMMERCIAL KENNEL (MAY INCLUDE RESID. @ MIN. REG)</td>
<td>5 Acres</td>
<td>300</td>
<td>65</td>
<td>75</td>
<td>100</td>
<td>10%</td>
<td>35</td>
</tr>
<tr>
<td>OTHER NON-RESIDENTIAL USES</td>
<td>3 Acres</td>
<td>200</td>
<td>(1)</td>
<td>(1)</td>
<td>(1)</td>
<td>15%</td>
<td>35</td>
</tr>
</tbody>
</table>

* MAXIMUM LOT DEPTH SHALL BE NO MORE THAN FIVE (5) TIMES THE MINIMUM LOT WIDTH

** "OVERALL EXTERIOR DIMENSION" SHALL MEAN OVERALL EXTERIOR LINEAL LENGTH AND WIDTH OF A STRUCTURE.

(1) MINIMUM REQUIREMENTS WILL BE ESTABLISHED DURING SITE PLAN APPROVAL PROCESS

APRIL 27, 2006
SAME AS THE ADJOINING LAND USES' MINIMUM BULK REQUIREMENTS

"OVERALL EXTERIOR DIMENSION" SHALL MEAN OVERALL EXTERIOR LINEAL LENGTH AND WIDTH OF A

STRUCTURE.

MINIMUM LOT SIZES MAY BE REQUIRED TO BE LARGER, BY THE CHEMUNG COUNTY HEALTH DEPARTMENT, FOR

NEW DEVELOPMENT USING ON-LOT SEWAGE DISPOSAL SYSTEMS

TO BE ESTABLISHED DURING SITE PLAN REVIEW, EXCEPT THAT IN NO INSTANCE SHALL THE SETBACK BE

PERMITTED AT LESS THAN THAT ESTABLISHED FOR THE ADJOINING SINGLE- AND TWO-FAMILY USES

PLANNING BOARD MAY PERMIT HIGHER BUILDING LIMITS AT THE SITE PLAN APPROVAL PROCESS BASED ON

DESIGN AND CONSTRUCTION FOR FIRE SAFETY

1

SETBACK TO ALL PRINCIPAL AND ACCESSORY BUILDINGS AND USES
5.2 REGULATIONS

Except as herein provided, no STRUCTURE shall be erected or altered, or premises used, except in accordance with the standards set forth in this Article and the Density/Bulk Control Schedule.

A. Special Regulations Relating to Front Yards:

(1) No part of any LOT that has two or more FRONT YARDS shall be deemed to be a REAR YARD.

(2) On any LOT with more than one FRONT YARD, all yards, other than FRONT YARDS, shall be deemed to be SIDE YARD(s).

(3) The minimum FRONT YARD SETBACK on an undeveloped LOT may be reduced under the following conditions:

(a) Both LOT(S) adjoining the undeveloped LOT have STRUCTURES located within less than the minimum FRONT YARD SETBACK established for the DISTRICT; and

(b) The LOT WIDTH of the undeveloped LOT is 250' or less; and

(c) The reduced FRONT YARD SETBACK on the undeveloped LOT shall be no less than a distance equal to the average distance between the FRONT LOT LINE(S) and the BUILDING LINE(S) on the adjoining LOT(S).

B. Special Regulations Relating to Side Yards:

(1) A STRUCTURE having SEMI-DETACHED, TOWNHOUSE or MULTI-FAMILY DWELLING UNITS shall meet SIDE YARD SETBACK(S) only at the end(s) of the STRUCTURE facing the SIDE YARD(S).

(2) The provisions of this Section shall apply where such STRUCTURE is located on one (1) LOT or where such STRUCTURE extends over more than one (1) LOT.

(3) Where the side wall of a BUILDING is not parallel to the SIDE LOT LINE or the SIDE LOT LINE is broken or otherwise irregular, the SIDE YARD may be varied. In such case, the average width of the SIDE YARD shall not be less than the otherwise required minimum width; provided, however, that such yard shall not be narrower at any one point than one-half (½) the otherwise required minimum width.
5.3 PROJECTIONS INTO YARDS

Only the following projections shall be permitted within a minimum yard setback:

A. Awnings and canopies may project a maximum of six (6) feet.
B. Cornices, eaves, passive solar devices, and other such architectural feature may project a maximum of two (2) feet.
C. Exterior uncovered and unenclosed handicap access facilities may project up to the LOT LINE(S) if required to meet the access standards.
D. Unroofed and unenclosed paved surfaces may project up to the LOT LINE(S).

5.4 COMPLIANCE WITH DENSITY

A. No subdivision of a LOT shall create a LOT that is not in compliance with any provision of the Density/Bulk Control Schedule.
B. There shall be no more than one (1) principal structure containing dwelling units on a LOT except as may be approved under SITE PLAN review and approval.

5.5 DISTANCE BETWEEN PRINCIPAL STRUCTURES ON THE SAME LOT

Where there are more than one (1) PRINCIPAL STRUCTURES on a LOT in any district, the space between such STRUCTURES shall be at least equal to the height of the taller of the nearest such STRUCTURE.

5.6 GENERAL EXCEPTION TO HEIGHT REGULATIONS

The limitations of the height of BUILDINGS shall not apply to parts of BUILDINGS which are non-habitable, including; silos, chimneys, HVAC equipment, ventilators, skylights, tanks, bulkheads, or spires, that are part of non-residential BUILDINGS, or ANTENNAS in accordance with Section 9.18.

5.7 THROUGH LOTS.

In the case of a LOT running through from one STREET to another STREET, the front of such LOT shall, for the purposes of this Law, be considered that frontage upon which the majority of the BUILDINGS in the same block front, but in case there has been no clearly defined frontage established, the owner may, when applying for a building permit, specify on the permit application which lot line shall be considered the FRONT LINE. The rear portion of such a LOT shall, however, be treated as a FRONT YARD for the purposes of determining required SETBACKS and locations of permitted STRUCTURES and USES.
5.8 TRANSITION YARD REQUIREMENTS.

A. Where a residential DISTRICT abuts a non-residential DISTRICT on a STREET LINE, there shall be provided in the non-residential DISTRICT, for a distance of thirty-five (35) feet from the DISTRICT boundary line, a FRONT YARD at least equal in depth to that required in the residential DISTRICT.

B. Where a non-residential DISTRICT abuts a SIDE or REAR YARD in a residential DISTRICT, there shall be provided in the non-residential DISTRICT a SIDE or REAR YARD at least equal in depth to that required in the residential DISTRICT. In no case, however, shall the abutting REAR YARD be less than twenty-five (25) feet.
ARTICLE 6 PLANNED MULTIPLE RESIDENTIAL DISTRICT (PMRD)

6.0 INTENT

It is the intent of this Article to provide flexible land USE and design requirements through the use of performance criteria so that small-to-large neighborhoods or portions thereof may be developed that incorporate a variety of residential DENSITY and BUILDING types. This PMRD may contain both individual DWELLING UNIT building sites and common property which is planned and developed as a unit. In order to carry out the purpose of this PMRD, a PMRD DEVELOPMENT shall achieve the following objectives:

A. A maximum choice at all economic levels in the types of environment, occupancy, housing, LOT sizes and community facilities available to existing and potential Town residents.

B. Create more usable open space and recreation areas.

C. The preservation of LARGE TREES and outstanding natural features.

D. Creative USE of land and related physical DEVELOPMENT.

E. An efficient USE of land resulting in smaller networks of utilities and ROADS, thereby lower costs.

F. A DEVELOPMENT pattern in harmony with the objectives of the Comprehensive Plan for the Town.

G. Compatibility with all applicable guidelines and requirements set forth in Article 10.

H. Maintenance or creation of acceptable traffic patterns and levels of service on the existing ROAD network, especially in established RESIDENTIAL areas.

6.1 FLOATING ZONE

The PMRD is a floating zone that shall be subject to SITE PLAN approval and zoning amendment.

6.2 APPLICABLE ZONING DISTRICTS

A PMRD may be permitted in the AR and RT Zoning DISTRICTS in accordance with the procedures for establishing a PMRD hereafter set forth in Sub-Section 6.7. A Senior Housing PMRD (SHPMRD) may be permitted in the AR and CT DISTRICT in accordance with the procedures for establishing a PMRD hereafter set forth in Section 6.8.
6.3 PERMITTED USES

All ONE-UNIT, TWO-UNIT AND MULTI-UNIT DWELLINGS and their ACCESSORY USES are permitted subject to SITE PLAN Review and Approval. Such DWELLING UNITS may be in the form of CONDOMINIUMS or rental units.

6.4 GENERAL REQUIREMENTS GOVERNING NON-SENIOR HOUSING PMRD

Any DEVELOPMENT proposal to be considered as a PMRD allowing such DENSITY increases as outlined in this Article shall conform to the following requirements, which are regarded as minimum requirements, in addition to applicable requirements in other Sub-Sections of this Law:

A. LOT AREA: The Minimum LOT AREA required to qualify for a PMRD designation shall be ten (10) acres in size.

B. Access: A minimum of two (2) vehicular DRIVES, approved and constructed in accordance with Section 10.8, shall be required. Such DRIVES shall originate from a ROAD with a minimum classification as SECONDARY ROAD.

C. BUFFER YARD Requirement - A PMRD DEVELOPMENT shall have a BUFFER YARD area along the entire perimeter of the parcel that shall meet the following minimum requirement:

1. A BUFFER YARD shall be at least equal to twice the minimum FRONT, SIDE and REAR YARD SETBACK, as appropriate for the underlying DISTRICT, except that in no instance shall the BUFFER YARD be less than fifty (50) feet. The BUFFER YARD shall be designed to form a minimum six (6) foot visual BARRIER through the USE of man-made materials and/or natural plants. No man-made BARRIER shall exceed six (6) feet in height.

2. No PRINCIPAL or ACCESSORY STRUCTURE, parking area, or other ACCESSORY USE shall be located within the minimum BUFFER YARD.

3. The Planning Board may, during the SITE PLAN review process require greater BUFFER YARD and/or BUILDING SETBACK than the minimum provided in this Law.

D. Water and Sewer Service: A PMRD shall be serviced by public water and public sanitary sewer systems.

E. DENSITY: The Planning Board shall determine in each case the appropriate DWELLING UNIT DENSITY and location. The gross DENSITY shall be calculated using the total acreage of the proposed DEVELOPMENT. Such gross DENSITY shall in no instance exceed ten (10) DWELLING UNITS per acre.

F. Minimum Habitable Space: shall be as established in Sub-Section 5.1 BULK and DENSITY Control Schedule.
G. Recreation Requirements: All DEVELOPMENT proposals shall have a minimum of ten percent (10%) of all lands set aside and developed, as appropriate, for recreational USE in accordance with Section 9.10.

6.5 SPECIAL REQUIREMENTS GOVERNING NON-SENIOR HOUSING PMRD

In addition to compliance with the General Requirements set forth in Section 6.4, the following special requirements shall be applied to all Non-Senior Housing PMRD and shall be regarded as minimum requirements:

A. ONE-UNIT and TWO-UNIT DWELLING: The dimensional requirements for ONE-UNIT and TWO-UNIT DWELLING shall be as established by the Planning Board in the SITE PLAN Review and Approval process, except that in no instance shall they be less than the following specific requirements:

1. Maximum number of units: The maximum number of ONE-UNIT and TWO-UNIT DWELLINGS in a PMRD shall be no more than thirty (30%) of the total allowable DWELLING UNITS per the DENSITY calculation for the DEVELOPMENT.

2. LOT requirements for each DWELLING UNIT:

   (a) Maximum LOT COVERAGE: 40%

   (b) Minimum LOT size: 10,000 square feet

   (c) Minimum LOT width: 75 feet

   (d) Minimum SETBACK requirements:

      (1) FRONT YARD as measured from pavement edge of DRIVE and INTERIOR DRIVE: 30 feet

      (2) SIDE YARD: 15 feet

      (3) REAR YARD: 25 feet

3. Parking: Shall be in conformance with Section 9.3.

4. An ACCESSORY BUILDING, including detached garage, shall be located no less than ten (10) feet from any REAR or SIDE LOT LINE and shall not be located in any required FRONT YARD, and shall be located at least twelve (12) feet from the PRINCIPAL BUILDING.

B. TOWNHOUSE: The requirements for TOWNHOUSE shall be as established by the Planning Board in the SITE PLAN Review and Approval process, except that in no instance shall they be less than the following specific requirements:

1. Maximum LOT COVERAGE: 40%
2. Minimum LOT SETBACK requirements:

(a) FRONT YARD as measured from pavement edge of DRIVE and INTERIOR DRIVE: 30 feet

(b) REAR YARD: 25 feet

(c) SIDE YARD: 10 feet
   (at ends of TOWNHOUSE)

3. Maximum BUILDING HEIGHT shall be three (3) stories or forty (40) feet whichever is the lesser.

4. PARKING: Shall be in conformance with Section 9.3.

5. An ACCESSORY BUILDING, including detached garage, shall be located no less than ten (10) feet from any REAR or SIDE YARD and shall not be located in FRONT YARD SETBACK, and shall be located at least twelve (12) feet from the PRINCIPAL BUILDING.

C. MULTI-UNIT DWELLING: The dimensional requirements for MULTI-UNIT DWELLINGS shall be as established by the Planning Board in the SITE PLAN Review and Approval process, except that in no instance shall they be less than the following specific requirements:

1. Maximum LOT COVERAGE: 40%

2. Minimum LOT SETBACK REQUIREMENT:

(a) FRONT YARD as measured from pavement edge of DRIVE and INTERIOR DRIVE: 30 feet

(b) PRINCIPAL BUILDING SETBACK from any ROAD: 40 feet

(c) REAR YARD: 25 feet

(d) SIDE YARD (at ends of BUILDINGS): 10 feet

(e) No PRINCIPAL BUILDING shall be located less than thirty (30) feet from any interior LOT LINE.

3. Maximum BUILDING HEIGHT shall be three (3) STORIES or forty (40) feet whichever is the lesser.

4. Parking: Shall be in conformance with Section 9.3.
5. ACCESSORY BUILDINGS, including detached garages, shall be located no less than ten (10) feet from any REAR or SIDE YARD and shall not be located in a FRONT YARD SETBACK, and shall be located at least twelve (12) feet from the PRINCIPAL BUILDING.

6.6 GENERAL REQUIREMENTS GOVERNING SENIOR HOUSING PMRD (SHPMRD)

Any DEVELOPMENT proposal to be considered as a SHPMRD allowing such DENSITY increases as outlined in this Article shall conform to the following requirements, which are regarded as minimum requirements, in addition to applicable requirements in other Sub-Sections of this Law, as well as the requirements of the Federal Fair Housing Act.

A. SHPMRD LOT AREA: The Minimum LOT area required to qualify for a SHPMRD designation shall be twenty-five (25) contiguous acres.

B. Access: A minimum of two (2) DRIVES, approved and constructed in accordance with Section 9.7, shall be required. Such DRIVES shall originate from a ROAD with a minimum classification as SECONDARY ROAD.

C. BUFFER YARD requirements: All SHPMRD DEVELOPMENT shall have a BUFFER YARD along the entire perimeter of the PARCEL that shall meet the following minimum requirements:

1. A BUFFER YARD shall be at least equal to twice the minimum FRONT, SIDE and REAR YARD SETBACK for a ONE-UNIT DWELLING, as appropriate for the underlying DISTRICT, except that in no instance shall the BUFFER YARD be less than fifty (50) feet. The BUFFER YARD shall be designed to form a six (6) foot high visual barrier through the use of man-made materials and/or natural plants. No man-made barrier shall exceed six (6) feet in height.

2. No PRINCIPAL or ACCESSORY STRUCTURE, parking area, or other ACCESSORY USE shall be located within the minimum BUFFER YARD.

3. The Planning Board may, during the SITE PLAN Review and Approval process require greater BUFFER YARD and/or BUILDING SETBACK than the minimum provided in this Law.

D. Water and Sewer Service: Each SHPMRD shall be serviced by public water and public sanitary sewer systems.

E. DENSITY: The Planning Board shall determine in each case the appropriate DWELLING UNIT DENSITY and location. The gross DENSITY shall be calculated using the total acreage of the proposed DEVELOPMENT. Such gross DENSITY shall not exceed the following requirements:

1. MULTI-UNIT DWELLINGS shall be permitted at a DENSITY of twelve (12) DWELLING UNITS per acre.
2. ONE-UNIT AND TWO-UNIT DWELLINGS shall be permitted at a DENSITY of 3.5 DWELLING UNITS per acre.

3. No DWELLING UNIT in a SHPMRD shall have more than two (2) bedrooms, with the exception of a caretaker's or manager's DWELLING UNIT which may have up to four (4) bedrooms.

F. Minimum Habitable Space shall be as established in Section 5.1, BULK and DENSITY Control Schedule.

G. Recreation Requirement: All DEVELOPMENT proposals shall have a minimum of five percent (5%) of all lands set aside and developed in accordance with Section 9.10 for the private recreational USE of the SHPMRD residents.

H. Other Permitted USE: To further the objectives of the SHPMRD the Town of Ashland herein establishes and permits the following additional PRINCIPAL and ACCESSORY USE:

1. PRINCIPAL USE: The following PRINCIPAL USES shall also be permitted in a SHPMRD. Each such USE shall be required to have a Minimum LOT AREA of one (1) acre. The Planning Board shall determine at the time of SITE PLAN Review if a larger LOT AREA is required to support the USE.

   (a) Assisted care living units, which for the purposes of this Law, shall be living units that do not constitute the definition of a DWELLING UNIT, but may contain separate living and sleeping space, and includes central eating facilities at which residents take meals.

   (b) NURSING HOME/CONVALESCENT HOME, health care services facility, home for the aged and other health care related facilities in combination with assisted care living units with central facilities duplicating those centrally provided for congregate care units and assistance with daily living services including but not limited to bathing, dressing, mobility and medication supervision.

   (c) Any combination of the a or b above.

2. ACCESSORY USE: Certain related ancillary facilities shall be permitted, either in a separate BUILDING or in combination with assisted and/or congregate care units. Such ancillary facilities are deemed to be and shall function as an ACCESSORY USE and shall be compatible with the residential character of the DEVELOPMENT and are as follows:

   (a) Cafeteria

   (b) Laundry

   (c) Lounge

   (d) Game room
(e) Recreation room

(f) Exercise or multipurpose room

(g) Workshop

(h) Library

(i) Sauna/spa, exercise rooms, whirlpool

(j) Medical and/or Emergency Medical Center, physical and speech therapy areas, first aid station, principally for the benefit of residents of the DEVELOPMENT

(k) Community and smaller private dining rooms, cocktail lounge, restaurant, coffee shop, and/or lounge areas

(l) Small retail stores, convenience store, beauty parlor, barber shop, bank, post office, areas for crafts, games and other activities

(m) Chapel

(n) Rental units and/or guest rooms for visitors

(o) Social services office. Such office shall be for use by social service providers or others offering direct assistance to residents of the DEVELOPMENT.

(p) Playground (outdoor and/or indoor)

(q) ADULT DAY CARE Facilities

(r) Twenty-four (24) hour security

(s) Maintenance facilities

6.7 SPECIAL REQUIREMENTS GOVERNING SHPMRD

In addition to compliance with the General Requirements set forth in Section 6.6, the following special requirements shall be applied to all SHPMRD and shall be regarded as minimum requirements:

A. ONE-UNIT AND TWO-UNIT DWELLING requirements: The dimensional requirements for ONE-UNIT AND TWO-UNIT DWELLINGS shall be as established by the Planning Board in the SITE PLAN Review and Approval process, except that in no instance shall they be less than the following requirements:

1. Maximum LOT COVERAGE: 40%
2. Maximum DENSITY: 3.5 DWELLING UNITS per acre

3. Minimum LOT Size: 7,000 square feet per DWELLING UNIT

4. Minimum LOT WIDTH: 50 feet

5. Minimum SETBACK Requirements:
   (a) FRONT YARD as measured from the pavement edge of DRIVE and INTERIOR DRIVE: 25 feet
    (b) SIDE YARD: 15 feet
    (c) REAR YARD: 25 feet

6. MINIMUM PARKING: 1.5 spaces per DWELLING UNIT and in accordance with all other requirements of Section 9.3

7. An ACCESSORY BUILDING, including detached garage, shall be no more than 200 square feet in size and shall be located no less than ten (10) feet from any REAR or SIDE LOT LINE, shall not be located in a FRONT YARD SETBACK, and shall be located at least twelve (12) feet from the PRINCIPAL BUILDING.

B. TOWNHOUSE DWELLING: The requirements for TOWNHOUSE shall be as established by the Planning Board in the SITE PLAN Review and Approval process, except that in no instance shall they be less than the following specific requirements:

1. Maximum LOT COVERAGE: 40%

2. Minimum SETBACK REQUIREMENT:
   (a) FRONT YARD as measured from the pavement edge of DRIVE and INTERIOR DRIVES: 30 feet
    (b) REAR YARD: 25 feet
    (c) SIDE YARD: 10 feet
       (at ends of buildings)

3. Maximum BUILDING HEIGHT shall be three (3) STORIES or forty (40) feet whichever is the lesser.
4. Parking: 1.5 spaces per DWELLING UNIT and in accordance with the requirements of Section 9.3.

5. Any ACCESSORY BUILDING, including a detached garage, shall be no more than 200 square feet in size and shall be located no less than ten (10) feet from any REAR or SIDE YARD, shall not be located in a FRONT YARD SETBACK, and shall be located at least twelve (12) feet from the PRINCIPAL BUILDING.

C. MULTI-UNIT DWELLING DEVELOPMENT: The dimensional requirements for MULTI-UNIT DWELLINGS shall be as established by the Planning Board in the SITE PLAN Review and Approval process, except that in no instance shall they be less than the following specific requirements:

1. Maximum LOT COVERAGE: 40%

2. Minimum SETBACK REQUIREMENT:

   (a) FRONT YARD as measured from pavement edge of DRIVE and INTERIOR DRIVE: 30 feet

   (b) REAR YARD: 25 feet

   (c) SIDE YARD: 10 feet (at ends of building)

   (d) No PRINCIPAL BUILDING shall be located less than thirty (30) feet from any interior LOT LINE.

   (e) PRINCIPAL BUILDING SETBACK from any ROAD shall be a minimum of forty (40) feet.

3. Maximum BUILDING HEIGHT shall be three (3) STORIES or forty (40) feet whichever is the lesser.

4. Parking: 1.5 spaces per DWELLING UNIT and in accordance with all other requirements of Section 9.3.

5. An ACCESSORY BUILDING, including detached garage, shall be located no less than ten (10) feet from any REAR or SIDE YARD and shall not be located in a FRONT YARD SETBACK, and shall be located at least twelve (12) feet from the PRINCIPAL BUILDING.
6.8 PROCEDURES FOR ESTABLISHING A PMRD OR SHPMRD

6.8.1 Application Requirements

A request for establishing a PMRD or SHPMRD shall sequentially comprise: (1) a Concept Plan pursuant to Article 8, and (2) a SITE PLAN application pursuant to Article 8 and a proposed Zoning Amendment pursuant to Article 14.

6.8.2 Concept Plan Requirement

A Concept Plan for a proposed PMRD or SHPMRD, prepared in accordance with Article 8 shall be submitted to the Town Board and to the Planning Board.

6.8.2.1 Action on the Concept Plan

A. The Planning Board shall evaluate the Concept Plan and make a recommendation to the Town Board. The recommendations shall be either conditional acceptance of the Concept Plan or disapproval of the request and shall include findings for such recommendation.

B. Then the Town Board shall evaluate the Concept Plan and the recommendation by the Planning Board. The Town board shall make a decision of either conditional acceptance of the Concept Plan or disapproval of the request and shall include findings for such decision.

6.8.3 Application for SITE PLAN and Zoning Amendment

Upon conditional acceptance of the Concept Plan by the Town Board, the APPLICANT may initiate a SITE PLAN application in accordance with Article 8 for a PMRD or SHPMRD by submitting to the Planning Board a Preliminary Plan together with a proposed Zoning Amendment.

6.8.3.1 Action on Preliminary Plan of SITE PLAN and Zoning Amendment

The Planning Board shall act on the Preliminary Plan and proposed Zoning Amendment as follows:

A. Evaluate potential environmental impact, compliance with this Law and any other applicable Law, Rule or Regulation, and any other significant concern.

B. Make Findings based on the evaluation according to Sub-Section 6.8.3.1A.

C. Make a decision based on the Findings according to Sub-Section 6.8.3.1B to either:

1. Accept the Preliminary Plan and proposed Zoning Amendment for consideration by the Town Board, and make a recommendation to the Town Board that the Town Board:
(a) make a determination of no significant environmental impact by the proposed PMRD or SHPMRD, and

(b) enact the proposed Zoning Amendment; or

2. Refuse to accept the Preliminary Plan and proposed Zoning Amendment and make a recommendation to the Town Board that the Town Board disapprove or modify the proposed Zoning Amendment.

6.8.3.2 Action on Zoning Amendment

A. After the receipt of the Planning Board's recommendation to accept the Preliminary Plan and proposed Zoning Amendment, the Town Board shall, in accordance with Article 14, set and hold a Public Hearing on the proposed Zoning Amendment for the PMRD or SHPMRD.

B. After the Public Hearing pursuant to Sub-Section 6.8.3.2A and in accordance with Article 14, the Town Board shall enact, with or without modification, or disapprove the proposed Zoning Amendment and record the reason for the action.

6.8.3.3 Action on SITE PLAN Application

After enactment of the Zoning Amendment pursuant to Sub-Section 6.8.3.2B the Planning Board shall process and make decision on the SITE PLAN Application for the PMRD or SHPMRD in accordance with Article 8.

6.8.4 Subdivision Approval Requirement

If the PMRD or SHPMRD proposal involves a Subdivision of land:

A. Any Subdivision of land shall be included in the Concept Plan specified in Sub-Sections 6.8.1 and 6.8.2.

B. An application for Subdivision approval shall, concurrent with the SITE PLAN Application, be initiated by the APPLICANT and processed with decisions thereon by the Planning Board.

6.8.5 Modification or Amendment of Approved PMRD or SHPMRD

Any proposed modification or change to an approved SITE PLAN for a PMRD or SHPMRD requires submission, processing and decision on an amendment to the approved SITE PLAN in accordance with Article 8.
ARTICLE 7  RESIDENTIAL CLUSTER DEVELOPMENT (RCD)

7.0  INTENT

The RCD is intended to enable and encourage flexibility in the design and DEVELOPMENT of land in such a manner as to promote the most appropriate use of land, to facilitate adequate and economical provision of services, to preserve those areas in the Town that are suitable for agricultural USE, to protect and conserve open space USE and environmentally sensitive features, and to preserve scenic qualities.

7.1  APPLICABLE ZONING DISTRICTS

RCD shall be considered applicable in the AR, and RT Zoning DISTRICTS.

7.2  PERMITTED USES

All ONE-UNIT, TWO-UNIT and MULTI-UNIT DWELLING and Ancillary USES as specified in Section 4,5 USE Requirements Table, for the applicable DISTRICTS are permitted.

7.3  DIMENSIONAL REQUIREMENTS

Dimensional requirements as set forth in Article 5, DENSITY/ BULK Control Schedule may be varied by the Planning Board based on set conditions and the merits of the specific proposal in meeting the objectives of this Article.

7.4  AUTHORIZATION OF PLANNING BOARD TO GRANT OR DENY RCD

In accordance with Sub-Section 277 of the Town Law, the Town Board authorizes the Planning Board, simultaneously with the approval of a Plat, to modify the applicable BULK and DENSITY provisions of this Law, subject to the conditions hereinafter set forth, where such modification would benefit the Town by providing an alternate method of DEVELOPMENT of the Plat. In no instance shall the number of DWELLING UNITS exceed the number permitted, in the Planning Board's judgment, if the land were subdivided in to LOTS conforming with the Minimum LOT size and DENSITY requirements of the ZONING DISTRICT. The Town Board, pursuant to Section 277 of the Town Law, authorizes the Planning Board to require that the DEVELOPER submit an application which reflects and incorporates RCD modifications where the objectives stated herein and/or in Article 1 are met to a greater degree than if the DEVELOPMENT were permitted to occur in a conventional manner. The Planning Board shall comply with all procedures and requirements set forth in this Article when implementing such power.

7.5  REQUIREMENTS GOVERNING RCD

Any RCD shall conform to the following requirements which are regarded as minimum requirements.

A. The RCD shall apply only to lands as specified in Section 7.1 that have a minimum of four (4) contiguous acres. It shall be determined that such DEVELOPMENT will not be detrimental to the health, safety or welfare of persons residing in the vicinity,
or to property or IMPROVEMENTS in close proximity. The proposed DEVELOPMENT shall create an attractive residential environment that is in conformity with the intent of this Article and the Town Comprehensive Plan.

B. Such DEVELOPMENT shall be buffered in accordance with Section 10.23.

C. All RCD plans shall be prepared with competent professional assistance of a DESIGN ENGINEER and shall be consistent with the spirit and intent of the Zoning Law.

D. In areas without public water and sewer, any reduction in LOT size allowed under this Article shall be dependent on approval of the on-LOT potable water and sewage disposal system by either N.Y.S. Department of Health, N.Y.S. Department of Environmental Conservation, or the Chemung County Department of Environmental Health.

E. All the land not contained in the LOT or the ROAD RIGHT-OF-WAY shall be of such size and shape as to be usable for recreation or AGRICULTURE or natural BUFFER areas. Such land shall either be:

1. offered for dedication to and accepted by the Town; or

2. be held in corporate ownership by the owners of LOTS within the DEVELOPMENT, and the DEVELOPER shall incorporate into the deeds of all property within the DEVELOPMENT, a clause giving to the owners an interest in such open land which shall be used for recreation, cultural or agricultural purposes only; or

3. be retained under separate ownership as an AGRICULTURE USE or other permitted USE. If retained under separate ownership, a clause shall be incorporated into the deed restricting the land to be used for recreation, cultural or AGRICULTURE USE only. No STRUCTURE save those incidental to the recreational, cultural or AGRICULTURAL USE shall be permitted thereon.

F. The residual open land left undeveloped after DEVELOPMENT shall be maintained in accordance with the DEVELOPMENT plan. APPLICANTS shall provide copies of deed covenants for the prospective purchasers, or conservation EASEMENT with the Town, describing land management practices to be followed by whichever party or parties are responsible for maintenance.

G. Further subdivision of residual land, or its USE for other than recreation, conservation, or AGRICULTURE, except for EASEMENTS for utilities, shall be prohibited. ACCESSORY STRUCTURES to recreation, conservation, or AGRICULTURE may be erected on residual land, subject to the provisions of Article 9, SITE PLAN Approval Procedures.

H. In cases where a DEVELOPER has proposed architecturally unusual groups of DWELLINGS and/or ACCESSORY STRUCTURES, the Planning Board after reviewing the plans and elevations, may recommend approval of smaller Minimum
LOT sizes than those specified, provided that the sanitary sewer systems are approved by the NYSDEC, that the gross DENSITY does not exceed that permitted within the Zoning DISTRICT in which the land is located, and the layout is not detrimental to the health, general welfare, and aesthetic character of the community.

I. Construction shall start within one year of the date of approval and shall be completed within a time frame agreed to by the DEVELOPER and the Planning Board. If such time frame is not met by the DEVELOPER, the RCD approval shall be revoked.

J. In the event that an organization established to own and maintain common property fails to maintain such property as prescribed, the Town Board may take action as prescribed by Law.

7.6 REVIEW OF RCD PLAN

The approval procedure shall be the same as that for approval of Subdivisions in the Town of Ashland. In addition, the DEVELOPER shall at each level of approval provide the following information:

A. Proposed number of DWELLING UNITS and computation of overall DENSITY per net acre as indicated on a scaled drawing with appropriate documentation using the following guidelines:

1. APPLICANT shall identify and subtract all acreage considered to be undevelopable as follows:

   (a) steep slopes 25% or greater,

   (b) flood ways

   (c) wetlands, both NYSDEC and Army Corp of Engineers, and

   (d) lands covered by water bodies

2. The APPLICANT shall then calculate the acreage that is determined to be developable and apply the BULK/DENSITY Control Schedule minimum square footage per DWELLING UNIT for the Zoning DISTRICT to determine the maximum number of permitted DWELLING UNITS. All DENSITY values shall be rounded to the nearest whole number of DWELLING UNITS.

3. In order for a portion of a PARCEL to be considered developable for the DENSITY calculations, there shall be a minimum area of 5,000 square feet of land that is not classified in one of the undevelopable categories outlined above, and is capable of supporting an on-LOT potable water and sewage disposal system.
A. A tabulation of the total number of acres in the proposed project; the percentage
designated for each USE area.

C. Proposed location and acreage for a park, playground, natural WATERCOURSE
and other open space.

D. LOTS shall be laid out, to the greatest extent feasible, to achieve the following
objectives:

1. focus DEVELOPMENT on site soils that are best suited for
DEVELOPMENT and that can accommodate storm water management and
control and/or sub-surface septic disposal in areas not provided with public
sewer;

2. avoid disturbance of mature wood-LOT and/or hedgerow;

3. preserve environmentally sensitive areas and/or unique site features;

4. located to least likely block or interrupt scenic vistas;

5. located where the greatest number of units could be designed to take
maximum advantage of solar heating opportunities;

6. promote a more efficient and economical provision of utility services; and

7. shall conform with other criteria listed in Article.

7.7 PUBLIC HEARING ON RCD

A Public Hearing, as specified in NYS Town Law, shall be held by the Planning Board
regarding the RCD Subdivision Plat.
ARTICLE 8 SITE PLAN REVIEW AND APPROVAL

8.0 INTENT

The intent of SITE PLAN Review and Approval is to determine compliance with the purpose and provisions of this Law. The further intent of this Section is to evaluate conditions and environmental impact that may cause conflict between existing and proposed USES or be in conflict with natural site conditions. The evaluation is intended to minimize the adverse affects concerning health, safety, and overall welfare of the residents of the community.

8.1 AUTHORIZATION

The power to approve, approve with modification and/or conditions, or disapprove a SITE PLAN for a USE is vested in the Planning Board pursuant to Section 274-a of the Town Law. Where a SITE PLAN approval is required, no change in USE from one USE to another USE as Listed in Section 4.5 and/or no BUILDING PERMIT shall be issued until SITE PLAN approval is granted. The Planning Board may impose conditions on a SITE PLAN approval that are to be fulfilled prior to the issuance of a BUILDING PERMIT, CERTIFICATE OF COMPLIANCE or Occupancy. The Planning Board in their review of any SITE PLAN shall be guided by the provisions set forth in this Article and elsewhere in this Law. The Planning Board may require that the SITE PLAN be prepared by a DESIGN ENGINEER. Such requirement shall be based on the complexity of the site features and of the proposed STRUCTURE or land USE as related to same.

8.2 APPLICATION FOR AREA VARIANCE

Notwithstanding any provision of Law to the contrary, where a proposed SITE PLAN contains one or more features which do not comply with the BULK and DENSITY requirements of this Law, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to Section 267-b of the Town Law.

8.3 CONDITIONS OF SITE PLAN APPROVAL

The DEVELOPER is required to comply with all conditions of SITE PLAN Approval.

8.4 WAIVER OF REQUIREMENTS

The Planning Board in its discretion, may waive any requirements of this Article deemed not necessary for review of an application for SITE PLAN Review and Approval.

8.5 CONCEPT PLAN

An APPLICANT may submit a Concept Plan for discussion and comment by the Planning Board or its designated committee as prescribed by the Rules of the Planning
Board. The purpose of the Concept Plan is to facilitate the preparation of an adequate Preliminary Plan. The Concept Plan shall be submitted in accordance with the Rules of the Planning Board.

8.5.1 Concept Plan Contents

The Concept Plan shall comprise the following data which shall be clearly labeled with the name of the proposed DEVELOPMENT, name of the APPLICANT, and Tax Parcel Number of the LOT proposed for DEVELOPMENT:

A. An area map showing:

1. All LOTS proposed for DEVELOPMENT by the APPLICANT,

2. All of the following data within one thousand (1000) feet of the boundary line of the LOT specified in Sub-Section 8.5.1:

   (a) existing and proposed LOTS and their ownership,

   (b) existing and proposed USES,

   (c) existing and proposed Zoning DISTRICTS,

   (d) existing and proposed ROADS,

   (e) existing and proposed Subdivisions,

   (f) existing and proposed EASEMENTS,

   (g) existing and proposed STRUCTURES,

   (h) all existing natural features such as water bodies, WATERCOURSES, wetlands, wooded areas, Special Flood Hazard Areas and individual LARGE TREES,

   (i) district boundaries including Zoning, fire, school, sewer and water, and

   (j) all soil classifications.

B. An Area Map of the site topography, at a scale of not less than 1" : 2000', showing the entire proposed site area and the location of the LOTS for the proposed DEVELOPMENT.

C. A scaled site DEVELOPMENT map of the Concept Plan showing existing and proposed:

   1. STRUCTURES,
2. Public and private IMPROVEMENTS.

D. Additional Data:

1. Name, address and telephone number of APPLICANT,

2. Concise written description of the proposed DEVELOPMENT, including:
   (a) purpose, nature and magnitude of the USE,
   (b) projected time frame for the proposed DEVELOPMENT,
   (c) notation of the acreage of the LOT proposed for DEVELOPMENT
   (d) square footage of each proposed STRUCTURE,
   (e) proposal for the source of water supply and method for sewage disposal.

8.5.2 Action on the Concept Plan

The Planning Board or its designated committee shall:

A. review the concept Plan with the APPLICANT, and

B. give its written comments thereon to the APPLICANT

8.6 SITE PLAN APPLICATION

A. A SITE PLAN Application shall comprise:

1. Completed forms of the Planning Board required of the APPLICANT by the Rules of the Planning Board,

2. Preliminary Plan in accordance with Sub-Section 8.7,

3. Final Plan in accordance with Sub-Section 8.8,

4. Environmental Assessment Form required of the APPLICANT by the Rules of the Planning Board,

5. Supplemental engineering and technical reports as appropriate to the contents of the Preliminary and Final Plans and required by the Planning Board, and

6. Other information required by the Planning Board.

B. A SITE PLAN Application shall be submitted to the Planning Board in accordance with the Rules of the Planning Board.
PRELIMINARY PLAN REQUIREMENTS

The Preliminary Plan shall comprise

A. the documents required in Sub-Section 8.5,

B. report and plan regarding any potential environmental impact associated with the proposed DEVELOPMENT,

C. the mitigation offered or proposed for any environmental impact,

D. Preliminary Plan drawing that includes the following information:

1. title drawing, including name, address and telephone number of APPLICANT and the Tax Parcel Number of the LOT proposed for DEVELOPMENT,

2. north point, scale and date, all revision dates (include month, day, year),

3. boundaries of the DEVELOPMENT plotted to scale of not more than one hundred (100) feet to one (1) inch on a survey map prepared by a DESIGN ENGINEER,

4. existing natural features such as WATERCOURSE, water body, wetland, wooded area and individual LARGE TREES and a notation of features to be retained,

5. existing and proposed contours at intervals of not more than five (5) feet of elevation.

6. location of proposed USE and the location, area and the height of all STRUCTURES,

7. location of all existing or proposed IMPROVEMENTS, whether public or private, including ROADS, DRIVES, INTERNAL DRIVES, DRIVEWAYS, Storm Water Management System, culverts, retaining walls, FENCES and EASEMENTS,

8. preliminary design of sewage disposal and water supply systems and location of such systems,

9. location and design of all energy distribution facilities, including electrical, gas and SOLAR ENERGY SYSTEM,

10. location of any proposed BUFFER, BARRIER and Landscaping.

11. delineation of the extent of each residential area, description of DWELLING UNIT type, and a calculation of the residential DENSITY in DWELLING UNITS per square foot for each such area,
12. location of each PARKING AREA and vehicle loading area, with access and egress to a ROAD, DRIVE, INTERNAL DRIVE or DRIVEWAY,

13. location, design and size of all SIGNS and OUTDOOR LIGHTING,

14. the approximate location and dimension of the area proposed for a neighborhood park or playground, or other recreation open space,

15. BUILDING orientation and site design for energy efficiency,

16. grading plan and Erosion Control Plan, including the description and location of control measures,

17. location and design of a Storm Water Management System, and

18. the lines and dimensions of any LOT which is offered, or is to be offered, for dedication to a government for public USE, with the purpose indicated thereon, and of any LOT proposed to be reserved for the common USE of the occupants of the proposed DEVELOPMENT.

E. A storm water management analysis and plan consistent with the requirements of NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION "Standards for Storm Water Management", including all design data and computations used as a basis for the design capacities and the performance of the Storm Water Management System and the Erosion Control Plan.

F. The Planning Board may require such additional information that appears necessary for a complete assessment of the DEVELOPMENT under this Law and the State Environmental Quality Review Act (SEQRA).

8.7.1 Action on Preliminary Plan

The Planning Board:

A. shall review and evaluate potential environmental impact, compliance with this Law and any other applicable Law, Rule or Regulation, and any other significant concern,

B. in its review of the Preliminary Plan, may confer with any CONSULTED AGENCY,

C. in review of the Preliminary Plan, shall consider:

1. adequacy and arrangement of vehicular traffic, including public transportation and bicycle access and circulation, including on-site circulation,

2. location, arrangement, appearance and sufficiency of off-ROAD vehicular parking and loading,
3. adequacy of pedestrian access, circulation, convenience and safety,
4. location, arrangement, size and design of BUILDING, OUTDOOR LIGHTING and SIGNS,
5. relationship of the various USES on the project site to one another and their scale,
6. adequacy of a BUFFER and BARRIER between adjacent USES and adjoining LOTS,
7. adequacy of any Storm Water Management System,
8. adequacy of STRUCTURES, ROADS, DRIVES, INTERNAL DRIVES, DRIVEWAYS and BUFFERS in areas susceptible to flooding, pending and/or erosion,
9. adequacy of flood damage prevention measures consistent with Article 3,
10. compatibility of DEVELOPMENT with natural features of the site and with surrounding land USES,
11. adequacy of open space for play area, recreation and natural area such as wildlife habitat, wetland and wooded area,
12. adequacy of orientation of a STRUCTURE and the site design for energy efficiency, the extent to which the proposed plan conserves energy and energy resources in the community, and the protection of adequate sunlight for a SOLAR ENERGY SYSTEM,
13. adequacy of fire protection water supply and site design to accommodate emergency vehicle access,
14. consistency of BUILDING design, scale, mass, and site location with surrounding DEVELOPMENT and DISTRICT Intent, and
15. any other relevant matter.

D. Coordination with the STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR)
The Planning Board shall comply with all of the provisions of SEQR and its implementing regulations in the review and approval of a minor subdivision. SEQR time frames shall be coordinated in the SITE PLAN review process in the following manner:

1. Complete Preliminary Plan - A SITE PLAN shall not be considered complete until a Negative Declaration has been filed or until a Notice of Completion of a Draft Environmental Impact Statement (DEIS) has been filed in accordance with the provisions of SEQR.
2. Public Hearing - When an Environmental Impact Statement is required, and a public hearing on the DEIS is held, the Planning Board shall hold both public hearings within sixty-two (62) days of the filing of the Notice of Completion on the DEIS.

3. Decision - When an Environmental Impact Statement is required, the Planning Board shall make a decision on the SITE PLAN within thirty (30) days of the filing of a Notice of Completion on the Final Environmental Impact Statement (FEIS).

E. shall determine if the Preliminary Plan is complete and sufficient to make Findings pursuant to Sub Section 8.7.1 D., and if not, require additional information to make the Preliminary Plan complete and sufficient,

F. when it finds the Preliminary Plan is complete and sufficient pursuant to Sub-Section 8.7.1E, shall accept the completed Preliminary Plan, and

G. schedule a public hearing within sixty-two (62) days from the date of acceptance. The hearing shall be advertised at least five (5) days before its scheduled date in a newspaper of general circulation in the Town.

8.7.2 Findings and Decision on Preliminary Plan

The Planning Board:

A. shall make Findings based on the evaluation according to Sub-Section 8.7.1A.,

B. shall make a decision based on Findings according to Sub-Section 8.7.2A to approve, with or without conditions, or disapprove the Preliminary Plan within sixty-two (62) days of the date of the public hearing, and

C. shall provide the APPLICANT with a copy of the Findings and decision pursuant to Sub-Sections 8.7.2A and B.

8.8 FINAL PLAN REQUIREMENTS

The Final Plan shall comprise:

A. the approved Preliminary Plan with any modifications thereof and/or additions thereto required by the Planning Board, and

B. Every necessary permit from a governmental authority relating to the DEVELOPMENT pursuant to the SITE PLAN or a written assurance from such governmental authority that it is willing to issue such permit upon the performance by the DEVELOPER of an action that is or will be required of the DEVELOPER.
8.8.1 Action on the Final Plan

When the Planning Board Finds the Final Plan is complete pursuant to Section 8.8 it shall approve, with or without conditions, or disapprove the Final Plan within sixty-two (62) days of the determination that the SITE PLAN is complete in accordance with Section 8.8. The reason for disapproval shall be recorded in the Planning Board’s findings. A copy of the decision and reason shall be given to the APPLICANT.

8.9 APPROVAL OF SITE PLAN

A. Approval of a Final Plan, with or without conditions, constitutes approval of the SITE PLAN subject to any and all conditions of the approved Final Plan.

B. The Planning Board Chairpersons’ signature shall be affixed on a copy of the title drawing of the approved SITE PLAN. A copy of the endorsed title drawing shall be given to the APPLICANT.

8.10 RE-SUBMITTAL OF A CONCEPT OR PRELIMINARY PLAN

A. The Planning Board may require the re-submittal of a Concept Plan for a proposed DEVELOPMENT if:

1. more than six (6) months has lapsed since the date of giving the Planning Board’s written comments on the Concept Plan for the proposed DEVELOPMENT pursuant to Sub-Section 8.5.2, or

2. a submitted Preliminary Plan contains substantial changes in the scope of the proposed DEVELOPMENT in comparison with the Concept Plan commented on, or

3. an APPLICANT who submitted a Preliminary Plan is different than the APPLICANT who submitted the Concept Plan commented on for the proposed DEVELOPMENT.

B. The Planning Board may require re-submittal of a Preliminary Plan if:

1. more than one (1) year has lapsed since the date of approval of a Preliminary Plan for a proposed DEVELOPMENT pursuant to Sub-Section 8.7.2, or

2. a submitted Final Plan contains substantial changes in the scope of the proposed DEVELOPMENT in comparison with the Preliminary Plan approved for a proposed DEVELOPMENT, or

3. an APPLICANT who submitted a Final Plan is different than the APPLICANT who submitted the Preliminary Plan approved for a proposed DEVELOPMENT.
8.11 APPEAL

The APPLICANT or any interested person may appeal a decision of the Planning Board on a SITE PLAN. The appeal shall be made to the Supreme Court of New York State for review by a proceeding under Article 78 of the Civil Practice Law and Rules of New York State.

8.12 EXPIRATION AND TERMINATION OF SITE PLAN APPROVAL

A. Approval of a SITE PLAN for a DEVELOPMENT shall be valid for a period of one (1) year from the date of the date of endorsement of the drawing of the approved Final Plan.

B. Failure to secure a BUILDING PERMIT or to begin construction or installation of required IMPROVEMENTS during the one (1) year period shall cause a SITE PLAN approval to become null and void.

C. Failure of an APPLICANT or DEVELOPER to comply with any conditions of approval for an approved SITE PLAN shall make the approval null and void.

8.12.1 Extension of Expiration or Termination of Site Plan Approval

Upon written application to the Planning Board, the Board may extend the time of validity of the SITE PLAN approval for a period of not more than three (3) years from the date of approval endorsement pursuant to Sub-Section 8.8B.

8.13 AMENDMENT OF AN APPROVED SITE PLAN

A. No proposed change of and/or addition to an approved SITE PLAN shall be executed without approval thereof by an approved SITE PLAN containing such SITE PLAN Amendment.

B. Any proposed change of and/or addition to an approved SITE PLAN, other than as provided in Section 8.13, shall require a SITE PLAN application addressing such SITE PLAN Amendment and decision on that application by the Planning Board pursuant to this Article.
ARTICLE 9.  DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS

9.0  GENERAL

The Planning Board, in reviewing a site plan, shall be guided by the considerations and standards presented in this Article. In the review, they shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare. For permitted uses the Code Enforcement Officer shall ensure compliance with this Article and any other applicable ordinances, articles or sections.

9.1  LOTS AND BLOCKS

9.1.1  LOT SIZE AND ARRANGEMENT - The dimensions and arrangements of LOTS shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in providing access to buildings on such LOTS or in securing building permits to build. In general, side LOT LINES shall be at right angles or radial to ROAD lines, unless a variation from this can be shown to result in a better plan.

9.1.2  ACCESS - Insofar as possible, LOTS shall not derive access from a PRIMARY ROAD. Access to LOTS adjacent to a PRIMARY ROAD shall, in general, be from MARGINAL ACCESS ROADS or other ROADS within the development. Where a watercourse separates the buildable area of a LOT from the ROAD by which it has access, provision shall be made for installation of a culvert or other structure, which shall be subject to the same design criteria and review as all other stormwater drainage facilities in the development.

9.2  ROAD AND PAVEMENT DESIGN

9.2.1  ROAD ARRANGEMENT

Intent

It is the intent of this Section to assure that all DEVELOPMENT provide for safe and adequate access to a LOT proposed for DEVELOPMENT. This intent is furthered by requiring that all DEVELOPMENT that proposes to contain a new TOWN ROAD, PRIVATE ROAD and/or INTERNAL DRIVE be designed to:

A. provide for:
   1. convenient traffic access and circulation,
   2. traffic control and safety,
   3. access for fire fighting, snow removal, and street maintenance equipment,
   4. storm water drainage, and
   5. utility location, and

B. arranged to:
   1. separate through traffic from neighborhood traffic insofar as practical,
   2. be coordinated to compose a connected system,
3. be laid out to provide suitable future ROAD connection with an adjoining LOT,

4. conform to the requirements of the Americans with Disabilities Act (ADA), and

5. conform as closely as possible to original topography of a site, while maintaining design criteria.

9.2.2 STANDARDS FOR ROAD DESIGNS - All ROADS shall be designed and constructed to conform to New York State and Town specifications. The Highway Superintendent shall approve all ROAD design and construction.

9.2.3 DEAD-END ROADS - Where a ROAD does not extend to the boundary of the development and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance sufficient to accommodate a LOT meeting the requirements of this Law. Reserve strips of land shall not be left between the end of a proposed ROAD and an adjacent piece of property. However, the Planning Board may require the reservation of an easement fifteen (15) feet wide for pedestrian traffic or utilities. A turn-around of a minimum right-of-way radius of fifty (50) feet shall be provided at the end of any permanent dead-end ROAD. For greater convenience to traffic and more efficient police and fire protection, the length of permanent dead-end ROADS shall be limited to six (6) times the minimum LOT width for the zoning district, such length to be measured to the center point of the turn-around.

9.2.4 TREES - The developer shall take adequate measures to preserve existing trees in suitable locations within the development. ROAD trees may be required to be planted on both sides of the ROAD within the R-O-W between the sidewalk and the curb at intervals of approximately fifty (50) feet, subject to location of driveways, ROAD intersections, or other features. In general, the ROAD right-of-way shall be cleared of existing trees, but occasional existing trees of unusual value (30" DBH) may be preserved within the ROAD right-of-way as approved by the Planning Board.

9.2.5 ROAD NAMES AND SIGNS - All ROADS shall be named, and such names shall be subject to the approval of the Town Board. A ROAD which is a continuation of an existing ROAD shall bear the same name. Relating ROAD names to features of local historical, topographical, or other natural interest is encouraged. ROAD SIGNS shall be provided by the developer at all intersections and shall be of a type approved by the Town Board.

9.2.7 ROAD IMPROVEMENTS, GENERAL - In addition to the required improvements specifically referred to elsewhere in these regulations, plans shall provide for all other customary elements of ROAD construction and utility service which may be appropriate in each locality as determined by the Town. Such elements may include, but shall not be limited to, ROAD pavements, gutters, stormwater inlets, manholes, curbs, ROAD lighting standards, water mains, fire hydrants, fire alarm signal devices, and sanitary sewers. Underground utilities within the ROAD right-of-way shall be located as required by the Town and underground service connections to the property line of each LOT shall be installed before the ROAD is paved. All ROAD improvements and other construction features of the development shall conform to municipal specifications which may be established from time to time and shall be subject to approval as to design, specifications, and construction by the Highway Superintendent.

9.2.8 WIDENING OF EXISTING ROAD RIGHT-OF-WAY - Where a development adjoins an existing ROAD which does not conform to the Town's right-of-way standards, the Planning Board may require that additional right-of-way width as necessary be provided, on the development side of the normal ROAD centerline, a width which is equal to at least one-half of the minimum standard width for the respective type of ROAD.

9.2.9 TYPICAL ROAD SECTION - The typical section approved by the Highway Superintendent shall be used for all ROADS. Pavement and R-O-W widths may vary with type of USE.
9.3 OFF ROAD PARKING

9.3.1 GENERAL REQUIREMENTS:

A. It shall be the responsibility of the owner of a property to provide the off-ROAD parking spaces required in the listing below for any use which is erected, enlarged, or structurally altered after the effective date of this Law.

B. A parking space shall be a minimum of 9 feet by 18 feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to DRIVE or INTERNAL ROAD.

C. No exit or entrance drive connecting a parking area and a ROAD shall be permitted within thirty (30) feet of the intersection of two public rights-of-way.

D. Where appropriate, the Zoning Board of Appeals may, upon the presentation of evidence, vary the number and circumstances of the following parking space requirements, in order that the general welfare be served and the prospective uses be equitably treated.

E. In stadiums, churches, and other places of assembly, in which patrons or spectators occupy benches, pews, or other similar seating facilities; each twenty (20) inches of such seating facilities shall be counted as one seat.

F. The lighting of off-ROAD parking LOTs shall not be directed into adjacent properties.

G. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

9.3.2 REQUIRED OFF-ROAD PARKING SPACES

The minimum cumulative number of spaces shall be determined by the amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings or structures, or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structures, as follows:

A. ONE-UNIT DWELLING - Two (2) spaces

B. TWO-UNIT DWELLING - Two (2) spaces per DWELLING UNIT

C. MULTI-UNIT DWELLING - Two and one-half (2 1/2) spaces per each DWELLING UNIT

D. Hospitals, Nursing Homes - One (1) space for each employee on major shift plus .25 spaces per bed

E. BED AND BREAKFAST - One (1) space for each bedroom that is rented within the facility in addition to the minimum requirements for a ONE-UNIT DWELLING

F. Motels/Hotels - One (1) space for each unit plus one space for every 4 employees plus one (1) space per 150 sq. ft. net area of RESTAURANTS and assembly rooms

G. OFFICES - GENERAL, Retail, PROFESSIONAL - One (1) space for each 300 sq. ft. of gross floor area
H. Retail Establishments, Funeral Homes, VETERINARY HOSPITALS, Banks, and Related Commercial Establishments of a Personal Service - One space (1) for each 300 sq. ft. of gross floor area over 1,000 sq. ft.

I. RESTAURANTS - One (1) space for each 60 sq. ft. of customer floor area

J. Conference/Convention Centers, Commercial Recreation, Private Membership Clubs - One (1) space for every 150 sq. ft. of public assembly space

K. Roadside Stands - One (1) space for every 50 sq. ft. of area devoted to selling or display

L. NURSERY AND ELEMENTARY SCHOOLS - One (1) space per employee plus two (2) additional spaces per classroom

M. High School and Colleges - Five (5) spaces for each classroom

N. CHURCHES, Temples, Auditoriums, Theaters - One (1) space for every 2.5 seats

O. INDUSTRIAL USES:

1. One (1) space for each 800 sq. ft. of floor area devoted to manufacture including printing, publishing, and laundry or dry cleaning plants

2. One (1) space for each 1,500 sq. ft. of floor area devoted to storage or stationary operating equipment

3. One (1) space for each 3,000 sq. ft. of area devoted to outside storage, including used car lots and equipment rental or sales yards

4. For any industrial use, one (1) space for each company vehicle

9.3.3 CALCULATION OF REQUIRED SPACES

In the case of combination of uses, the total requirements for off-ROAD automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.

9.3.4 DIMENSIONS FOR OFF-ROAD AUTOMOBILE PARKING SPACES AND LOTS

Every such space provided shall be at least 9 feet wide and 18 feet long, and every space shall have direct and usable driveway access to a ROAD with minimum maneuver area between spaces as follows:

A. Parallel Curb Parking: 5 feet end to end with 12 foot aisle width for one directional flow and 24 foot aisle width for two directional flow.

B. 30 Degree Parking: 13 foot aisle width for one directional flow and 24 foot aisle width for two directional flow.

C. 45 Degree Parking: 16 foot aisle width for one directional flow and 24 foot aisle width for two directional flow.
D. Perpendicular Parking: 24 foot aisle width for one directional and two directional parking.

9.3.5 LOCATION OF REQUIRED PARKING SPACES

A. Residential DISTRICT: The following minimum requirements shall apply to all off-ROAD parking in the AR and RT DISTRICTS:

(1) Required automobile parking spaces shall be provided on a buildable portion of the same LOT. This space shall be graded for parking use and readily accessible from the ROAD.

B. Business and Industrial DISTRICTS: The following minimum requirements shall apply to all off-ROAD parking in the C, HC and I DISTRICTS

1. Such spaces shall be provided on the same LOT, or not more than 400 feet therefrom provided that the criteria in subsections 9.3.1 (g) and 9.3.3 are met.

2. Vehicles and equipment for display or for sale shall not be parked or stored within the required FRONT YARD.

3. Where such parking is situated adjacent to a RESIDENTIAL USE, it shall be set back a maximum of six (6) feet from the residential LOT line, and an adequate landscape buffer in conformance with Section 9.20 shall be provided within such SETBACK area.

9.3.6 CONSTRUCTION OF PARKING AREAS

All off-ROAD parking areas, with the exception of ONE-UNIT and TWO-UNIT DWELLINGS, shall be paved with a suitable all-weather, dust-free surface. The individual spaces shall be visibly marked with paint or other durable material.

9.3.7 LANDSCAPING

At least 8 percent of the area of the LOT usable for off-ROAD parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three or more spaces that abut a residential LOT line, and any parking LOT for more than 20 cars shall be screened adequately, as set forth in Section 9.20, from the adjoining property. All parking areas and landscaping shall be properly maintained thereafter in a sightly and well kept condition.

9.4 OFF-ROAD LOADING AND UNLOADING REQUIREMENTS

In the RT, C, HC and I DISTRICTS a LOT or STRUCTURE which is to be occupied by manufacturing, commercial, business or other similar USES requiring the receipt and distribution by vehicles of materials or merchandise; there shall be provided and maintained, on said LOT, off-ROAD loading berths as specified below:
9.4.1 REQUIRED LOADING BERTHS - The following shall be considered minimum requirements

<table>
<thead>
<tr>
<th>USE</th>
<th>GROSS FLOOR AREA sq. ft.</th>
<th>LOADING BERTH REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Store, Wholesale Establishments, Storage Uses and Other Commercial Uses</td>
<td>3,000 - 15,000</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>15,000 - 40,000</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>each 25,000 add'l</td>
<td>1</td>
</tr>
<tr>
<td>Motels, Hotels, Office Buildings</td>
<td>90,000 or less</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>90,000 - 300,000</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>each 200,000 ad'd'l</td>
<td>1</td>
</tr>
<tr>
<td>Industrial Uses</td>
<td>15,000 or less</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>15,000 - 40,000</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>40,001 - 90,000</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>each 40,000 ad'd'l</td>
<td>1</td>
</tr>
</tbody>
</table>

The Planning Board may modify the above requirements based on scale of operation in the site plan approval process.

9.4.2 DIMENSIONS OF LOADING BERTHS - Each loading berth, either open or enclosed, shall be 55 feet long, 12 feet wide and 14 feet high; businesses utilizing vehicles not larger than panel trucks may have berths which are not smaller than 20 feet long, 10 feet wide and 8 feet high.

9.4.3 LOCATION OF BERTHS - The Planning Board shall require that berths are located in such a way as not to unreasonably interfere with the movement of people and vehicles on public ways and within on-site parking. The Planning Board may allow use of a public alley to satisfy loading berth requirements.

9.4.4 LANDSCAPING shall be as required in Section 9.20.

9.5 ACCESSORY BUILDINGS AND USES

9.5.1 General Requirements

A. When a PRINCIPAL USE is permitted as of right in accordance with Section 4.5, an ACCESSORY BUILDING associated with the PRINCIPAL USE and constructed in accordance with this Section shall also be permitted as of right.

9 - 6
B. When a PRINCIPAL USE is permitted under SITE PLAN approval in accordance with Section 4.5, an ACCESSORY BUILDING associated with the PRINCIPAL USE shall also require SITE PLAN approval and be constructed in accordance with this Section.

9.5.2. ACCESSORY BUILDINGS and STRUCTURES not attached to the PRINCIPAL BUILDING or STRUCTURE shall comply with the following:

A. STRUCTURES 120 sq. ft. or more in size shall require a building permit,

B. Shall only be located on the same LOT as the PRINCIPAL USE stated in the USE REGULATION TABLE,

C. May be located in a REAR or SIDE YARD in compliance with the following scheduling:

1. All RESIDENTIAL USES in the AR and RT DISTRICTS:
   (a) SIDE YARD: Minimum 10'
   (b) REAR YARD: Minimum 10'

2. All Non-RESIDENTIAL USES in the RT, C, HC, AND and I DISTRICTS:
   (a) SIDE YARD: Minimum shall be established in Site Plan Review
   (b) REAR YARD: Minimum shall be established in Site Plan Review

D. Be located no closer to the PRINCIPAL BUILDING than either a distance of six (6) feet or a distance equal to the height of the ACCESSORY BUILDING whichever is greater.

E. Not be located closer to the ROAD right-of-way than the PRINCIPAL BUILDING.

F. Where any Non-Residential USE abuts an existing RESIDENTIAL USE and/or a RESIDENTIAL DISTRICT, any ACCESSORY BUILDING shall be located a minimum of one-half (1/2) the distance specified in the Density Control Schedule for PRINCIPAL STRUCTURES.

9.5.3 Special Standards Regulating RESIDENTIAL ACCESSORY STRUCTURES:

A. Maximum non-habitable floor area shall not exceed 1,500 square feet per ACCESSORY STRUCTURE or a maximum of 3,000 square feet on any one (1) LOT.

B. Maximum height shall not exceed one story or twenty-four (24) feet above average FINISHED GRADE.

C. There shall be no more than two (2) ACCESSORY STRUCTURES on any LOT.
9.5.4 Location of Certain ACCESSORY STRUCTURES Other Than BUILDINGS

In any Zoning DISTRICT an ACCESSORY STRUCTURE associated with a RESIDENTIAL USE listed in Section 4.5, other than a BUILDING, and in the form of or similar to the following ACCESSORY STRUCTURES, are prohibited in a FRONT or SIDE YARD:

A. swimming pool,
B. sauna or hot tub,
C. solid fuel burning stove or appliance,
D. court for tennis, racquetball or other sport,
E. animal pen or enclosure, and
F. above ground storage of solid or liquid fuel including wood, propane and fuel oil.

9.5.5 Exceptions to ACCESSORY BUILDING Locations

A. Exception to ACCESSORY BUILDING SETBACK requirements with respect to a LOT and adjoining LOT having a common LOT LINE is as follows:

1. The minimum ACCESSORY BUILDING SETBACK requirements as set forth in Sub-Section 9.5.2 may be reduced under the following conditions:

   (a) when the adjoining LOT has an existing ACCESSORY BUILDING located adjacent to the common LOT LINE and within less than the minimum ACCESSORY BUILDING SETBACK as set forth in Sub-Section 9.5.2; and

   (b) when a LOT proposed to contain an ACCESSORY BUILDING adjacent to the common LOT LINE is 150 feet or less in LOT WIDTH.

B. The minimum ACCESSORY BUILDING SETBACK requirements as set forth in Sub-Section 9.5.2 for the proposed ACCESSORY BUILDING may be reduced to a minimum distance that is the average of:

1. the unreduced required ACCESSORY BUILDING SETBACK set forth in Sub-Section 9.5.2, and

2. the actual distance between the common LOT LINE and the existing ACCESSORY BUILDING located on the adjoining LOT.

9.5.6 Exception to the Location of Certain ACCESSORY STRUCTURES Other Than BUILDINGS

The following are exceptions to the requirements of Sub-Section 9.5.5:
A. certain ACCESSORY STRUCTURE located on a LOT in accordance with an approved SITE PLAN; or

B. an enclosure of any portion of a YARD for a dog or cat, but not including a pen, dog run or KENNEL, or

C. an animal pen or enclosure used in conjunction with the keeping of or maintaining AGRICULTURE LIVESTOCK and/or horses, or an AGRICULTURE USE.

9.5.7 ACCESSORY USE Requirements

A. An ACCESSORY BUILDING containing an ACCESSORY USE shall comply with the requirements of Section 9.5.2.

B. An ACCESSORY USE not involving a STRUCTURE is prohibited in a FRONT YARD except as provided in an approved SITE PLAN.

9.5.8 Special Design

A detached garage or carport as part of a BUILDING GROUP may be permitted in a FRONT YARD on a LOT containing the BUILDING GROUP in accordance with an approved SITE PLAN.

9.6 SIGN REQUIREMENTS

A. No SIGN of any kind may be altered, erected or established in the Town except in conformance with the requirements in this Section.

B. The only SIGNS permitted are those listed in Sub-Section 9.6.1.

9.6.1 Permitted SIGN Description

A. PRINCIPAL USE SIGNS

1. Awning: A SIGN painted, printed, affixed or displayed on an awning attached to an exterior surface of a BUILDING containing a General, Business or INDUSTRIAL USE listed in Section 4.5.

2. Facade: A SIGN, painted on, inscribed on or attached to an exterior surface of a BUILDING containing a General, Business or INDUSTRIAL USE or ACCESSORY USE associated with the General, Business or INDUSTRIAL USE listed in Section 4.5 and without having any portion thereof extending more than eight (8) inches from the BUILDING surface.

3. Projecting: A SIGN attached to and having any portion thereof extending more than eight (8) inches from the surface of a BUILDING containing a General, Business or INDUSTRIAL USE listed in Section 4.5.
4. Representational: Any three-dimensional PRINCIPAL USE SIGN, which is either a Projecting or Free Standing SIGN and constructed to physically represent the object advertised.

5. Farm: A SIGN not illuminated used to identify a farm, ranch, stable, or other Agricultural USE.

6. Freestanding: A SIGN supported by a STRUCTURE independent of a BUILDING and installed on a LOT containing a General, Business or INDUSTRIAL USE listed in Section 4.5.

7. Directory: A SIGN that contains the names of PRINCIPAL USES in a MALL.

8. Residential: A SIGN not illuminated and identifying the name of the owner or occupant of or fanciful name of a residential LOT or property.

9. Real Estate: A TEMPORARY SIGN not illuminated and used to offer or advertise a LOT or real property for sale, or lease.

10. MALL: A SIGN installed on a LOT or BUILDING of a MALL and used to identify or landmark the name of the MALL. Such SIGN shall be either a Facade, Free Standing or Awning SIGN.

11. Monument: A SIGN not illuminated, installed on a LOT in an approved residential subdivision, ALTERNATIVE DWELLING PARK, PMRD or MULTI UNIT DWELLING DEVELOPMENT, used to memorialize or landmark the name of the DEVELOPMENT.

B. ACCESSORY SIGNS

1. Directional: A SIGN only indicating direction or calling attention to vehicular or pedestrian traffic entrances by displaying arrows or directional words.

2. Mandated: Any SIGN not illuminated and required by a Federal, New York State, Chemung County or Local Law or Rule.

3. Memorial: A SIGN not illuminated and authorized by the Town Board, Chemung County Legislature, or the Governor or Legislature of the State of New York to honor or identify a person, organization or place of local or regional historic interest or importance.

4. Portable: A SIGN that is TEMPORARY and not permanently affixed to the ground or STRUCTURE and capable of being transported or removed from a LOT.

5. Real Estate: A TEMPORARY SIGN not illuminated and used to offer or advertise a LOT or real property for sale, or lease.

6. Sandwich Board: A two sided "A" frame, TEMPORARY SIGN not illuminated and placed on, without any physical attachment to, the ground.
7. Service: A SIGN, not illuminated, that directs travelers to essential services such as gas, food and lodging or a hospital and installed in a RIGHT-OF-WAY, under the jurisdiction of a government authority.

8. Construction: A TEMPORARY SIGN not illuminated and used on property under construction to denote a Contractor, DESIGN ENGINEER and/or DEVELOPER or DEVELOPMENT.

9. Poster: A TEMPORARY SIGN not illuminated and used to advertise a not-for-profit community event or show, political candidate or issue and/or an election.

10. Civic: A SIGN not illuminated, and used to identify a civic or religious organization, PLACE OF WORSHIP, social or MEMBERSHIP CLUB or an educational institution, and installed in a RIGHT-OF-WAY under the jurisdiction of a government authority.

11. Community Promotion: A SIGN not illuminated and designed to promote the Town of Big Flats and welcome visitors to the Town.

12. Occupation: A SIGN not illuminated and used to identify an approved HOME OCCUPATION, or COTTAGE INDUSTRY.

13. ROADSIDE STAND: A TEMPORARY SIGN not illuminated and used to identify a ROADSIDE STAND.

14. Awning: A SIGN painted, printed, affixed or displayed on an awning attached to an exterior surface of a BUILDING containing a General, Business or INDUSTRIAL USE listed in Section 4.5.

15. Facade: A SIGN, painted on, inscribed on or attached to an exterior surface of a BUILDING containing a General, Business or INDUSTRIAL USE listed in Section 4.5 and without having any portion thereof extending more than eight (8) inches from the BUILDING surface.

16. Window: A SIGN or group of SIGNS painted, printed, or otherwise displayed on a window of a BUILDING containing a General, Business or INDUSTRIAL USE listed in Section 4.5.

9.6.2 General Requirements

A. All SIGNS shall comply with the following requirements:

1. The installation of a SIGN, except for a Residential, Occupation, Farm, Poster and Window SIGN, and as provided in Sub-Section 9.6.3, require a BUILDING PERMIT.

2. A SIGN shall be constructed and installed in compliance with applicable provisions of the NYS Uniform Fire Prevention and Building Code.
3. No SIGN shall be located at or near an intersection in violation of Section 9.9, CLEAR VISION ZONE, or in any manner which may cause a traffic hazard at the intersection. A SIGN shall not be located where, by reason of the position, shape, or color of the SIGN, it may interfere with or obstruct the view of or be confused with any authorized traffic SIGN, signal or device, nor shall any SIGN make USE of the word "Stop", "Look", "Drive-In", "Left", or "Right", or any other word, phrase, symbol, or character in such a manner as to distract, mislead or confuse traffic.

4. No SIGN shall be placed on a roof or on a cupola or similar roof mounted STRUCTURE or on top of a parapet or similar architectural element of a BUILDING.

5. No SIGN shall be more than thirty-six (36) feet in height above the FINISHED GRADE or the grade shown on a grading plan of a SITE PLAN approved by the Planning Board. Grading of a site for the purpose of raising the elevation of a SIGN contrary to this Sub-Section is prohibited, except as shown in an approved SITE PLAN.

6. Each SIGN on a LOT shall be set back a minimum of five (5) feet from any LOT LINE or RIGHT-OF-WAY.

7. Any FLASHING SIGN is prohibited.

8. Any OFF-LOT SIGN is prohibited.

9. No SIGN is permitted for a WIND ENERGY CONVERSION SYSTEM.

10. A SIGN for any Residential USE, either as listed in Section 4.5 or as non-conforming pursuant to Article 10, occurring in a C, HC or I Zoning DISTRICT shall comply with the provisions of Sub-Section 9.6.4.1.

B. The following requirements apply to a PRINCIPAL USE SIGN:

1. A Projecting or Free Standing SIGN projecting over a pedestrian way shall have a clearance of not less than ten (10) feet above the way or FINISHED GRADE. A Projecting or Free Standing SIGN shall not project over a ROAD. No Projecting or Free Standing SIGN shall project over a DRIVE, INTERNAL DRIVE or PARKING AREA unless the SIGN has a clearance from FINISHED GRADE of fifteen (15) feet.

2. A PRINCIPAL USE SIGN on a LOT containing a General, Business or INDUSTRIAL USE listed in Section 4.5 may be Illuminated.

C. The following requirements apply to an ACCESSORY SIGN:

1. A Portable Sign may be allowed only for a cumulative time period not to exceed four (4) weeks in any consecutive twelve (12) month period. Whenever a fraction of a week is used, that time shall be construed to be one full week.
2. Wherever Service and Community Promotion SIGN is installed its SIGN AREA shall not exceed the permitted SIGN AREA for a Free Standing SIGN in the underlying Zoning DISTRICT in which it is located.

3. A Construction SIGN shall be removed within fifteen (15) days of the completion of construction or the issuance of any CERTIFICATE OF Occupancy or COMPLIANCE, whichever occurs first.

4. A Poster SIGN may be displayed forty five (45) days prior to an event, show or election and shall be removed within ten (10) days after the last day of the event, show or election.

5. Every Directional SIGN shall not project more than six (6) feet above the FINISHED GRADE and shall not be located in such a manner as to violate any provisions of Section 9.9.

6. When computing time restrictions for each TEMPORARY SIGN any fraction of a week used shall be construed to be one full week.

9.6.3 SIGNS permitted in any DISTRICT

No BUILDING PERMIT shall be required for any SIGN listed below provided they are displayed and located as follows:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.6.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Memorial</td>
<td>12 Sq Ft</td>
<td>On a LOT and installed no higher than ten (10) feet from FINISHED GRADE or in a RIGHT-OF-WAY as permitted by the authority having jurisdiction.</td>
<td>One (1) for any LOT or in the RIGHT-OF-WAY as permitted by the authority having jurisdiction.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Construction</td>
<td>12 Sq Ft</td>
<td>On a LOT and no higher than eight (8) feet above FINISHED GRADE and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for any single construction site or DEVELOPMENT.</td>
<td>As prescribed in Sub-Section 9.6.2C3</td>
</tr>
<tr>
<td>Mandated</td>
<td>As permitted by the authority having jurisdiction.</td>
<td>As prescribed by the authority having jurisdiction.</td>
<td>As permitted by the authority having jurisdiction.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Service</td>
<td>As permitted by the authority having jurisdiction.</td>
<td>In a RIGHT-OF-WAY as permitted by the authority having jurisdiction.</td>
<td>As permitted by the authority having jurisdiction.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Civic</td>
<td>12 Sq Ft</td>
<td>In a RIGHT-OF-WAY as permitted by the authority having jurisdiction.</td>
<td>As permitted by the authority having jurisdiction.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>ROADSIDE STAND</td>
<td>16 Sq Ft</td>
<td>On a LOT.</td>
<td>One (1)</td>
<td>To be displayed only during the time the ROADSIDE STAND is open to the public.</td>
</tr>
</tbody>
</table>
9.6.4 SIGNS Requirements by USE and Zoning DISTRICT

9.6.4.1 SIGN requirements for a Residential USE and an Ancillary USE associated with the Residential USE, listed in Section 4.5 and located in a AR or RT Zoning DISTRICT are as follows:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.6.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>10 Sq Ft</td>
<td>On a LOT offered for sale or lease.</td>
<td>One (1)</td>
<td>SIGN shall be removed ten(10) days after the date of closing for the sale of the property.</td>
</tr>
<tr>
<td>Occupation</td>
<td>2 Sq Ft</td>
<td>Affixed to a DWELLING UNIT or post and no higher than eight (8) feet above FINISHED GRADE and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Residential</td>
<td>2 Sq Ft</td>
<td>Affixed to a DWELLING UNIT or post and no higher than eight (8) feet above FINISHED GRADE and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Poster</td>
<td>12 Sq Ft</td>
<td>On a LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each individual event or show, political candidate or issue and/or election.</td>
<td>As prescribed in Sub-Section 9.6.2C4</td>
</tr>
<tr>
<td>Monument</td>
<td>20 Sq Ft</td>
<td>On a LOT in an approved subdivision, park or DEVELOPMENT.</td>
<td>Two (2) but each one (1) of two (2) in a subdivision being on a different LOT therein.</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

9.6.4.2 SIGN requirements for General USE and an Ancillary USE associated with the General USE, listed in Section 4.5 and located in any Zoning DISTRICT are as follows:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.6.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>40 Sq Ft</td>
<td>On a LOT offered for sale or lease.</td>
<td>One (1)</td>
<td>SIGN shall be removed ten(10) days after the date of closing for the sale of the property.</td>
</tr>
<tr>
<td>Poster</td>
<td>20 Sq Ft</td>
<td>On a LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each individual event or show, political candidate or issue and/or election</td>
<td>As prescribed in Sub-Section 9.6.2C4</td>
</tr>
<tr>
<td>Facade</td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 160 Sq Ft of the side.</td>
<td>On a BUILDING containing the PRINCIPAL USE.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>---------------------------------</td>
<td>--------</td>
<td>----------------</td>
</tr>
<tr>
<td>Projecting</td>
<td>12 Sq Ft</td>
<td>On a BUILDING containing the PRINCIPAL USE.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Freestanding</td>
<td>40 Sq Ft</td>
<td>On a LOT.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Directional</td>
<td>6 Sq Ft</td>
<td>Near a DRIVE entrance and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each DRIVE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Portable</td>
<td>30 Sq Ft</td>
<td>On a LOT of the PRINCIPAL USE and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>As prescribed in Sub-Section 9.6.2C1.</td>
</tr>
<tr>
<td>Community Promotion</td>
<td>24 Sq Ft</td>
<td>On a LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

9.6.3 SIGN requirements for a Business USE, except in a MALL, and an ACCESSORY USE associated with the Business USE, listed in Section 4.5 and located in a AR or RT Zoning DISTRICT are as follows:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.5.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>40 Sq Ft</td>
<td>On a LOT offered for sale.</td>
<td>One (1)</td>
<td>SIGN shall be removed ten(10) days after the date of closing for the sale of the property.</td>
</tr>
<tr>
<td>Poster</td>
<td>20 Sq Ft</td>
<td>On a LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each individual event or show, political candidate or issue and/or election.</td>
<td>As prescribed in Sub-Section 9.6.2C4</td>
</tr>
<tr>
<td>Facade</td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side.</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) for each PRINCIPAL USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Projecting</td>
<td>12 Sq Ft</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) for each PRINCIPAL USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Freestanding</td>
<td>40 Sq Ft</td>
<td>On a LOT of the PRINCIPAL USE.</td>
<td>One (1) for each PRINCIPAL USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Directional</td>
<td>6 Sq Ft</td>
<td>Near a DRIVE entrance and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each DRIVE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>-------------</td>
<td>---------</td>
<td>---------------------------------------------------------------</td>
<td>------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Portable</td>
<td>40 Sq St</td>
<td>On a LOT of the PRINCIPAL USE and located in accordance with Sub-Section 9.6.2A6</td>
<td>One (1)</td>
<td>As prescribed in Sub-Section 9.6.2C1.</td>
</tr>
<tr>
<td>Community Promotion</td>
<td>24 Sq Ft</td>
<td>a LOT with the authorization of such owner and in accordance with Sub-Section 10.7.2A6</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Awning</td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side.</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) for each PRINCIPAL USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Window</td>
<td>The lesser of thirty percent (30%) of each window area or 100 Sq Ft of Aggregate area of all windows of the USE.</td>
<td>On a window in a PRINCIPAL BUILDING.</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

9.6.4 SIGN requirements for a Business USE, except in a MALL, and an ACCESSORY USE associated with the Business USE, listed in Section 4.5 and located in a C and HC Zoning DISTRICT are as follows:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.6.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>64 Sq Ft</td>
<td>On a LOT offered for sale or lease.</td>
<td>One (1)</td>
<td>SIGN shall be removed ten(10) days after the date of closing.</td>
</tr>
<tr>
<td>Poster</td>
<td>20 Sq Ft</td>
<td>On a LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each individual event or show, political candidate or issue and/or election.</td>
<td>As prescribed in Sub-Section 9.6.2C4</td>
</tr>
<tr>
<td>Facade</td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 200 Sq Ft of the side.</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) for each PRINCIPAL USE and one (1) for each ACCESSORY USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Projecting</td>
<td>24 Sq Ft</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) for each PRINCIPAL USE and one (1) for each ACCESSORY USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Freestanding</td>
<td>100 Sq Ft Total all SIGNS</td>
<td>On a LOT of the PRINCIPAL USE</td>
<td>One (1) for each PRINCIPAL USE and one (1) for each ACCESSORY USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Category</td>
<td>Area</td>
<td>Description</td>
<td>Approved Signs</td>
<td>Zoning District</td>
</tr>
<tr>
<td>-------------------</td>
<td>-------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Directional</td>
<td>6 Sq Ft</td>
<td>Near a DRIVE entrance and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Portable</td>
<td>40 Sq Ft</td>
<td>On the LOT of the PRINCIPAL USE and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>As prescribed in Sub-Section 9.6.2C1</td>
</tr>
<tr>
<td>Community Promotion</td>
<td>24 Sq Ft</td>
<td>On a LOT with the authorization of such owner and in accordance with Sub-Section 10.7.2A6.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Awning</td>
<td></td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Window</td>
<td></td>
<td>The lesser of thirty percent (30%) of each window area or 100 Sq Ft of Aggregate area of all windows of the USE.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

9.6.5 SIGN requirements for a MALL located in a RT, C and HC Zoning DISTRICT are as follows:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.6.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>64 Sq Ft</td>
<td>On a LOT or BUILDING of a MALL offered for sale or lease.</td>
<td>One (1)</td>
<td>SIGN shall be removed ten (10) days after the date of closing.</td>
</tr>
<tr>
<td>Poster</td>
<td>20 Sq Ft</td>
<td>On a MALL LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each individual event or show, political candidate or issue and/or election.</td>
<td>As prescribed in Sub-Section 9.6.2C4</td>
</tr>
<tr>
<td>MALL</td>
<td>100 Sq Ft</td>
<td>On a LOT or BUILDING of a MALL.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Directional</td>
<td>10 Sq Ft</td>
<td>Near a MALL DRIVE entrance and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each DRIVE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Portable</td>
<td>80 Sq Ft</td>
<td>On a MALL LOT and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>As prescribed in Sub-Section 9.6.2C1.</td>
</tr>
<tr>
<td>Community Promotion</td>
<td>24 Sq Ft</td>
<td>On a MALL LOT with the authorization of such owner and in accordance with Sub-Section 10.7.2A6.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Directory</td>
<td>100 Sq Ft</td>
<td>On a MALL LOT .</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

9 - 17
9.6.6 SIGN requirements for each tenant PRINCIPAL USE and an ACCESSORY USE associated the tenant PRINCIPAL USE, listed in Section 4.5, within a MALL:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.5.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate</td>
<td>40 Sq Ft</td>
<td>On a MALL BUILDING offered for sale or lease</td>
<td>One (1)</td>
<td>SIGN shall be removed ten(10) days after the date of closing.</td>
</tr>
<tr>
<td>Poster</td>
<td>20 Sq Ft</td>
<td>On a MALL LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each individual event or show, political candidate or issue and/or election.</td>
<td>As prescribed in Sub-Section 9.6.2C4</td>
</tr>
<tr>
<td>Facade</td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side.</td>
<td>On the side of a MALL BUILDING that faces a ROAD or PARKING AREA and which the business has an exterior facade.</td>
<td>One (1) for each PRINCIPAL USE and one (1) for each ACCESSORY USE. **</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Projecting</td>
<td>24 Sq Ft</td>
<td>On the side of a MALL BUILDING that faces a ROAD or PARKING AREA and which the business has an exterior facade.</td>
<td>One (1) for each PRINCIPAL USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Directional</td>
<td>6 Sq Ft</td>
<td>Near a MALL INTERNAL DRIVE entrance and located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Portable</td>
<td>40 Sq Ft</td>
<td>On the MALL LOT located in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1)</td>
<td>As prescribed in Sub-Section 10.7.2C1</td>
</tr>
<tr>
<td>Awning</td>
<td>The lesser of ten (10) percent of the area of the side of the MALL BUILDING the SIGN is installed on or 100 Sq Ft of the side.</td>
<td>On a facade of a MALL BUILDING that faces a ROAD or PARKING AREA and which the business has an exterior facade.</td>
<td>One (1) for each PRINCIPAL and one (1) for each ACCESSORY USE. **</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Window</td>
<td>The lesser of forty percent (40%) of each window area or 100 Sq Ft of Aggregate area of all windows of the USE.</td>
<td>On any window of a MALL BUILDING.</td>
<td>Not Applicable</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Sandwich Board</td>
<td>20 Sq Ft</td>
<td>On a MALL LOT.</td>
<td>One (1)</td>
<td>Only during hours the USE is open to the public.</td>
</tr>
</tbody>
</table>

** The aggregate SIGN AREA shall be the lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side for all SIGNS on the side of the BUILDING.
9.6.7 SIGN requirements for an INDUSTRIAL USE, except in a MALL, and ACCESSORY USE associated with the INDUSTRIAL USE, as listed in Section 4.5 and located in the C, HC, or I Zoning DISTRICT are as follows:

<table>
<thead>
<tr>
<th>Permitted SIGN from Sub-Section 9.6.1</th>
<th>Maximum SIGN AREA (Square Feet)</th>
<th>Location Permitted</th>
<th>Number of SIGNS Permitted</th>
<th>TEMPORARY SIGN Time Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facade</td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side.</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) for each PRINCIPAL USE and one (1) for each ACCESSORY USE. **</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Free Standing</td>
<td>40 Sq Feet</td>
<td>On the LOT of the PRINCIPAL USE.</td>
<td>One (1) for each any PRINCIPAL USE.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>Awning</td>
<td>The lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side.</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) SIGN for each PRINCIPAL USE and one (1) for each ACCESSORY USE. **</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Projecting</td>
<td>36 Sq Ft</td>
<td>On the side of the PRINCIPAL BUILDING that faces a ROAD.</td>
<td>One (1) for each PRINCIPAL USE.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Poster</td>
<td>20 Sq Ft</td>
<td>On a LOT with the authorization of such owner and in accordance with Sub-Section 9.6.2A6.</td>
<td>One (1) for each individual event or show, political candidate or issue and/or election.</td>
<td>As prescribed in Sub-Section 9.6.2C4</td>
</tr>
<tr>
<td>Real Estate</td>
<td>64 Sq Ft</td>
<td>On a LOT offered for sale or lease.</td>
<td>One (1) for each Block of LOT. AREA or BUILDING FLOOR AREA. *</td>
<td>SIGN shall be removed ten(10) days after the date of closing for the sale of the property.</td>
</tr>
</tbody>
</table>

** The aggregate SIGN AREA shall be the lesser of ten (10) percent of the area of the side of the BUILDING the SIGN is installed on or 100 Sq Ft of the side for all SIGNS on the side of the BUILDING.

9.6.5 Aggregate SIGN AREA Requirement

The Aggregate SIGN AREA is the sum of all SIGN AREAS on a LOT except those of SIGNS listed in Sub-Section 9.6.3. At no time are SIGNS to be displayed that will cause an Aggregate SIGN AREA to exceed the limits set forth in 9.6.5.1.

9.6.5.1 Aggregate SIGN AREA Requirements by USE and Zoning DISTRICT

A. For a Residential USE and an Ancillary USE associated with the Residential USE, listed in Section 4.5 and located in a AR or RT Zoning DISTRICT, the maximum Aggregate SIGN AREA, excluding the SIGN AREA of any Monument SIGN, is 12 square feet.

B. For a General USE and Ancillary USE associated with the General USE, listed in Section 4.5 and located in any Zoning DISTRICT, the maximum Aggregate SIGN AREA is 180 square feet.
C. For a Business USE, except for a MALL, and an ACCESSORY USE associated with the Business USE, listed in Section 4.5 and located in a AR of RT Zoning DISTRICT, the maximum Aggregate SIGN AREA is 150 square feet.

D. For a Business USE, except for a MALL, and an ACCESSORY USE associated with the Business USE, listed in Section 4.5 and located in the C or HC Zoning DISTRICT, the maximum Aggregate SIGN AREA is 300 square feet.

E. For a MALL located in the RT, C, or HC Zoning DISTRICT, the maximum Aggregate SIGN AREA is 450 square feet.

F. For each tenant PRINCIPAL USE and ACCESSORY USE associated with a tenant PRINCIPAL USE listed in Section 4.5, in a MALL, the maximum Aggregate SIGN AREA is 300 square feet.

G. For a permitted INDUSTRIAL USE and ACCESSORY USE associated with a permitted INDUSTRIAL USE as listed in Section 4.5, located in the RT, C, HC or I Zoning DISTRICT, the maximum Aggregate SIGN AREA is 500 square feet.

9.6.6 Removal of Certain SIGNS

Any SIGN now or hereafter existing which relates to a USE no longer conducted on a LOT shall be removed by the owner, agent, or person having the beneficial use of the LOT upon which such SIGN may be found and within sixty (60) days of cessation of the USE except as provided to the contrary elsewhere in this Sub-Section.

9.7 DRIVEWAY STANDARDS

9.7.1 Intent

It is the intent of this Section to assure that all DEVELOPMENT provides for safe and adequate access to a LOT proposed for DEVELOPMENT. This intent is furthered by requiring that all DEVELOPMENT that proposes to contain a new INTERNAL DRIVE and/or DRIVEWAY be designed to comply with the requirements of a Highway Work Permit for all work conducted in a RIGHT-OF-WAY.

9.7.2 General Requirement

A. A DEVELOPMENT plan shall show and detail design features for an INTERNAL DRIVE and/or DRIVEWAY sufficient to document compliance the intent of this Section and any other construction standards adopted by the Town.

B. A plan for an INTERNAL DRIVE and/or DRIVEWAY prepared by a DESIGN ENGINEER may be required to fully support design considerations and/or to validate the mitigation of any traffic impacts associated with a DEVELOPMENT.
Specific Requirements

No person, firm or corporation shall construct or locate any driveway entrance of exit into a ROAD in the Town of Ashland without having first met the provisions of this Section.

A. All work and materials shall be furnished as required to meet the conditions set by the Highway Superintendent and County and State Highway Departments.

B. No alteration or addition shall be made to any driveway without first securing permission from the Highway Superintendent.

C. No driveway shall have an average grade that exceeds 10 percent.

D. The slope of a non-residential USE driveway shall not exceed 2% within 25 feet of the intersecting PUBLIC ROAD.

E. No more than two (2) driveways to a single commercial establishment entering on one ROAD shall be permitted.

F. No commercial drive shall be located within 40 feet of any intersection.

G. MAXIMUM WIDTH:

1. RESIDENTIAL USE: single entrance or exit shall be not more than 20 feet

2. NON-RESIDENTIAL USE: entrance or exit shall be not more than 30 feet for a one-way, single entrance, or 50 feet for a two-way, double entrance commercial use.

3. The width shall be measured at the right-of-way line.

H. MINIMUM WIDTH: For all uses shall be ten (10) feet

I. The driveway shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. In addition, as specified by the appropriate Highway Superintendent, a catch basin at a point near the intersection of the driveway and ROAD may be required. This will prevent surface water and debris from being discharged onto the ROAD.

J. No driveway or other means of access for vehicles, other than a PUBLIC ROAD, shall be maintained or used in an AR or RT DISTRICTS.
9.8  FENCES AND WALLS

9.8.1  General Requirement

Grading of a site for the purpose of raising the elevation of a FENCE contrary to this Section is prohibited, except as shown in an approved SITE PLAN.

9.8.2  A FENCE on a LOT shall comply with the following requirements:

A. Height Restrictions:

1. Residential Districts (AR and RT)

   (a) Maximum height of four (4) feet above the existing FINISHED GRADE shall be permitted for fences, walls and plantings located in a FRONT YARD. At a ROAD intersection; fences or walls shall be constructed of materials that shall not hinder clear vision in accordance with Section 9.9.

   (b) Maximum height of six (6) feet shall be allowed for all fences located in SIDE and REAR YARDS; fences or walls located in a FRONT YARD at a ROAD intersection shall be constructed of materials that shall not hinder clear vision in conformance with Section 9.9.

2. Business and Manufacturing Districts (C, HC and I)

   (a) The height and location of a FENCE shall be approved in a SITE PLAN.

   (b) A SITE PLAN is not required for a FENCE located on a LOT containing an existing RESIDENTIAL USE listed in Section 4.5 provided that the existing RESIDENTIAL USE is continued and that the FENCE construction complies with all other requirements of this Section.

9.8.3  Location - all fences shall be located in their entirety within the property boundaries.

9.8.4  Required - FENCES, walls, hedges or screen plantings may be required, as specified elsewhere in this Law for multi-family, commercial or industrial uses, as is necessary to protect the residential quality of adjacent property as specified in Section 9.20.

9.8.5  Keeping Public Ways Clear - No trees, shrubs, or other plantings shall be allowed to intrude on or obstruct any sidewalk or public walkway. All trees or other plantings shall be trimmed to a maintain a height of seven (7) feet of clearance above any walkway.
9.9 CLEAR VISION REQUIREMENTS

9.9.1 Intent

It is the Town's intent to protect and preserve a clear vision area to maintain safe traffic flow and reduce potential conflicts with pedestrians and bicycle traffic. Clear vision shall be defined as, where the driveway meets the ROAD and/or where one ROAD intersects with another ROAD, a hedge, fence, wall or other plantings shall not block the view or clear vision of a vehicle entering the ROAD.

9.9.2 General Requirements:

A. The clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three (3) feet in height measured from the top of the ROAD pavement, unless such plantings have all branches and foliage removed to a height of eight (8) feet above the finished grade.

B. Clear vision in accordance with the requirements of sub-Section 9.9.2 A. shall be maintained wherever a driveway meets the ROAD right-of-way for a radius of five (5) feet.

C. In any use, the minimum clear vision distance shall be twenty-five (25) feet from the edge of the pavement at an intersection.

9.10 STEEP SLOPE GUIDELINES

9.10.1 Intent

The Town of Ashland is characterized by numerous steep slope (15% or greater) areas which benefit the Town by providing scenic views, aquifer recharge, wooded areas and substantial protection against flooding and erosion and sedimentation. Special design treatment for ROADS, building sites, and other development is needed to preserve the natural terrain for those benefits provided to the Town.

9.10.2 General Requirements:

Development on steep slopes will be permitted subject to the following guidelines:

A. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) and road location (including cross-sections).

B. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.
C. Design principles shall include, but not limited to, the following:

1. Landscaping of areas around structures making them compatible with the natural terrain.

2. Shaping, grouping and placement of man-made structures to complement the natural landscape.

3. Arrangement of buildings so they complement one another to promote visual interest.

4. Shaping of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the steep slope areas.

5. Development of off-ROAD parking bays.

6. Use of turning circles at mid-block points to avoid the use of private driveways for turning and parking movement.

7. Encouragement of split-level building sites.

8. Use of one-way ROADS when consistent with traffic safety, circulation needs, and natural topography. This guideline allows for smaller road right-of-way, less cut and fill within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.

9. Land within the hill area that is in excess of 25% slope shall not, to the greatest extent possible, be developed.

9.10.3 Slopes Greater Than Twenty Five (25%) Percent

A slope greater than twenty five (25%) percent (2.5 feet of vertical rise in a 10 feet horizontal distance) shall not be developed except as approved in a SITE PLAN. When an application is received by the CODE ENFORCEMENT OFFICER for a DEVELOPMENT that proposes to affect, in any way, a slope greater than twenty five (25%) percent, the application shall be referred to the Planning Board as a SITE PLAN application under Article 8.

9.11 OPEN SPACE, PARKS AND PLAYGROUNDS

The Planning Board may, as a condition of site plan approval, require that specific environmentally sensitive areas be designated for non-development or open space purposes. Such designation shall depend upon the magnitude and character of the sensitive site features. The Planning Board may consider the designation of certain site areas for recreation purposes.
A. Lands proposed for open space purposes shall be those lands that exhibit significant environmental constraints and are, therefore, not suitable for development purpose, shall either be offered to the Town for dedication, or be held in corporate ownership and maintained by an established organization if the Town does not accept dedication.

B. Lands proposed for park or recreation purposes shall meet the following minimum standards:

1. Such land shall either be offered to the Town for dedication or be held in corporate ownership and maintained by an established organization.

2. Shall have physical characteristics and locations which render them readily usable for appropriate recreation purposes, and their locations shall be selected with a view to minimize hazards and vehicular traffic for children walking between such facilities and their homes in the neighborhood.

3. Any such area shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is developed.

4. A detailed development plan shall be provided for each neighborhood park or playground. As a minimum, the development plan shall provide for an approximately level area at least 2,000 sq. ft. in size and proposed play structures/activities.

5. The development plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood.

C. An Planning Board may accept an APPLICANT’s offer of a payment-in-lieu of parklands setaside if they determine that the site is not appropriate for parkland use or that parklands are not needed in the site area.

D. All MULTI-UNIT developments shall provide an minimum of 5% of the site area designed and developed for recreational uses.

9.12 UTILITIES

9.12.1 WATER SUPPLY AND SEWAGE DISPOSAL - Provisions for water supply, water and sewer lines, or on-LOT sewage treatment systems shall comply with requirements of the Chemung County Health Department, and/or NYS Department of Environmental Conservation whichever agency has the approval authority. The appropriate approval agency shall approve all installation, design and construction.

9.12.2 UNDERGROUND INSTALLATION - All utility companies (telephone, electric, etc.) are now equipped to make underground installation of their services; underground installation shall be required when practical.
9.13 Damaged and Unsafe BUILDING or STRUCTURE Requirements

9.13.1 General Requirement

A. The owner of a STRUCTURE or BUILDING that has been damaged by fire, flood or other cause shall notify the CODE ENFORCEMENT OFFICER (CEO) of the damage within 72 hours of when the damage occurred. Any damaged BUILDING or STRUCTURE shall be made safe and secure in accordance with the NYS Uniform Fire Prevention and Building Code.

B. The use of fire as a method for razing a damaged or unsafe STRUCTURE or BUILDING is prohibited unless specifically authorized by the NYS Department of Environmental Conservation, Chemung County Emergency Management Office, the Fire Chief for the jurisdictional Fire DISTRICT and the Town CODE ENFORCEMENT OFFICER.

9.13.2 Repair, Replacement And/or Razing

A. The owner of a BUILDING or STRUCTURE which has been damaged by fire, flood or other cause to an extent more than fifty (50%) percent of its replacement value shall comply with the following requirements:

1. Arrange for the damaged BUILDING or STRUCTURE to be evaluated by a DESIGN ENGINEER and/or the CEO;

2. Shall apply for a BUILDING PERMIT for the work recommended by the DESIGN ENGINEER and/or CEO and which may include repair, reconstruction or razing of the damaged BUILDING or STRUCTURE. The owner shall perform such work within one hundred eighty (180) days of the date of an order to remedy from the CEO.

B. The owner of a BUILDING or STRUCTURE which has been damaged by fire, flood or other cause to an extent less than fifty (50%) percent of its replacement value shall apply for a BUILDING PERMIT for the work required to either repair, reconstruct or raze the damaged BUILDING or STRUCTURE and perform such work within two hundred seventy (270) days of the date the damage occurred.

9.14 MANUFACTURING USE REGULATIONS

9.14.1 General Requirements

No INDUSTRIAL USE shall be permitted, established, maintained or conducted which is likely to cause or have:

A. Fumes, gases, dusts, particulate, odors, or any other atmospheric pollutant beyond the boundaries of the LOT whereon an INDUSTRIAL USE is located.
B. Excessive smoke or similar atmospheric pollutant beyond the boundaries of a LOT on which the INDUSTRIAL USE is located. Excessive smoke shall be determined according to the Ringelmann's Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines. When the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart, it is then excessive.

C. Noise levels greater than 55 decibel (db) measured at a boundary of a LOT occupied by an INDUSTRIAL USE.

D. A discharge of any INDUSTRIAL effluent into any WATERCOURSE, open ditch, or on a land surface unless specifically permitted under the authority of the NYS Department of Environmental Conservation.

E. A discharge of any INDUSTRIAL effluent into a public sanitary sewer system except in accordance with the rules of and under the control of public health authorities or the public body controlling such sewer system.

F. Open storage or stocking of any waste materials.

G. Glare or light levels that are perceptible at or beyond the LOT LINES.

H. Vibration perceptible beyond the LOT LINES whereon such INDUSTRIAL USE is conducted.

I. Any other nuisance, activity or action that may be harmful to a person or property.

9.14.2 BUFFER, BARRIER and Landscape Requirements

A. BUFFER and BARRIER shall be provided in accordance with Section 9.20.

B. All portions of the LOT proposed for INDUSTRIAL DEVELOPMENT and not occupied by STRUCTURE, PARKING AREA, DRIVE, INTERNAL DRIVE, pedestrian ways, or storage shall be Landscaped with lawn, trees, shrubs, or other plant material in accordance with Section 9.20.

9.14.3 Other INDUSTRIAL USE Activity

9.14.3.1 Outdoor Storage

Materials, supplies, or products shall not be stored in a FRONT YARD and such storage located in the SIDE or REAR YARD shall be screened in conformance with Section 9.20.

9.14.3.2 Off-ROAD Loading and Unloading Berths

Off-ROAD loading and unloading berths shall be provided in accordance with Section 9.3 and the following minimum requirements:
A. An Off-ROAD loading and unloading berth located on or along a DRIVE shall be located a minimum of one hundred (100) feet from a ROAD.

B. The handling of all freight shall occur either on those sides of a BUILDING which do not face a ROAD or be suitably landscaped and screened in accordance with Section 9.21.

9.14.3.3 ACCESSORY USE

ACCESSORY USES shall conform to the minimum requirements set forth in Section 9.5 and as prescribed in an approved SITE PLAN.

9.14.4 Design Requirement

A SITE PLAN for an INDUSTRIAL USE shall include design elements that includes sufficient documentation to determines compliance with the requirements of this Section and all other applicable Sections of this Law.

9.14.5 Access

Access to a LOT containing an INDUSTRIAL USE shall:

A. be designed by a DESIGN ENGINEER;

B. be designed not to route traffic directly through a R1 or R2 Zoning DISTRICT on other than a PRIMARY ROAD;

be designed to access a ROAD other than a TOWN ROAD located within a R1 or R2 Zoning DISTRICT; and

D. have a design based on a Traffic Study that includes provisions for access for all vehicles expected or intended to use the site.

9.15 SOLAR ENERGY SYSTEMS AND SOLAR ACCESS

9.15.1 Plan Requirements

A SITE PLAN for new Residential DEVELOPMENT that includes either one hundred (100) or more acres of site DEVELOPMENT area and/or more than two hundred (200) DWELLING UNITS, shall consider designs to promote the maximum number of BUILDINGS receiving direct sunlight sufficient for using a SOLAR ENERGY SYSTEM. Such SITE PLAN shall include a solar access plan that considers the following:

A. Solar access shall be protected between the solar azimuths of -45 degrees east of due south and +45 degrees west of due south.

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B. In considering dimensional modifications permitted in Articles 6 and 8, the Planning Board shall consider solar access design.

C. For solar access, ROADS, LOTS and BUILDING SETBACKS should be designed so that the BUILDINGS are oriented with their long axes running from east to west for SINGLE-UNIT DEVELOPMENT and north to south for MULTI-UNIT DEVELOPMENT.

D. In order to maximize solar access, the higher DENSITY DWELLING UNITS should be placed on a south-facing slope and lower DENSITY DWELLING UNITS sited on a north-facing slope.

E. STRUCTURES should be sited as close to the north LOT LINE as possible to increase YARD space to the south for reduced shading of the south face of a STRUCTURE.

F. A tall STRUCTURE should be sited to the north of a short STRUCTURE.

G. A description of any legal mechanisms, such as deed restrictions, covenants, etc., that are to be applied to protect or provide for solar access shall be provided as documentation in a SITE PLAN.

9.16 WIND ENERGY CONVERSION SYSTEMS (WINDMILLS)

9.16.1 Intent

The intent of this Section is to regulate the placement of and access to wind for an energy conversion system and to protect the health and safety of individuals on adjacent LOTS.

9.16.2 General Requirements

A SITE PLAN approval and BUILDING PERMIT are required for the construction of a wind energy conversion system.

9.16.3 Dimensional Requirements

A. The total height for a vertical axis rotor installation of a wind energy conversion system is the tower height plus one-half (½) the rotor diameter, and for a horizontal rotor installation of a wind energy conversion system is the distance from the base at FINISHED GRADE to the top of the unit.

B. A wind energy conversion system SETBACK shall be a distance that is the greater of either the total height of the wind energy conversion system or the required SETBACK.
C. A maximum allowable total height for a wind energy conversion system shall be 80 feet unless otherwise restricted or prohibited by Federal, State or Local Laws, Rules, or Regulations.

D. Minimum allowable height above FINISHED GRADE at the lowest point of the arc of a rotor blade shall be 15 feet.

9.16.4 Safety Requirements

All wind energy conversion systems shall be designed, installed and maintained in accordance with the following:

A. The foundation and supports for a wind energy conversion system shall be as designed by a DESIGN ENGINEER.

B. At least one SIGN shall be posted at the base of the wind energy conversion system warning of high voltage.

C. Tower climbing ladders, stairs or similar devices shall be no lower than 12 feet from the ground.

D. All wind energy conversion system shall be installed with braking systems approved by the manufacturer.

9.16.5 Sound Control Requirements

The maximum level of sound created by the wind energy conversion system as measured at the LOT line shall be no greater than 55 decibels (db).

9.16.6 Design Requirements

A. All electric transmission lines serving the installation shall be installed underground.

B. No wind energy conversion system with guy wire support shall be permitted.

9.17 HOME OCCUPATION Requirements

9.17.1 Restrictions

The following USES shall not be permitted as a HOME OCCUPATION:

A. a business which has a primary function of wholesale or retail sale of goods or articles on a LOT,

B. any form of MOTOR VEHICLE REPAIR including vehicle body work,

C. MOTOR VEHICLE SALES.
D. any small engine or appliance repair,
E. a VETERINARY HOSPITAL,
F. a KENNEL,
G. a BAR and/or RESTAURANT,
H. COTTAGE INDUSTRY, and
I. any USE that, under the provisions of the New York State Uniform Fire Prevention and Building Code is not permitted based on the type of construction or a USE prohibited based on any other Federal, State or Local Law, Rule or Regulation.

9.17.2 General Requirements

HOME OCCUPATION USE shall comply with the following minimum requirements.

A. In a DWELLING UNIT the lesser of either 25% of the total FLOOR AREA or 500 square feet, may be used for or dedicated to the USE.

B. In an ACCESSORY BUILDING OR STRUCTURE no more than 500 square feet may be devoted to the USE.

C. The USE shall be conducted within the enclosed walls of a DWELLING UNIT or ACCESSORY STRUCTURE.

D. There shall be no external evidence of such USE except for a SIGN installed in accordance with Section 9.6. No stock, merchandise, packaging, equipment or displays related to the USE shall be visible from outside the STRUCTURE.

E. The DWELLING UNIT in which the USE is located shall not be altered or extended in a manner not customary or typical to a RESIDENTIAL BUILDING to accommodate the USE.

F. The USE shall not result in or cause vehicular traffic volumes of greater than 4 cars per hour or otherwise create a nuisance to abutting LOTS.

G. The USE shall not change the residential character of the adjoining LOTS.

9.18 COTTAGE INDUSTRY

9.18.1 Restrictions

The following USES shall not be permitted as a COTTAGE INDUSTRY USE:
A. a business which has a primary function of wholesale or retail sale of goods or articles on a LOT except as provided in Sub-Section 9.18.2F,

B. any form of MOTOR VEHICLE REPAIR including vehicle body work,

C. MOTOR VEHICLE SALES,

D. a VETERINARY HOSPITAL,

E. a BAR and/or RESTAURANT,

F. any USE that, under the provisions of the New York State Uniform Fire Prevention and Building Code is not permitted based on the type of construction or a USE prohibited based on any other Federal, State or Local Law, Rule or Regulation.

9.18.2 General Requirements

A. A COTTAGE INDUSTRY USE may be permitted when an approved SITE PLAN documents compliance with the following minimum requirements:

A. In a DWELLING UNIT the lesser of 30% of the total FLOOR AREA or 750 square feet is to be used for or dedicated to the USE.

B. No more than 1,500 square feet of an ACCESSORY STRUCTURE is used for or dedicated to the USE.

C. The USE is to be conducted within the enclosed walls of the DWELLING UNIT and/or ACCESSORY STRUCTURE.

D. There is no external evidence of such USE except for a SIGN installed in accordance with Section 9.6. No stock, merchandise, packaging, equipment or displays related to the USE is visible from outside the DWELLING UNIT and/or ACCESSORY STRUCTURE.

E. A DWELLING UNIT in which the USE is located is not altered or extended in a manner not customary to or typical of a residential BUILDING in order to accommodate the USE. Construction and/or modification of an ACCESSORY STRUCTURE to accommodate the USE is permitted.

F. The USE shall not result in or cause vehicular traffic volumes of greater than 6 cars per hour or otherwise create a nuisance to abutting properties.

G. A maximum of ten percent (10%) of any area devoted to or used for the USE may be for display, and/or wholesale and retail sales.

H. The USE shall remain compliant with all conditions of SITE PLAN approval.
9.19 ANTENNAS

No antenna of any kind may be erected or established in the Town except in conformance with the standards in this Section and Section 4.5, Use Regulation Table.

9.19.1 ANTENNA SIZE

A. In C and HC Districts:

1. Satellite antennas shall not exceed ten (10) feet in diameter.

2. No antenna shall larger than 100 square feet in area.

3. The total height of ground-mounted antennas shall not exceed fifteen (15) feet above the ground.

B. In I District:

1. Antennas shall not exceed 200 square feet in area.

2. The total height of ground-mounted antennas shall not exceed twenty (20) feet above the ground.

C. Roof-mounted installations shall not exceed the height restrictions as set for the zoning district within which the installation is placed.

9.19.2 ANTENNA LOCATION

A. For any use, subject to the provisions contained herein, such antenna shall be located only in the rear yard of any LOT provided that such antenna is located a minimum of five (5) feet from any principal building and LOT line measured at the outermost diameter of the antenna. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property subject to site plan approval. For purposes of this Law a usable satellite signal is a satellite signal which when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or via cable television.

B. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the dwelling structure, provided that site plan approval is obtained prior to such installation. Such permit may be issued upon a showing by the APPLICANT that a usable satellite signal is not obtainable from any other location on the property.

9.19.3 GENERAL PROVISIONS

A. For all uses, antennas shall be located and designed to reduce visual impacts from surrounding properties at ROAD level and from public ROADS.

B. Not more than one antenna shall be allowed on any LOT less than 9,000 square feet in size.
C. All antennas and the construction and installation thereof shall conform to applicable building and electrical code regulations and requirements.

A. Antennas shall meet all manufacturers' specifications, be of non-combustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.

B. Every antenna must be adequately grounded for protection against a direct strike by lightning.

C. Roof-mounted satellite (dish) antennas greater than two (2) feet in diameter shall not be permitted.

9.20 BUFFER AND LANDSCAPING REQUIREMENTS

9.20.1 Intent

The intent of this Section is to provide consideration of those physical and visual elements of a land USE DEVELOPMENT and to require treatment of the land with plant material and/or man-made features such plant materials and/or man-made features are to be arranged to enhance the appearance, to screen or effectively separate different types of land USES, and to eliminate or minimize impacts on adjoining USES.

9.20.2 BUFFER and Landscaping Techniques

For compliance with this Section the area of a BUFFER and to other area to have landscape treatment shall be determined by an approved SITE PLAN. The following types of treatment and combinations thereof, may be considered:

A. a visual setting, including natural ground-cover and/or other plant materials, specifically designed to stabilize a land form and provide a foreground setting consistent with natural surroundings;

A. a BARRIER including earth mounding, berm and screening designed to separate, obscure or soften the impacts associated with an incompatible USE; and

B. a physical separation, including a combination of space, plant and man-made materials or features, designed to separate different land USES.

9.20.3 BUFFER Requirements

A. Where a LOT is proposed to contain a USE listed in the USE categories set forth in Section 4.5 and abuts a LOT containing an existing or approved USE, a minimum BUFFER shall be provided, for the proposed USE, as follows:
<table>
<thead>
<tr>
<th>USE Category</th>
<th>Existing or approved Residential USE</th>
<th>Existing or approved General USE</th>
<th>Existing or approved Business USE</th>
<th>Existing or approved INDUSTRIAL USE</th>
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<tbody>
<tr>
<td>Proposed Residential USE</td>
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<td>Proposed General USE</td>
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<td>2</td>
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<tr>
<td>Proposed INDUSTRIAL USE</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>1</td>
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</tbody>
</table>

1. The BUFFER shall be the Minimum Yard Requirements (SETBACKS) for the proposed use as prescribed in Section 5.1.
2. The BUFFER shall be the Minimum Yard Requirements (SETBACKS) for the proposed use as prescribed in Section 5.1 plus fifteen (15) feet and such BUFFER shall be landscaped in accordance with Sub-Section 9.20.4.
3. The BUFFER shall be the Minimum Yard Requirements (SETBACKS) for the proposed use as prescribed in Section 5.1 plus twenty five (25) feet and such BUFFER shall be landscaped in accordance with Sub-Section 9.20.4.
4. The BUFFER shall be the Minimum Yard Requirements (SETBACKS) for the proposed use as prescribed in Section 5.1 plus seventy five (75) feet and such BUFFER shall be landscaped in accordance with Sub-Section 9.20.4.

A. No PRINCIPAL or ACCESSORY STRUCTURES, or ACCESSORY USES, including parking and DRIVES shall be located within any required BUFFER.

9.20.4 Landscaping Requirements

Where a BUFFER is required by Sub-Section 9.20.2, the BUFFER shall be provided in compliance with Section 9.9 and such area shall be landscaped as follows:

<table>
<thead>
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</tbody>
</table>

1. BUFFERS may be landscaped with vegetation, tree or shrubbery of choice.
2. Planting shall include hedges, shrubbery and/or under story trees that at maturity will be a minimum of 6 feet in height per an approved landscaping plan.
3. Planting shall include hedges, shrubbery and/or under story trees that at maturity will be a minimum of 8 feet in height per an approved landscaping plan.
4. Planting shall include hedges, shrubbery canopy and under story trees that at maturity will be a minimum of 10 feet in height per an approved landscaping plan.
9.20.5 BARRIER Requirements

Where a LOT is proposed to contain a USE listed in the USE categories set forth in Section 4.5, and abuts a LOT containing an existing or approved USE, a BARRIER meeting the following minimum requirements shall be provided for the proposed USE:

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<td>Proposed INDUSTRIAL USE</td>
<td>4</td>
<td>3</td>
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<td>NA</td>
</tr>
</tbody>
</table>

1. The BARRIER shall comply with the requirements of Section 10.10 and shall provide protection against associated impacts associated with a DEVELOPMENT to minimum a height above FINISHED GRADE of 5 Feet.

2. The BARRIER shall comply with the requirements of Section 10.10 and shall provide protection against associated impacts associated with a DEVELOPMENT to minimum a height above FINISHED GRADE of 6 Feet.

3. The BARRIER shall comply with the requirements of Section 10.10 and shall provide protection against associated impacts associated with a DEVELOPMENT to minimum a height above FINISHED GRADE of 10 Feet.

4. The BARRIER shall comply with the requirements of Section 10.10 and shall provide protection against associated impacts associated with a DEVELOPMENT to minimum a height above FINISHED GRADE of 12 Feet.

9.20.6 General Requirements for BUFFER, Landscaping and BARRIER

A BUFFER, Landscaping or BARRIER required by this Law, as a condition of SITE PLAN approval and/or as a mitigation for impacts associated with a DEVELOPMENT shall comply with the following minimum requirements:

A. BUFFER, Landscaping or BARRIER shall be installed by DEVELOPER in accordance with a drawing included in an approved SITE PLAN.

B. A BUFFER, Landscaping or BARRIER required to mitigate an impact associated with a DEVELOPMENT shall be designed by a DESIGN ENGINEER.

C. A BUFFER, Landscaping or BARRIER shall be designed to provided the degree of continuous protection to a LOT commensurate with the anticipated adverse impact associated with a DEVELOPMENT.

D. The requirements of Section 9.9 shall be considered in the design of any BUFFER, Landscaping or BARRIER.

E. A BUFFER, Landscaping or BARRIER shall be maintained in perpetuity by the DEVELOPER.

F. A variety of plants may be substituted for plantings required under this Section as the BUFFER, Landscaping or BARRIER is maintained. However the performance of the
substitute vegetation shall be equal to that of those approved in any SITE PLAN and as follows:

1. In a BUFFER, evergreen canopy or evergreen under story trees may be substituted for deciduous canopy trees without limitations.
2. In a BUFFER, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.

G. All disturbed soil areas of the site shall be replanted or re-seeded in an appropriate fashion.

9.21 MOTOR VEHICLE FILLING STATIONS, VEHICLE REPAIR, VEHICLE SALES AND HEAVY EQUIPMENT/VEHICLE SALES AND REPAIR

9.21.1 Dimensional Requirements

A. Minimum LOT Size:

1. Minimum LOT size for VEHICLE FILLING STATION, VEHICLE REPAIR, VEHICLE SALES and HEAVY EQUIPMENT VEHICLE SALES AND/OR REPAIR, and /or CONTRACTOR’S EQUIPMENT YARD USES shall be the greater of either one (1) acre or the Minimum LOT area requirement prescribed in Section 5.1.

2. In those instances where a VEHICLE FILLING STATION, VEHICLE REPAIR, VEHICLE SALES and HEAVY EQUIPMENT VEHICLE SALES AND/OR REPAIR, and /or CONTRACTOR’S EQUIPMENT YARD USES is proposed as part of a MALL or PLAZA, there shall be dedicated for such USE a Minimum LOT area of one (1) acre.

3. In addition to any required LOT AREA and/or SETBACK, a DEVELOPER may be required to provide any additional space necessary, as determined by an approved SITE PLAN, to mitigate any potential impact on surrounding LOTS or USES.

B. The Minimum LOT WIDTH shall be the greater of two hundred (200) feet or the Minimum LOT WIDTH prescribed in Section 5.1.

C. Fuel dispensing devices shall be located at least 35 feet from any FRONT LOT LINE and 50 feet from any SIDE or REAR LOT LINE. This distance shall be measured from the outer most edge of the fuel island STRUCTURE.

9.21.2 General Requirements

A. Automobile parts, including tires, frames, hubcaps, and motors, and dismantled or unregistered motor vehicles, are to be stored within a STRUCTURE or otherwise screened from view from any adjoining LOT or ROAD. Accessory products that are offered for sale may be placed outside during normal business hours provided such items are stored or displayed in a rack.

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B. All repair work shall be performed within a BUILDING. Vehicles waiting to be serviced or stored on the LOT shall not be parked or stored in any required YARD. Wrecked vehicles being held for insurance adjustment or other legal purpose shall be stored behind the rear wall of the BUILDING and screened from view from an adjoining LOT or ROAD.

C. Parking:

1. No vehicle shall be parked, stored or left standing within fifteen (15) feet of a ROAD RIGHT-OF-WAY.

2. PARKING AREA requirements shall be as set forth in Section 9.3. Such PARKING AREAS shall not conflict with the traffic pattern to and from any fuel pump. In addition to any required parking, a DEVELOPER may be required to provide any additional PARKING AREAS necessary, by an approved SITE PLAN, to mitigate any potential impact on a surrounding LOT or USE.

3. Where PARKING AREAS abut a Residential USE as set forth in Section 4.5 or a Residential Zoning DISTRICT boundary they shall be screened from such USE or DISTRICT and include a BARRIER that shall;

   (a) be composed of densely-planted plant material no less than ten (10) feet in depth, 8 feet in height from FINISHED GRADE,

   (b) include a FENCE,

   (c) be of materials consistent with the character of adjacent residential LOTS,

   (d) be maintained in perpetuity or to a time when the adjoining Residential USE no longer exists.

D. No vehicles offered for rent or sale shall be placed, stored or parked within twenty-five (25) feet of a ROAD RIGHT-OF-WAY.

E. All storage and display areas shall be provided with a hard, dust-free surface and shall be adequately drained.

F. All OUTDOOR LIGHTING shall be designed and installed so that there is no glare beyond the LOT LINE.

G. No 24 hour operation USE shall be permitted within two hundred fifty (250) feet of an existing Residential USE and/or Residential DISTRICT boundary.

H. Fuel, oil and other materials which are environmentally hazardous shall be stored, controlled and disposed of in accordance with the Rules and Regulations of the NYS Department of Environmental Conservation.
9.22 FAST FOOD RESTAURANT REQUIREMENTS

9.22.1 Intent

A FAST FOOD RESTAURANT USE has operational characteristics that may include a significantly higher number of customers per day than those of a surrounding USES. This USE is likely to also have an ACCESSORY DRIVE THOUGH USE. These characteristics have the potential for creating serious traffic conflicts, hazards to pedestrians and congestion. It is the intent of this Section is to provide reasonable controls to avoid, to the greatest extent possible the consequences of this congestion and traffic hazard.

9.22.2 Dimensional requirements

A. Minimum LOT Size:

1. Minimum LOT size for all USES shall be as defined in the BULK DENSITY Requirement, Section 5.1 of this Law.

2. In those instances where a USE regulated herein is proposed as part of a MALL, there shall be dedicated for such USE an area of the LOT equal to one (1) acre.

3. To mitigate impacts on adjoining LOTS and/or ROAD infrastructure, additional LOT AREA, SETBACKS and/or RIGHT -OF-WAY reserve strips may be required in an approved SITE PLAN.

B. Minimum LOT WIDTH

The greater of one hundred (100) feet or the Minimum LOT WIDTH established in the BULK DENSITY Requirement, Section 5.1.

9.22.3 Access and Parking

A. Access shall be designed by a DESIGN ENGINEER and in accordance with Sections 9.7 and 9.9.

B. Parking:

1. The number of parking spaces shall be as specified in Sub-Section 9.3.2.

2. PARKING AREAS or PARKING LOT S shall be designed to provide for pedestrian safety, to the greatest extent possible, pedestrian access to the PRINCIPAL STRUCTURE shall not cross primary circulation lanes.

9.22.4 BUFFER, Landscaping and BARRIER Requirements

A. BUFFERS, Landscaping and BARRIERS shall be provided in accordance with Section 9.20.

B. Additional BARRIER shall be provided for areas used for parking, dumpsters, utilities, and ACCESSORY STRUCTURES from an adjoining ROAD or LOT.
9.23 DRIVE-THROUGH USE REQUIREMENTS

9.23.1 Intent

A DRIVE THOUGH USE has many points of traffic conflict and the potential for creating congestion on ROADS, DRIVES and INTERNAL DRIVES. This Section prescribes requirements to ameliorate such congestion and traffic conflicts.

9.23.2 General Vehicular Traffic Requirements

A. A PRINCIPAL or ACCESSORY USE which contains a DRIVE THOUGH USE shall provide a DRIVE or INTERNAL DRIVE dedicated to the DRIVE THROUGH USE and which complies with the requirements of Sections 9.7 and 9.9 as well as the following minimum requirements:

1. A DRIVE or INTERNAL DRIVE for a DRIVE THOUGH USE shall be distinctly marked and shall be separate from other internal traffic circulation DRIVE lanes and pedestrian ways.

2. DRIVE or INTERNAL DRIVE for a DRIVE THOUGH USE shall not cross any principal pedestrian access to the PRINCIPAL BUILDING.

B. All USES shall maintain a minimum distance of 40 feet from the service window to a public RIGHT-OF-WAY or any other DRIVE or INTERNAL DRIVE.

9.23.2 Vehicular Traffic Stacking or Queuing Requirements

A DRIVE THROUGH USE, for the following specific PRINCIPAL or ACCESSORY USES shall provide the following minimum vehicular traffic queuing or stacking distances:

A. For a FAST FOOD RESTAURANT the minimum distance shall be 140 feet between start of lane to service window, 80 feet from start of lane to order station and 60 feet from order station to service window.

B. For a bank and other business not using order stations the minimum distance shall be 60 feet from start of lane to service window.

9.23.3 Multiple Drive-through Vehicular Traffic Lanes

The Planning Board may allow lesser distances than those specified in Sub-Section 9.23.2 for businesses with multiple drive-through lanes when substantial documentation supporting such reduction is provided in an approve SITE PLAN.
9.24 ADULT USES

9.24.1 Intent

In the development and execution of this Section, it is recognized that ADULT USES AND ENTERTAINMENT ESTABLISHMENTS, because of their very nature, have serious objectionable, operational characteristics when concentrated under certain circumstances, and can have a deleterious effect on adjacent areas. It is the purpose of this Law to regulate the creation, opening, commencement and/or operation of ADULT USE AND ENTERTAINMENT ESTABLISHMENTS, as herein defined, in order to achieve the following:

A. To preserve the character and the quality of life in the Town of Ashland's neighborhoods and business areas.

B. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.

C. To restrict minors' access to adult uses.

D. To maintain the general welfare and safety for the Town of Ashland's residents.

9.24.2 Definitions

As used in this Section, the following terms shall have the meanings indicated:

9.24.2.1 ADULT USE AND ENTERTAINMENT ESTABLISHMENTS - A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcades, adult bookstores or adult video stores; adult cabarets; adult motels; adult motion picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult Use and Entertainment Establishments customarily exclude minors by reason of age, and are those businesses defined as follows:

9.24.2.2 ADULT ARCADE - means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices which are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions, are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas".
9.24.2.3 ADULT BOOKSTORE OR ADULT VIDEO STORE - means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business advertising to the sale or rental for any form of consideration any one or more of the following:

A. books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, compact disks, computer software, or other visual representations which depict or described “specified sexual activities” or “specified anatomical areas”; or

B. instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “SPECIFIED SEXUAL ACTIVITIES” or “SPECIFIED ANATOMICAL AREAS” and still be categorized as “ADULT” BOOKSTORE or “ADULT” VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “SPECIFIED SEXUAL ACTIVITIES” or “SPECIFIED ANATOMICAL AREAS”. For purposes of this definition, “principal business purpose” shall mean twenty-five percent (25%) or more of any of the following:

C. the number of different, titles or kinds of such merchandise;

D. the number of copies or pieces of such merchandise;

E. the amount of floor space devoted to the sale and/or display of such merchandise;

or

F. the amount of advertising which is devoted to such merchandise, either in print or broadcast media.

9.24.2.4 ADULT CABARET - means a nightclub, bar, non-alcoholic or “juice” bar, restaurant, or similar commercial establishment which regularly features:

(a) persons who appear nude or in a state of semi-nudity; or

(b) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or

(c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

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9.24.2.5 ADULT MOTEL - means a hotel, motel or similar commercial establishment which:

(a) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and which advertises the availability of sexually oriented type of material by means of a sign visible from a public right-of-way, or by means of off-premise advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

(b) offers sleeping rooms for rent on a regular basis for a period of time that is less than ten (10) hours; or

(c) allows a tenant or occupant of a room to sub-rent the room for a period of time that is less than ten (10) hours

9.24.2.6 ADULT MOTION PICTURE THEATER - means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

9.24.2.7 ADULT THEATER - means a theater, concert, hall, auditorium or similar commercial establishment which for any form of consideration regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

9.24.2.8 ESCORT AGENCY - means a person or business association who furnishes, or offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

9.24.2.9 ESCORT - means a person who, for a fee, tip or other consideration, agrees or offers to any of the following; act as a date for another person; for consideration; to privately model lingerie for another person; or to privately perform a striptease for another person.

9.24.2.10 MASSAGE PARLOR - any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "specified sexual activities"; or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas". The definition of ADULT USE shall not include the practice of massage in any licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program.
9.24.2.11 NUDE MODEL STUDIO - means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

9.24.2.12 SEXUAL ENCOUNTER CENTER - means a business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or exposure of "specified anatomical areas", or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude. The definition of ADULT USES shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in medically approved and recognized sexual therapy.

9.24.2.13 MINOR - A person less than eighteen (18) years of age.

9.24.2.14 NUDITY OR A STATE OF NUDITY - means the appearance of: (a) the appearance of human bare buttocks, anus, male genitals, female genitals, or areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover human bare buttocks, anus, male genitals, female genitals, pubic region or areola or nipple of female breast.

9.24.2.15 PERSON - means an individual, proprietorship, partnership, corporation, association, or other legal entity.

9.24.2.16 PROMOTE - To manufacture, issue, sell, give, provide, lend, mail, deliver, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise or to offer or agree to do the same.

9.24.2.17 SADINASICGUSTUC ABUSE - Actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothes.

9.24.2.18 SEXUAL CONDUCT - Actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, public area, buttocks, or if such be female, breast.

9.24.2.19 SEXUAL EXCITEMENT - The condition of human male or female genitals when in a state of sexual stimulation or arousal.
9.24.2.20 SPECIFIED ANATOMICAL AREAS - means (a) unless completely and opaquely covered, human genitals, pubic region, buttocks, or breasts below a point immediately above the top of the areola; and (b) even if completely and opaquely covered, male genitals in a discernibly turgid state.

9.24.2.21 SPECIFIED SEXUAL ACTIVITIES - means and includes any of the following;

(a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
(b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
(c) masturbation, actual or simulated; or
(d) excretory functions.

9.24.3 Regulated Uses.

Special regulations are necessary to ensure that the adverse effects of these specific uses will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing concentration of these uses. Uses subject to these controls and special regulations are as follows:

(a) ADULT USE AND ENTERTAINMENT ESTABLISHMENTS
(b) ADULT ARCADE
(c) ADULT BOOKSTORE OR ADULT VIDEO STORE
(d) ADULT CABARET
(e) ADULT MOTEL
(f) ADULT MOTION PICTURE THEATER/ADULT THEATER
(g) ESCORT AGENCY
(h) NUDE MODEL STUDIO

9.24.4 Allowed Zoning Districts.

All REGULATED USES as defined herein may only be created, opened, commenced or operated as specified in Section 4.5 and pursuant to Section 3. of the Town of Ashland Comprehensive Zoning Plan.

9.24.5 Location Within Allowed Zoning Districts.

All REGULATED USES shall be permitted only in the allowed ZONING DISTRICT as set forth in Section 9.24.4 hereof, and within such a district, the site and location shall be regulated as follows:

A. RESIDENTIAL ZONING DISTRICT BOUNDARY - within five hundred (500) feet of the boundary of any residential zoning district in the Town;

B. RESIDENTIAL USE - within five hundred (500) feet of the property line of a parcel used for residential purposes in the Town;
C. PLACE OF WORSHIP, SCHOOL, DAY CARE - within five hundred (500) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, day-care facility, park, or playground, within the Town;

D. SCHOOL BUS STOP - within one hundred and fifty (150) feet of a school bus stop.

E. SAME PARCEL - on the same parcel as another Adult Use and Entertainment Establishment; or,

F. PROXIMITY TO ANOTHER REGULATED USE - within one thousand (1,000) feet of the property line of another REGULATED USE, whether or not such other establishment is located in the Town.

The above distances of separation shall be measured from the nearest exterior wall of the portion of the structure containing the REGULATED USE.

9.24.6 Display Prohibited.

All REGULATED USES shall be conducted in an enclosed building. It shall be a violation to display or exhibit in the open air (outside of the establishment), through a window, or by means of a depiction or decoration, or to allow to be displayed or exhibited, any “SPECIFIED ANATOMICAL AREA” or “SPECIFIED SEXUAL ACTIVITY”.

9.24.7 Issuance of a Permit

No REGULATED USE shall be established in the Town until the issuance of an Operating Permit by the Code Enforcement Officer. Such Permit shall be issued upon a determination by the Code Enforcement Officer that such REGULATED USE is in conformance with all of the provisions of this Local Law. In order for the Code Enforcement Officer to make such determination, the Applicant shall submit the following minimum information:

A. A completed Application on a form to be provided by the Town and Application Fee.

B. A parcel location Map.

C. A drawing, drawn to scale, indicating the portion of the parcel to be developed in the REGULATED USE, as well as all required appurtenances.

D. A clear and concise description of the proposed use.

9.24.8 Amortization.

The right to maintain a legal, non-conforming REGULATED USE shall terminate by amortization in accordance with the following schedule:
AMOUNT OF CAPITAL INVESTMENT AS OF EFFECTIVE DATE OF LOCAL LAW #, OF 1999

<table>
<thead>
<tr>
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<th>DATE BEFORE WHICH USE SHALL TERMINATE</th>
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<tbody>
<tr>
<td>$ 0 - 5,000</td>
<td>January 1, 1998</td>
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<tr>
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<td>22,001 or more</td>
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The term “capital investment” as used herein is defined to mean the initial outlay by the owner or operator of the REGULATED USE to establish such business as of the date of the enactment of this Local Law, exclusive of the value of the structure in which the business is located.

9.25 OUTSIDE STORAGE OF VEHICLES, EQUIPMENT OR MATERIALS

9.25.1 Storage in Front or Side Yards:

A. No required FRONT YARD or SIDE YARD in any DISTRICT shall be used for the storage of any vehicles, or for the storage of any parts or equipment for making repairs to any kind of vehicles.

B. No required FRONT YARD or SIDE YARD in any DISTRICT shall be used for the storage of any TRAVEL TRAILERS, recreational vehicles, boats or boat trailers or snowmobiles.

9.25.2 Storage of Unregistered And Unlicensed Motor Vehicles And/or Parts: In any DISTRICT, there shall be no outside storage of any unregistered or unlicensed motor vehicles for a time period longer than thirty (30) days in any calendar year.

9.25.3 Outside Storage of Materials in The RT, C, HC and I Districts

Items and material for sale or used in fabrication/processing on any site in the RT, C, HC and I DISTRICTS shall be stored within a secure fence that effectively screens such material from the adjoining PUBLIC ROADS and any RESIDENTIAL USES.

9.26 PRIVATE STABLE REGULATIONS

PRIVATE STABLES, as defined in this Law, shall meet the following minimum standards:

A. There shall be a minimum of one (1) acre of land for each horse or pony kept at the site.

B. All buildings used to house or shelter such animals shall be located a minimum of 100 feet from any LOT line.
C. No animal waste shall be stored within 100 feet of any LOT line.

D. Adequate fencing shall be provided to secure and contain animals on the site.

9.27 **COMPOSTING**

Composting of bio-degradable organic matter for use in fertilizing or conditioning soil on the same LOT is permitted in the AR, RT, and I, DISTRICTS in accordance with the following standards:

A. The area used for such composting shall be no larger than 100 square feet.

B. All compost areas shall be located a minimum of ten (10) feet from any LOT line.

9.28 **ROADSIDE STANDS**

ROADSIDE STANDS are permitted in the AR and RT DISTRICTS in accordance with the following minimum standards:

A. All STANDS shall either be temporary STRUCTURES to be removed in the off-season, or be constructed in such a way that they can be secured when not in use.

B. STANDS shall be located a minimum of ten (10) feet from the right-of-way.

C. Products sold or displayed shall be limited primarily to agricultural products grown on the proprietors property.

D. Each STAND shall be allowed a maximum of thirty-two (32) square feet of signage in a maximum of two (2) SIGNS. All SIGNS shall be removed when the STAND is not in operation.

9.29 **ALTERNATIVE DWELLING UNIT PARK STANDARDS**

9.29.1 **Intent**

The Town of Ashland seeks to accommodate the appropriate and safe location of DWELLING UNITS that so not meet the minimum area or overall exterior dimension requirements as specified in the Section 5.1 in parks as a form rural affordable housing in the Town. The Town also recognizes that is necessary to establish the following minimum development standards in order to ensure the safe and appropriate location and operation of these Parks for the inhabitants and adjoining property owners:

9.29.2 **CRITERIA FOR PARK SITING - ALTERNATIVE DWELLING UNIT PARKS** shall be permitted under SITE PLAN approval by the Planning Board in the AR ZONING DISTRICT. PARCELS shall be a minimum of twenty (20) acres in size to be considered for an
ALTERNATIVE DWELLING UNIT PARK. The Town shall consider the following siting criteria when evaluating an ALTERNATIVE DWELLING UNIT PARK application:

A. Park site shall not have site slopes of greater than 15%

B. Proximity to public transportation and/or shopping facilities and other services.

C. Availability of adequate fire protection

D. Availability and capability of site to accommodate school bus routes

9.29.3 DENSITY:

A. Gross density shall not exceed 4.5 UNITS per acre.

B. Minimum DWELLING UNIT lot/site Standards:

1. Minimum Lot Size: 6,000 square feet

2. Minimum Lot Width: 55 feet

3. Minimum Separation Distance Between UNITS - in all instances a minimum of 30 feet shall be maintained between UNITS in a Park.

4. Minimum Setback to Adjoining Property Line: 50 feet

5. Minimum FRONT YARD SETBACKS:
   
   (a) Private Park ROAD - 25 feet to pavement edge
   (b) Public Park ROAD - 15 feet to right-of-way
   (c) Public ROAD - outside the Park - 50 feet to right-of-way

9.29.4 DWELLING UNIT INSTALLATION

All DWELLING UNITS shall meet the NYS Uniform Fire Prevention and Building Code requirements and shall be installed on PARK sites in accordance with the requirements of this Code. Any MOBILE HOME shall be provided with skirting within 90 days of being installed in the PARK.

9.29.5 VEHICULAR CIRCULATION AND STORAGE

A. Entrance Roads - All Parks shall have a minimum of two (2) access points to the Town/public ROAD.

1. These access points shall be separated by a minimum of 200 feet on any ROAD.

2. In no instance shall the access ROAD have a pavement width of less than thirty (30) feet for a distance of fifty (50) feet from the intersection with the external Town ROAD.

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B. ROAD STANDARDS:

1. All Park ROADS shall be designed to accommodate safe access of residents' vehicles and emergency vehicles.

2. PRIVATE ROADS shall be permitted in a layout approved by the Planning Board. All PRIVATE ROADS shall have a minimum of twenty (20) feet of pavement width and be designed and constructed to meet all other minimum specifications of the Town Highway Superintendent.

3. All Park ROADS shall be constructed and maintained with a asphalt or comparable surface.

C. DRIVEWAYS:

1. No Park Lot driveway shall have direct access to a exterior PUBLIC ROAD

2. Minimum Width: 10 feet

3. All driveways shall have a concrete or asphalt surface

D. PARKING:

1. Minimum Parking Requirements: two (2) spaces per UNIT

2. Minimum Parking Space Size: 9 feet by 18 feet

3. At least one (1) space shall be located on each DWELLING UNIT lot/site. Additional spaces shall be conveniently grouped throughout the Park.

4. Prohibited Parking: No TRAVEL TRAILER, boat and/or trailer, or snowmobile shall be stored on a Mobile Home Lot.

9.29.6 AMENITIES AND FACILITIES

A. COMMUNITY FACILITIES: All PARKS shall provide a community space or facilities. The APPLICANT shall document how such facilities will be supervised and managed. Such facilities may include; meeting rooms, community rooms, recreation BUILDINGS, laundry rooms, and/or swimming pools.

B. RECREATION LANDS AND OPEN SPACE: All PARKS shall provide land area for recreational and open space purposes at a minimum of 200 square feet per DWELLING UNIT site/lot. Such space shall be of sufficient size to accommodate active recreation and shall be seeded or developed with recreational equipment.

C. WALKWAYS: Each DWELLING UNIT site/lot shall be provided with a walkway from the site to a ROAD, driveway and/or parking area provided for the site.
D. LIGHTING: All PARKS shall provide adequate lighting to illuminate ROADS, walkways and driveways for the safe movement of pedestrians at night.

9.29.7 WATER

All PARKS shall have a public water system approved by the Chemung County Health Department and shall provide water supply adequate for fire protection.

9.29.8 SEWER

All PARKS shall have public or community sewage treatment systems approved by the Chemung County Health Department or NYS Department of Environmental Conservation.

9.29.9 SOLID WASTE

Storage, collection and disposal of solid waste shall be conducted in a manner that does not create a fire, accident, or health hazard or, the breeding of vermin. Solid waste dumpsters or storage areas shall be enclosed or otherwise screened from view, they shall be animal proof and be located within 100 feet of any DWELLING UNIT site that they service.

9.29.10 UTILITIES

All utilities shall be installed underground.

9.29.11 MAINTENANCE

It shall be the responsibility of the PARK owner that all of the requirements of this Section are met. There shall be provided at all times adequate PARK supervision and maintenance of the amenities and services, including water, sewer, and ROADS.

9.30 FILLING AND GRADING

Filling of any LOT in the Town of Ashland shall be done in accordance with the following minimum standards:

A. All fill material shall be Clean Fill meeting NYSDEC’s definition and shall include no blacktop, asphalt, concrete, rocks or other substances larger than 3 feet in any linear dimension.

B. All areas being filled shall be leveled and seeded within 45 days of the placement of the fill, and in all instances prior to October 15th of any year.

C. A minimum of four (4) feet of earth or top soil shall be placed over the Clean Fill in order to support vegetation.

D. No LOT shall be filled to an elevation that exceeds surrounding grade level without prior Planning Board approval.
E. No fill shall be placed in any drainage swales or ways in any manner that will reduce or modify the capacity of such swales and/or the direction of stormwater flows.

9.31 STORMWATER MANAGEMENT SYSTEM AND EROSION CONTROL

9.31.1 Stormwater Management System. The Town of Ashland has experienced significant stormwater damage and flooding associated with stormwater runoff. The Town finds it in the best interests of the health, safety and general welfare of all Town residents to require that adequate and comprehensive drainage systems shall be provided to convey the storm water runoff originating from within and outside the proposed development as follows:

A. Stormwater management systems shall be designed to have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed upland of the development.

B. Stormwater detention and/or retention shall be designed to a peak flow of a 100 year-24 hour storm.

C. There shall be no net increase in the rate of stormwater run-off from a site post-development.

D. Design criteria for Stormwater management in the Town shall be as generally specified in the NYSDEC, "Stormwater Management Guidelines for New Development", as may be amended from time-to-time.

E. Interior drainage system shall be designed to accommodate a minimum twenty-five (25) year storm.

F. The design of drainage systems shall be approved by the CEO and the Town Engineer.

G. Utilizing the drainage guidelines outlined above, the Planning Board shall require the developer to submit the following:

1. Plan profiles, and typical and special cross-sections of proposed storm water drainage facilities.

2. Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities.

3. A grading plan developed to a two (2) foot contour interval and grading details to indicate proposed ROAD grades and elevations and building site grades and elevations.

4. If the development is within or adjacent to any designated floodplain, a detailed analysis of the area with respect to the management of the floodplain shall be included in the drainage report.

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H. All structures shall be set back a minimum of one hundred (100) feet from a stream bank.

I. The Town of Ashland may allow post-development stormwater runoff leaving the site to exceed the standards established in this Law if the runoff is discharged into stormwater management facilities off site and all of the following conditions are met:

1. It is not practical to completely manage runoff on-site in a manner that meets the Town standards as outlined above;

2. The off-site stormwater management facilities and facilities leading to them are designed, constructed and maintained in accordance with the requirements of this Law;

3. Adverse environmental impacts on the site will be mitigated; and

4. The request to use off-site stormwater management facilities is supported in the stormwater management plan and design provided for the site.

9.31.2 Erosion Control. In order to insure that the land will be developed with a minimum amount of soil erosion, the Planning Board shall require the developer to follow certain erosion control practices. These practices shall generally be as described in the Empire State Chapter Soil & Water Conservation Society, New York Guidelines for Urban Erosion and Sediment Control, March, 1988, or its most recent revisions and shall include the following general practices:

A. Exposing the smallest practical area of land at any one time during the development.

B. Provision of temporary vegetation and/or mulching to protect critical areas.

C. Provision of adequate drainage facilities to accommodate effectively the increased runoff caused by changed soil and surface conditions during and after development. The developer's engineer shall show, as part of their submitted plans, the interceptor swales and sedimentation basins along the lower edges of all developments. Topographic data and design grades for the swales shall be shown on the plans.

D. Fitting of the development plan to the topography and soils so as to minimize the erosion potential.

E. Retention and protection of natural vegetation wherever possible.

F. Installation of permanent final vegetation and structures as soon as practicable.

G. Provision of adequate protective measures when slopes in excess of 10% are graded, and minimizing such steep grading.
H. Installation and maintenance of temporary sedimentation basins shall be in
conformance with the Empire State Chapter Soil & Water Conservation Society,
New York Guidelines for Urban Erosion and Sediment Control, March, 1988, or is
most recent revisions.

9.32 OUTDOOR RECREATIONAL USE REQUIREMENTS

9.32.1 Intent

The intent of this Section is to control and regulate the impacts associated with an Outdoor
Recreational USE to assure minimum adverse impact on surrounding USES. Outdoor
Recreational USE includes: a golf course; a football, polo, soccer, baseball or softball
field; a tennis court; a race track; any outdoor show area; and any similar USE.

9.32.2 General requirements

A. OUTDOOR LIGHTING shall not spill beyond the LOT LINES.

B. An Outdoor Recreational USE located within five hundred (500) feet of a LOT LINE
for any existing Residential USE shall schedule all events to end prior to 11:00 p.m.

C. The use of an outdoor Public Address System shall comply with Section 9.33.

D. Where an Outdoor Recreational USE abuts an existing Residential USE and is
designed or intended to be operated or open for business anytime after 9:00 PM, a
BUFFER, in accordance with Section 9.20, equal to the requirements for an
INDUSTRIAL USE shall be provided on the LOT of the Outdoor Recreational USE.

9.32.3 Sanitary Requirements

A. An Outdoor Recreational USE shall provide for adequate and safe public rest room
and or toilet facilities in accordance with the requirements of the NYS Department of
Health and the NYS Uniform Fire Prevention and Building Code.

B. When TEMPORARY and/or portable restrooms are to be used to comply with this Sub-
Section, no less than four (4) shall be provided.

9.33 SOUND CONTROL REQUIREMENTS

9.33.1 Intent

This Section is intended to establish sound level requirements sufficient to permit the
enjoyment and use of adjoining LOTS without the adverse impacts associated with
unnecessary or unusually high levels of sound. The sound levels requirements established
in this Section are considered to be minimum requirements and more restrictive
requirements may be imposed to mitigate any measurable adverse sound impact
associated with a DEVELOPMENT.
9.33.2 General Requirements

A. Unless specifically authorized in an approved SITE PLAN a USE on a LOT shall not produce a sound level that exceeds an average of 70 Decibels (db) over any twenty minute period from 8:00 am to 10:00 PM and of 55 Decibels (db) at all other times and measured at a LOT LINE of the LOT.

B. A sound level deemed by a Public Health authority to be a danger to the public at large in the vicinity of a USE creating such sound shall be prohibited.

C. All construction equipment in use on a construction site shall be equipped with mufflers and used in such a manner as to control the creation of excessive noise.

D. An Outdoor Sound System located in either a RT, C or HC zoning DISTRICT or in another Zoning DISTRICT within 1000 feet of a AR Zoning DISTRICT boundary shall not be operated at any time after 11:00 PM or earlier than 8:00 AM Local time.

9.33.3 Exceptions

A. Sound levels of construction activities for a DEVELOPMENT pursuant to an approved SITE PLAN or BUILDING PERMIT may exceed the limits established in Sub-Section 10.29.2A provided such sound does not occur in any of the following circumstances:

1. after 10:00 PM,

2. after construction activity has been completed,

3. after a CERTIFICATE OF COMPLIANCE or Occupancy for the DEVELOPMENT has been issued, or

4. in violation of Sub-Section 9.33.2B.

B. Specific sound levels in excess of the requirements of Sub-Section 9.33.2 may be approved in a SITE PLAN.

C. Governmental USE is not restricted by the requirements of this Section.

9.34 MOBILE HOME AS SECOND PRINCIPAL DWELLING ON A LOT REQUIREMENTS

A MOBILE HOME may be approved by the Planning Board as a Special Use Permit for a TEMPORARY second Principal DWELLING UNIT on a LOT or as an interim DWELLING UNIT for the construction of a new DWELLING UNIT or repair of an existing DWELLING UNIT.
9.34.1 Time Limit Requirement

The Planning Board will in each case establish a maximum time limit for a Special Use Permit for a TEMPORARY DWELLING UNIT based on the needs and circumstances included in each APPLICATION. The maximum time limit shall be as follows:

A. For a MOBILE HOME as a TEMPORARY second Principal DWELLING on a LOT the maximum time limit is three (3) years. The Planning Board may grant individual one (1) year extensions of this time limit upon the APPLICANT making such request at least ninety (90) days prior to the expiration of the Special Use Permit or any extensions previously granted thereto. Such request shall include a statement that satisfactorily documents significant and exceptional circumstances that support the granting of any such extension.

B. For MOBILE HOME as a TEMPORARY interim DWELLING for the construction of a new DWELLING UNIT or repair of an existing DWELLING UNIT the maximum time limit is eighteen (18) months. The Planning Board may grant one (1) extension of this time limit to not exceed an additional six (6) months when it finds exceptional extenuating circumstances exist.

9.34.2 Plans and Documentation Requirements

A. Plans and documentation required for an APPLICATION for a Special Use Permit for a MOBILE HOME as a TEMPORARY second Principal DWELLING UNIT or as an interim DWELLING UNIT for the construction of a new DWELLING UNIT or repair of an existing DWELLING UNIT shall be those required for a Concept Plan prescribed in Article 8.

B. The Planning Board may require any other documentation it deems necessary for any required determination or decision on such APPLICATION.

9.34.3 DENSITY Requirement

The two (2) DWELLING UNITS on the LOT shall be located so as to conform with all DENSITY and BULK requirements in the BULK and DENSITY CONTROL SCHEDULE, Section 5.1.

9.34.4 Utility Requirement

Utilities shall comply with Section 9.12 and shall be provided to the proposed DWELLING UNIT as follows:

A. Each unit proposed to be placed on a LOT for more than two (2) years shall have potable water supply and sewage treatment system separate from that of the existing DWELLING UNIT.

B. The second DWELLING UNIT may connect to the same electric and/or other utility source when the installation is approved by Utility company servicing the LOT and inspected in accordance with the NYS Uniform Fire Prevention and Building Code.
9.34.5 Construction Requirement

The MOBILE HOME shall be installed and maintained in accordance with the requirements and conditions set by the Planning Board in the granting of the Special Use Permit and applicable provisions of the NYS Uniform Fire Prevention and Building Code.

9.35 COMMERCIAL PARKING LOT OR STRUCTURE REQUIREMENTS

9.351 DENSITY Requirements

A. Minimum LOT Size: three (3) acres
B. Minimum LOT WIDTH: three hundred (300) lineal feet

9.35.2 Access Requirements

Access shall be provided in accordance with Section 9.7 and such access shall comply with Section 9.9.

9.35.3 Prohibited Activity

The following activities or conditions are prohibited at a Commercial PARKING LOT or STRUCTURE:

A. Storage or parking of unlicensed or unregistered motor vehicle.
B. Storage or overnight parking of COMMERCIAL VEHICLES.
C. RETAIL USE, auction, or FLEA MARKET.
D. Overnight or long-term camping or occupancy.

9.36 FLEA MARKET REQUIREMENTS

9.36.1 DENSITY Requirements

A. Minimum LOT SIZE: 5 acres
B. Minimum LOT WIDTH: five hundred (500) feet

9.36.2 BUFFER, Landscaping and BARRIER Requirements

A. Landscaping Requirements

1. The entire LOT, except for area covered by a STRUCTURE, or surfaced as PARKING AREA and/or other Ancillary USE, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall landscaping plan approved as part of an approved SITE PLAN.
2. All landscaping shall be maintained by the DEVELOPER in perpetuity.

B. BUFFER Requirements

1. A BUFFER, Landscaping and BARRIER in accordance with Section 9.20 and any conditions of an approved SITE PLAN shall be maintained by the DEVELOPER in perpetuity.
2. A minimum BUFFER of one hundred (100) feet in width shall be maintained between a FLEA MARKET USE and the LOT LINE of an adjoining LOT containing Residential USE.
3. No STRUCTURE, vendor or PARKING AREA shall be permitted within a BUFFER.

C. BARRIER Requirements

Any material, incidental to the FLEA MARKET USE including trash, boxes, goods and wares and other materials stored outside a BUILDING shall be:

1. screened from view from any adjoining LOT or ROAD by a BARRIER in accordance with Section 9.20 and at least 8 feet in height as measured from FINISHED GRADE, and
2. located in accordance with a design approved in a SITE PLAN.

9.36.3 Parking Requirements

A. No on-ROAD parking is permitted.

B. Parking spaces and aisles shall be adequately delineated and separated from the vendor areas to ensure safe circulation.

C. The PARKING AREA shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of Section 9.3.

9.36.4 Outdoor Sound or Public Address System Requirements

Unless specifically approved in a SITE PLAN an outdoor sound or public address system is not permitted for a FLEA MARKET.

9.36.5 Sanitary Facility Requirement

A. A FLEA MARKET shall provide for adequate and safe public rest room and or toilet facilities in accordance with the requirements of the NYS Department of Health and the NYS Uniform Fire Prevention and Building Code.

B. When TEMPORARY and/or portable restrooms are to be used to comply with this Sub-Section, no less than four (4) shall be provided.
9.36.6 Other Requirements

A. With the exception of a permitted SIGN and/or required rest room facilities, there shall be no permanent or TEMPORARY ACCESSORY STRUCTURE.

B. All tables, stands and/or other display equipment and all vehicles shall be removed from the LOT at any time that the FLEA MARKET is not open to the public for any period of time greater than seventy two (72) hours.

C. No overnight camping or permanent occupancy shall be permitted unless specifically authorized in an approved SITE PLAN.

9.37 AIRPORT AND HELIPORT REQUIREMENTS

9.37.1 DENSITY and Runway Location Requirements

A. Minimum LOT size of 25 acres is required for an AIRPORT and HELIPORT.

B. To the greatest extent possible a runway shall be aligned and located so that the flight path as measured for distance of one thousand (1000) feet from the end of the runway does not align directly over any existing residence or other occupied BUILDING other than those used in support of the AIRPORT or HELIPORT USE.

9.37.2 BUFFER, Landscaping and BARRIER Requirements

A. Landscaping Requirements

1. The entire LOT, except for area covered by a STRUCTURE, or surfaced as PARKING AREA and/or other Ancillary USE, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall Landscaping Plan approved as part of an approved SITE PLAN.

2. All landscaping shall be maintained by the DEVELOPER in perpetuity.

B. BUFFER Requirements

1. A BUFFER, Landscaping and BARRIER in accordance with Section 10.23 and any conditions of an approved SITE PLAN shall be maintained by the DEVELOPER in perpetuity.

2. A minimum BUFFER of one hundred (100) feet in width shall be maintained on the LOT of the AIRPORT or HELIPORT USE and the LOT LINE of an adjoining LOT containing Residential USE.

3. No STRUCTURE or PARKING AREA shall be permitted within a BUFFER.
C. BARRIER Requirements

Any material, incidental to the AIRPORT or HELIPORT USE including trash, boxes, aircraft parts and other materials stored outside a BUILDING shall be:

1. screened from view from any adjoining LOT or ROAD by a BARRIER in accordance with Section 9.20 and at least 8 feet in height as measured from FINISHED GRADE, and

2. located in accordance with a design approved in a SITE PLAN.

9.37.3 Maintenance Facility Requirements

All aircraft repair and/or maintenance, with the exception of fueling, shall be conducted inside of a PRINCIPAL or ACCESSORY STRUCTURE unless otherwise prohibited by Local, State or Federal Law, Rule or Regulation.

9.37.4 Fuel or Tank Farm Requirements

Fuel or tank farm shall be located a minimum of two hundred (200) feet from any LOT LINE and shall meet any applicable Local, State or Federal Law, Rule or Regulation.

9.37.5 Operating Hour Requirement

Standard operations of aircraft shall be limited to between the hours of 5:00 AM and 10:00 PM.

9.38 ROD AND GUN CLUB REQUIREMENTS

9.38.1 DENSITY Requirements

A. Minimum LOT SIZE: 25 acres

B. Minimum LOT WIDTH: One thousand (1000) feet

9.38.2 BUFFER, Landscaping and BARRIER Requirements

A. Landscaping Requirements

1. The entire LOT, except for area covered by a STRUCTURE, or surfaced as PARKING AREA and/or other Ancillary USE, shall be seeded or planted with ground covers and suitable landscaping in accordance with an overall Landscaping Plan approved as part of an approved SITE PLAN.

2. All landscaping shall be maintained by the DEVELOPER in perpetuity.
B. BUFFER Requirements

1. A BUFFER, Landscaping and BARRIER in accordance with Section 9.20 and any conditions of an approved SITE PLAN shall be maintained by the DEVELOPER in perpetuity.

2. A minimum BUFFER of one hundred (100) feet in width shall be maintained on the LOT of the Rod and Gun Club USE and the LOT LINE of an adjoining LOT containing Residential USE.

3. No STRUCTURE or PARKING AREA shall be permitted within a BUFFER.

C. BARRIER Requirements

Any material incidental to the Rod and Gun Club USE, including trash, boxes, and other materials, stored outside a BUILDING shall be:

1. screened from view from any adjoining LOT or ROAD by a BARRIER in accordance with Section 9.20 and at least 8 feet in height as measured from FINISHED GRADE, and

2. located in accordance with a design approved in a SITE PLAN.

9.38.3 Parking Requirements

A. No on-ROAD parking is permitted.

B. Parking spaces and aisles shall be adequately delineated and separated from the vendor areas to ensure safe circulation.

C. A PARKING AREA shall meet the requirements of the Americans with Disabilities Act (ADA) and the applicable provisions of Section 9.3.

9.38.4 Noise Control Requirement

Noise levels generated by a USE shall be no greater than 55 db as measured at the boundaries of the LOT occupied by the USE creating noise.

9.38.5 Sanitary Facility Requirement

A. A Rod and Gun Club shall provide adequate and safe public rest room and or toilet facilities in accordance with the requirements of the NYS Department of Health and the NYS Uniform Fire Prevention and Building Code.

B. When TEMPORARY and/or portable restrooms are to be used to comply with this Sub-Section, no less than four (4) shall be provided.

9.38.6 Other Requirements

No overnight camping or occupancy shall be permitted.
ARTICLE 10  NON-CONFORMING STRUCTURE, USE and LOT

10.0 CONTINUATION OF NON-CONFORMING STRUCTURE, USE AND LOT

Any lawful STRUCTURE, USE or LOT existing at the time of enactment of this Law, or any subsequent amendment thereof applying to such STRUCTURE, USE or LOT, may be continued although such STRUCTURE, USE or LOT does not conform to the provisions of this Law provided:

A. Nothing herein contained shall be construed to render lawful any USE not lawfully conforming to provisions of the Town of ASHLAND Zoning Ordinance repealed in Article 16.

B. A NON-CONFORMING STRUCTURE or USE is not expanded, enlarged/extended or increased except in accordance with the provisions of Section 10.5.

C. Every permanent SIGN other than SIGNS approved in an approved SITE PLAN or those SIGNS for which a SIGN Variance has been granted and lawfully existing at the time of enactment of this Local Law shall comply with the requirements of Section 9.6 of this Law. Such non-conforming SIGN shall be removed or altered in a manner to conform with Section 9.6 of this Law within five (5) years of the effective date of this Law.

10.1 DISCONTINUANCE OF NON-CONFORMING STRUCTURE, USE AND LOT

A. A STRUCTURE or LOT which is used for or occupied by a NON-CONFORMING USE and which is changed to or replaced by a conforming STRUCTURE or USE, shall not thereafter be used for or occupied by a NON-CONFORMING USE or STRUCTURE.

B. When a NON-CONFORMING USE has been discontinued for a period of one (1) year, it shall not thereafter be re-established and the future USE shall be in conformity with this Law.

10.2 NECESSARY MAINTENANCE AND REPAIRS OF NON-CONFORMING STRUCTURE, USE AND LOT

A. Except as specified in Section 10.5 a NON-CONFORMING STRUCTURE, USE or LOT may be maintained, repaired or restored to a safe condition.

B. Nothing in this Law shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the CODE ENFORCEMENT OFFICER.

C. Any maintenance, repair or restoration of a non-conforming STRUCTURE shall comply with the applicable provisions of the NYS Uniform Fire Prevention and Building Code.
10.3 CONSTRUCTION STARTED PRIOR TO THIS ZONING LAW

A STRUCTURE for which a BUILDING PERMIT was issued prior to the effective date of this Law, or prior to the effective date of any subsequent amendment of this Law, may be completed and USED in accordance with approved plans and specifications for the STRUCTURE.

10.4 EXISTING NON-CONFORMING LOTS

Any LOT held in single and separate ownership and USE from adjoining LOT prior to the adoption of this Law, and whose area is less than the specified minimum LOT requirements in Section 5.1 of this Law may be considered as complying with such minimum LOT requirements and no variance shall be required, provided that the following minimum conditions are met:

A. Such LOT does not adjoin any other LOT or LOTS held by the same owner where the aggregate area of such adjoining LOT is equal to or greater than the minimum LOT area required in Section 5.1.

B. A septic permit from the one of the following agencies is issued for the Non-Conforming LOT and a copy of such permit is provided to the Town prior to commencement of any construction thereon:

1. NYS Department of Environmental Conservation
2. NYS Department of Health
3. Chemung County Health Department
4. Chemung County Sewer District

C. For Residential USE listed in Section 4.5 Such LOT shall have a minimum area of at least 10,000 sq. ft. and minimum width of at fifty (50) feet at the required SETBACK line and have the following minimum YARD SETBACKS:

1. SIDE YARD: 6 feet
2. REAR YARD: 15 feet
3. FRONT YARD: 20 feet

D. ACCESSORY STRUCTURES shall be located as follows:

1. A minimum of three (3) feet from any REAR or SIDE LOT LINE,
2. Behind the rear line of a residential BUILDING.
3. In accordance with all other requirements specified in Section 9.5.
10.4.1 In any DISTRICT where residences are permitted, such undersized NON-CONFORMING LOT may be used for not more than one (1) ONE UNIT DWELLING.

10.5 EXTENSION, ALTERATION OR MODIFICATION OF A NON-CONFORMING STRUCTURE, USE AND/OR LOT

Any existing NON-CONFORMING STRUCTURE, USE and/or LOT or any NON-CONFORMING STRUCTURE, USE and/or LOT previously approved in a SITE PLAN shall comply with all applicable provisions of this Law when such NON-CONFORMING STRUCTURE, USE and/or LOT is proposed to be extended, altered, or modified in a manner that:

A. increases the LOT AREA being dedicated to or used for an existing or approved NON-CONFORMING STRUCTURE, USE and/or LOT by more than ten percent (10%) of that which is existing or approved in a previously approved SITE PLAN, or

B. has a verified estimated cost of construction or installation for such extension, alteration or modification that exceeds fifty (50%) percent of the assessed value of the NON-CONFORMING STRUCTURE, USE and/or LOT at the time that such construction or installation is proposed.

C. A NON-CONFORMING BUILDING is renovated or structurally altered during its life to an extent exceeding, in aggregate, a value that is fifty (50%) percent of the replacement cost of the BUILDING.

10.5.1 Repair or Reconstruction of Damaged NON-CONFORMING STRUCTURE

A non-conforming STRUCTURE damaged by fire, flood or other causes shall comply with Section 9.12. The applicable provisions of Article 9 shall be utilized when the reconstruction or repair costs for such damaged structure are estimated to be more than fifty (50) percent of the assessed value of such damaged STRUCTURE at the time of such damage.

10.6 REDUCTION IN LOT AREA

A BUILDING PERMIT shall not be issued for any LOT that is reduced in area so that it creates a Non-Conforming BULK or DENSITY in violation of this Law.
ARTICLE 11. ZONING BOARD OF APPEALS

11.0 ESTABLISHMENT AND DUTIES

Pursuant to New York State Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five (5) members, shall designate its chairperson, and also provide for such expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

11.1 STAFF

The Zoning Board of Appeals may employ such clerical or other staff assistance as may be necessary and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of appropriations made by the Town Board and then available for that purpose.

11.2 POWERS AND DUTIES

The Zoning Board of Appeals shall have the following powers and duties:

A. APPEALS: The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from, and shall such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the CODE ENFORCEMENT OFFICER, and that end shall have all of the powers of the CODE ENFORCEMENT OFFICER.

B. VARIANCES: The Zoning Board of Appeals, on an appeal from a decision or determination of the CODE ENFORCEMENT OFFICER shall have the power to grant area and use variances as defined herein.

11.3 USE VARIANCE

A. DEFINITION: The authorization by the Zoning Board of Appeals for the USE of LOT for a purpose which is not otherwise allowed or is prohibited by this Law.

B. CRITERIA FOR REVIEW: No Use Variance shall be granted by the Zoning Board of Appeals without a showing by the APPLICANT that the requirements of this Law have caused unnecessary hardship, in order to prove such unnecessary hardship the APPLICANT shall demonstrate the following facts to the Zoning Board of Appeals for each and every permitted Use under this Zoning Law for the particular DISTRICT in which the LOT is located:

1. The APPLICANT cannot realize a reasonable return, provided that lack of return is substantial and demonstrated by competent financial evidence;
2. The alleged hardship relating to the LOT in question is unique, and does not apply to substantial portion of the DISTRICT or neighborhood in which the LOT is located;

3. The requested USE VARIANCE, if granted, will not alter the essential character of the DISTRICT neighborhood in which a LOT is located; and

4. The alleged hardship is not self-created.

11.4 AREA VARIANCE

A. DEFINITION: The authorization by the Zoning Board of Appeals for the USE of LOT in a manner which is not allowed by dimensional or physical requirements of this Law.

B. CRITERIA FOR REVIEW: In making the determination, the Zoning Board of Appeals shall take into consideration the benefit to the APPLICANT, if the Area Variance is granted, as weighed against the detriment to the health, safety, and general welfare of the neighborhood or community by such grant. In making such determination the Board shall consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or community 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 Area Variance;

3. Whether the requested Area Variance is substantial;

4. Whether the proposed Area Variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district; or

5. Whether an alleged difficulty of compliance with this Law was self-created, which is relevant to the decision, but shall not necessarily preclude the granting of the Area Variance.

11.5 GRANT OF VARIANCE

A. The Zoning Board of Appeals, in granting an Area Variance or USE Variance, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship or balance proven by the APPLICANT, and at the same time preserve and protect the character of the neighborhood and health, safety and general welfare of the community.
B. The Zoning Board of Appeals shall, in granting an Area Variance or USE Variance, have the authority to impose such reasonable conditions and restrictions as are related to and incidental to the proposed USE of property.

11.6 REFERRAL TO PLANNING BOARD

The Zoning Board of Appeals shall refer every request for Area Variance and USE Variance to the Town of ASHLAND Planning Board at least thirty (30) days prior to the scheduled hearing date. The Planning Board shall report its recommendation to the Zoning Board of Appeals at least five (5) days prior to the hearing date.

11.7 RULES OF PROCEDURE, BY LAWS, FORMS

The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent of this Law.
ARTICLE 12 ADMINISTRATION

12.0 ENFORCEMENT

This Law shall be enforced by the CODE ENFORCEMENT OFFICER, who shall be appointed by the Town Board. No BUILDING PERMIT shall be issued except where all the provisions of this Law have been complied with. The CODE ENFORCEMENT OFFICER shall keep the Planning Board and Town Board advised of all matters pertaining to the enforcement of this Law other than routine duties, and shall submit a monthly report to the Town Board enumerating the applications received, inspections made, permits issued or refused, and other actions taken.

Whenever a violation of this Law occurs, any person having knowledge thereof may lay any information in regard thereto before a proper magistrate as provided by law, and the procedures thereafter shall be as set forth in the Code of Criminal Procedure.

12.1 ZONING PERMITS

No STRUCTURES or land shall be USED, no BUILDING or STRUCTURE shall be erected, added to, or structurally altered until a permit therefor as specified herein has been issued by the CODE ENFORCEMENT OFFICER. Except on written order of the CODE ENFORCEMENT OFFICER, no such Zoning Permit shall be issued for any building where said construction, addition, or alteration or USE thereof would be in violation of any of the provisions of this Law or any other applicable Town Laws.

12.1.1 Application

There shall be submitted, with each application for a Zoning Permit, a fee as established by Town Board and two copies of a layout or plot plan drawn to scale showing the actual dimensions of the LOT to be built upon, the exact size and location on the LOT of the any existing and/or proposed BUILDING and ACCESSORY STRUCTURES to be erected, and such other information as may be necessary to determine and provide for the enforcement of this Law.

12.1.2 Process

A. One copy of such layout or plot plan shall be returned when approved by the CODE ENFORCEMENT OFFICER, together with such permit to the applicant.

B. Upon approval of the application, the Code Enforcement Officer shall issue a BUILDING PERMIT to the applicant upon the form prescribed by him and shall affix his SIGNATURE or cause his SIGNATURE to be affixed thereto.

C. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved". One set of such approved plans and specifications shall be retained in the Town files and the other set shall be returned
to the applicant together with the BUILDING PERMIT and shall be kept at the building site open to inspection by the Code Enforcement Officer.

D. If the application together with plan, specifications, and other documents filed therewith, describe proposed work which does not conform to all of the applicable requirements of this Law, the CODE ENFORCEMENT OFFICER shall not issue the same and shall return the plans and specifications to the applicant with a written explanation outlining the reasons therefor.

12.2 NOTICE OF COMPLIANCE

No building or STRUCTURE hereafter erected, structurally altered, or extended shall be USED, or changed in USE until a NOTICE OF COMPLIANCE or Occupancy shall have been issued by the CODE ENFORCEMENT OFFICER in accordance with this Law.

All NOTICE OF COMPLIANCE or Occupancy for new or altered STRUCTURES shall be applied for coincident with the application for a BUILDING PERMIT therefor. Such Certificate of Compliance shall be issued within thirty (30) days after the erection or alteration shall have been approved as complying with the provisions of this Law.
ARTICLE 13 AMENDMENTS

13.0 PROCEDURE

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation from the Planning Board, amend the requirements and districts established under this Article after public notice and hearing in each case. All proposed amendments of the requirements or districts herein established shall be filed in writing in a form required by the Town Board.

13.1 ADVISORY REPORT BY PLANNING BOARD

Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report in writing its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Planning Board recommends disapproval of the proposed amendment, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.

13.2 PETITION BY OWNERS OF 50 PERCENT OF FRONTAGE

Wherever the owners of LOTS having 50% of the total cumulative road frontage in a DISTRICT or a part thereof shall present a petition duly signed and acknowledged to the Town Board and requesting an amendment, supplement, change or repeal of the requirements prescribed for such DISTRICT or part thereof, it shall be the duty of the Town Board to vote upon said petition within ninety (90) days after filing of the same by the petitioners with the Town Clerk.

13.3 PUBLIC NOTICE AND HEARING

The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

A. By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than ten (10) days prior to the date of public hearing.

B. By giving written notice of hearing to any required municipal, county, regional, metropolitan, state or federal agency in a manner prescribed by Law.
13.4 PROTEST BY OWNERS

A Zoning Amendment shall be passed by the favorable vote of at least a three-fourths majority vote of the Town Board if a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by

A. the owners of twenty (20) percent or more of the area of land included in such proposed amendment, or

B. the owners of twenty (20) percent or more of the area of land immediately adjacent and extending a distance of one hundred (100) feet therefrom, or

C. by the owners of twenty (20) percent or more of the area of land directly opposite thereto and extending a distance of one hundred (100) feet from the street frontage of the land proposed for Zoning Amendment.

13.5 DECISION BY TOWN BOARD

The Town Board shall set the public hearing as required and shall render its decision within 60 days of the receipt of the Planning Board's report. If the Town Board deems it advisable, it may require as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time.

13.6 NOTIFICATION OF DECISION

The Town Board shall provide notice of decision pursuant to Town Law.
ARTICLE 14 REMEDIES

14.0 PENALTY

Any person, firm, company or corporation owning, controlling or managing a USE, BUILDING, STRUCTURE or LOT on which there has been placed, or there exists anything in violation of any of the provisions of this Law; and any person, firm, company, or corporation who shall assist in the commission of any violation of this Law or any conditions imposed by the Planning Board; or who shall build, contrary to the plans or specifications submitted to the Planning Board and certified as complying with this Law shall be guilty of an offense and subject to a fine of not more than one thousand dollars ($1000.00). Every such person, firm, company or corporation shall be deemed guilty of a separate offense for each day such a violation, omission, neglect, or refusal shall continue.

14.1 ALTERNATIVE PENALTY

In case of any violation or threatened violation of any of the provisions of this Law, or conditions imposed by the Town Board or Planning Board, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or USE, to restrain, correct, or abate such violation, to prevent the occupancy of such BUILDING, STRUCTURE or LOT, or to prevent an illegal act; conduct, business or USE in or about such LOT.
ARTICLE 15. FEE SCHEDULE

15.0 FEE SCHEDULE ESTABLISHED

A schedule of fees for all permits and applications as required in this Law shall be set by Town Board.

15.1 FEE REMITTANCE

A. An APPLICATION for a permit or other action for which a fee has been established in accordance with Section 15.0 shall be accompanied with such appropriate fee in order for such application to be deemed complete.

B. No action such as to grant permission, comment on, approve or disapprove an application pursuant to this Law shall be taken without receipt by the Town of the appropriate fee.