

Town of Varick Zoning Code

2022

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Town of Varick Zoning Code

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ARTICLE I — ENACTMENT AND DEFINITIONS

101. Title

101.1 This Ordinance shall constitute and be known as the “Zoning Ordinance of the Town of Varick, New York” and may be cited as such.

102. Purpose and Intent

102.1 The purpose of this ordinance is to encourage appropriate and orderly physical development; promote public health, safety, and general welfare; classify, designate and regulate the location and use of buildings and structures; and for said purposes may divide the Town of Varick into districts of such number, shape and area as may be deemed best suited to carry out these regulations.

103. Interpretation

103.1 In interpreting, construing and applying the provisions of this Ordinance, such provisions shall be held to be the minimum requirements for the protection of the public health, safety and general welfare of the public.

103.2 For the purpose of this Ordinance, all words used in the present tense include the future tense. All words in plural number include the singular number, and all words in the singular number include the plural number. The word “person” includes a firm, association, organization, partnership, trust, company, or individual. The word “shall” is mandatory and directory. The word “may” is permissive. The word “used” includes “designed, intended, or arranged to be used”.

104. Conflict with Other Laws

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

105. Validity and Severability

105.1 In case any section or provision of this Ordinance shall be held invalid in any court, the same shall not affect any other section or provision of this Ordinance, except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

106. Enactment and Effective Date

106.1 Be it enacted by the Town Board of the Town of Varick, this Ordinance shall take effect immediately after the same shall have been posted and published, as provided by the Laws of the State of New York.

106.2 This Ordinance is adopted and amended pursuant to Article 16, Section 264 and 265, Town Law.

107. Definitions

Accessory Facility or structure: An accessory facility or structure serves the principal use, is subordinate in area, extent and purpose to the principal use, and is located on the same lot as the principal use. Examples of such facilities include transmission equipment and storage sheds.

Agriculture Support Business: A commercial enterprise whose primary function is to provide goods and services, which directly support agricultural use. These commercial enterprises include but are not limited to: feed store, farm implement sales, grain storage, and fertilizer distribution.

Animal Unit: As defined by the NYS Department of Agriculture and Markets. For livestock, an animal unit is approximately 1000 lb.

Antenna: A system of electrical conductors that transmit or receive radio frequency waves.

Auction House: The permanent use of land or buildings for the public sale of goods to the highest bidder. For the purposes of this law, such use shall not include sales of livestock or vehicles, and shall not be considered a retail store. [See also Auction, Livestock and Auction, Vehicle or Equipment]

Auction, livestock: The permanent use of land or buildings for the public sale of livestock to the highest bidder.

Auction, vehicles and equipment: The permanent use of land or buildings for the public sale of automobiles, trucks, farm equipment and heavy equipment to the highest bidder.

Bar: A Bar (also called a Pub or Tavern) is a business whose primary business is to serve alcoholic beverages such as beer, wine, liquor, and mixed drinks for consumption on the premises. This would exclude tasting rooms associated with a winery, brewery or distillery (see winery tasting room definition)

Bed and Breakfast: An owner-occupied single-family residence providing nightly lodging and at least one daily meal, with five or fewer rooms available for rent.

Business: All commercial activities including not for profit activities, designed for and primarily characterized by the sale of goods and/or services. Such activities include, but are not limited to wholesale and retail sales, financial services, general business, computer programming, data processing and similar technology, restaurants, vehicle and machinery repair, storage and distribution facilities, farming, agribusiness, medical centers, and home occupations.

Business, Retail: A commercial activity designed for and primarily characterized by the direct on-premise sale of goods and services to the ultimate consumer, generally involving stock in trade such as are normally associated with shops, department stores, food markets and similar establishments, but also including financial institutions, auctions, business and professional offices and services, including on-premise manufacturing, processing, servicing, preparation and wholesale business transactions customarily associated therewith, but clearly incidental thereto. This term shall not include restaurants or home occupations.

Camp: a structure for shelter and transient recreational occupancy that is not a dwelling.

Campground: any area designated for transient occupancy by camping in tents, camp trailers, motor homes, transient mobile homes, truck campers, or pickup campers or similar facilities designated for temporary shelter.

Canned hunting: practice where by an animal is staked, caged, or otherwise confined for the purpose of being killed for pleasure. Almost any type of weapon can be used to kill prey in a canned hunt. To assure a kill, fences trap the animals so they can be easily cornered and prevented from escaping. This definition does not include the slaughter of livestock of farm animals.

Cluster Subdivision: A site upon which residential and supporting land uses may be arranged in a more flexible manner than in a standard subdivision, as authorized by NYS Town Law Section 278, so as to achieve the goals of the Varick Comprehensive Plan. A cluster subdivision may consist of residential uses only or a mix of residential and non-residential uses.

Commercial space: Any space dedicated to the furtherance of commerce, including space used to provide services for hire.

Common Access Site: Any jointly owned land or right-of-way used or intended to be used for recreational purposes.

Community Center: Includes public or private meeting hall, or place of assembly, not operated primarily for profit.

Companion Animal" or "pet": Any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Pet" or "companion animal" shall not include "Livestock/Farm Animal" as defined in this section. (New York Agriculture and Markets Law § 350. 5

Conference Center/ Retreat: A facility used, or intended to be used, for: corporate conferences or training sessions; personal fitness/wellness; and recreational/entertainment uses. Includes food service and other accessory uses. Lodging only for event attendees, and the restrictions for Bed & Breakfast, Inn or Hotel also apply

Dock: Any structure whether permanent or temporary that extends from the land into the water to provide additional lake access to boats, swimming or any other purpose. For purposes of measuring square foot area of a dock, any dock constructed shall be determined to begin at the Mean High Water mark as defined by the NYS Department of Environmental Conservation.

Dwelling: any building or structure, or art thereof, used and occupied for human habitation, or intended to be so used. The terms dwelling unit, one-family dwelling, two-family dwelling, and townhouse dwelling shall not be deemed to include motel, hotel, rooming house, bed and breakfast or other accommodation used for more or less transient occupancy of less than 30 days.

Dwelling, multi-family: one or more dwellings located on a single lot or on contiguous lots with common ownership, providing separate dwelling units for 3 or more families, including condominiums and cooperative apartments buildings.

Firing Range, Indoor or Outdoor: The use of land or an indoor facility for archery and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as turkey shoots

Flea Market: An occasional or periodically-held market in an open area or structure where spaces are rented or provided to groups or individual sellers who offer goods for sale to the public. This does not include individual garage or tag sales.

Flood or Flooding: A general or temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of streams, rivers, or other inland areas of water
- (b) Abnormally rising lake waters resulting from severe storms or hurricanes.
- (c) The unusual and rapid accumulation or runoff of surface waters from any source.

It also includes the collapse or subsidence of land along the shore of a lake or other water body as a result of erosion or under-mining as a result of waves or currents of water suddenly caused by an unusual high water level in a natural body of water accompanied by a severe storm or by an unanticipated force of nature such as flash flood, or by some similar unusual and unforeseeable event that results in flooding.

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

Flood Plain or Flood-Prone Areas: A normally dry land area that is susceptible to flooding.

Special Flood Hazard Area: That area of the flood plain that, on the average, is likely to be flooded once every one hundred (100) years.

Flood Proofing: Any combination of structural and non-structural additions, changes or adjustments to properties and structures that reduce or eliminate flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

Floodway*: That portion of the flood plain area or Special Flood hazard Area of community that must be reserved in order to discharge the 100 year flood without cumulatively increasing the water surface elevation more than one foot at any point.

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

Garages, Public Parking: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of four (4) or more motor vehicles.

Garages, Public Parking small: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of three or fewer motor vehicles

Garbage, trash and refuse:

- 1. Solid waste as defined in 6 NYCRR 360.2
- 2. Industrial waste (including process water and leachate)

* Floodway area to be designated by the United States Department of Housing and Urban Development.

3. Any material intended to be disposed as waste

Glare: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

Ground-Mounted Solar Energy System: A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, which generates electricity for onsite or offsite consumption.

Inn: A facility that provides lodging on an overnight basis and has at least six, but no more than twelve guest rooms. It may serve meals to guests.

Institutional Care Facility: Residential Services setting licensed by the County or a specific New York State Organization to provide housing and related services. These settings include Supervised Group Home (supervised 24 hrs. a day), or Semi Independent Supervised Group Home (supervised less than 24 hrs. a day). They are also referred to as IRAs (Individualized Residential Alternatives) or CRs (Supervised or Supportive Community Residences)

Habitable Floor: Any floor used for living, including working, sleeping, eating, cooking or recreation, or a combination thereof. It shall not include a floor used only for storage purposes.

Home Occupation: An accessory business use conducted entirely within a dwelling by the residents thereof and not occupying more than 30 percent of the gross floor area including garages, basements, cellars, attics, storage sheds and similar areas, and that is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such use other than an identification sign of up to two square feet in area and in connection therewith, there is not involved the keeping of a stock in trade nor on-premises sales except as clearly incidental to the home occupation and nominal in scope, nor more than one student in the performing arts within any common period of time. Barbering, hairdressing, cosmetology, restaurants, real estate offices, mortuary establishments, and stores shall not be deemed home occupations.

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

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

Kennel, home: Lodging for five or fewer dogs owned by the resident.

Kennel, small: Facility for raising, boarding or breeding dogs. Six or more dogs over 6 months of age that are pets of the owner; or six or fewer dogs over 6 months of age boarded, kept for sale, or to breed to produce dogs for sale.

Kennel, large: Facility for raising, boarding or breeding dogs with a capacity of six to twenty dogs over 6 months of age

Laboratory or Research and Development Facility: An establishment where scientific or industrial research and development, or analytic services are performed. Shipping and receiving traffic by truck is nominal. Emissions and noise are low.

Laundromat: An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public for family laundering or dry-cleaning purposes

Livestock/Farm Animals: "Farm Animal" means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in section 11-1907 of the environmental conservation law, which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats. (New York Agriculture and Markets Law § 350. 4.) Also does not include companion animals such as cats and dogs. See "Kennel" for dogs raised commercially

Lot: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this law.

Lot Width: The width of the lot between side lot lines at the narrowest point.

Marketable recyclable materials: Materials removed from previous use that have current commercial value and active immediate markets.

Manufacturing: The processing, assembly, or fabrication of goods and products in a manner consistent with the light-industrial use performance standards set forth in this law.

Mean High Water Mark: Used by FEMA and DOT and others, on Cayuga Lake (384.82 ft BCD), on Seneca Lake (446.84 feet BCD). BCD Stands for Barge Canal Datum

Mobile Home: A detached, single family dwelling unit with any or all of the following characteristics:

1. Manufactured as a re-locatable dwelling unit intended for year around occupancy.
2. Designed to be transported on its own chassis, and connected to utilities after placement.
3. Designed to be installed as a single-wide or double-wide unit with only incidental unpacking and assembling operations.

Designed and manufactured as the type of unit that would require, after January 15, 1974, a seal as provided for in the State Code for construction and Installation of Mobile Homes.

For purposes of this ordinance modular homes that are transported to, and constructed on, a permanent foundation below frost line, are not considered mobile homes.

Mobile home Park: A parcel of land where two or more mobile homes are parked or that is planned and improved for the placement of mobile homes.

Motor Home: see Travel trailer

Motel: See Hotel

Natural Gas And/or Petroleum Extraction: The digging or drilling of a well for the purposes of exploring for, developing, or producing natural gas, petroleum or other subsurface hydrocarbons.

Non-Conforming Use: Any use of any building, structure or land existing at the time of enactment of this ordinance that does not conform to the use regulations of the district in which it is situated.

Non-Conforming Building or Structure: A building or structure that in its design or location upon a lot does not conform to the regulations of this Ordinance for the zone in which it is located.

Non-Conforming Lot: A lot of record existing at the date of the passage of this Ordinance (August 18, 1975) that does not have the minimum width or contain the minimum area for the zone in which it is located.

Nursing or Convalescent Home: An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Office, general business: Facility where business is conducted by employees, but without retail traffic.

Parking Space: A space measuring 10 feet by 20 feet for the parking of one vehicle.

Personal Service: Includes barber, hairdresser, beauty parlor, shoe repair, shoeshine, photographic studio, and businesses providing similar services.

Place of Worship: Any church, synagogue, temple, mosque or similar structure used for worship or religious instruction including social and administrative rooms accessory thereto.

Public Utility Infrastructure: Telephone exchange and dial centers or repeater station, electrical or gas substations, water treatment or storage facilities, pumping stations, sewage facilities, and similar facilities operated or maintained by municipal agencies or public utilities.

In Home Place of Worship: A private residence used for weekly worship services.

Recreation, Outdoor: A building designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Recreation, Outdoor: Includes golf driving range, golf pitch and putt course, and par three golf course, recreation court or field, ski area, riding stable, park, playfield, swimming pool, bike trails, hiking trails, and similar facilities for outdoor recreation

Recreational vehicle: *see Travel trailer.*

Refuse: *see Garbage*

Residence: *see Dwelling*

Residential Home Care Facility: A licensed residential home care or non-certified residential setting that provides a structured and stable home environment within a family unit to people with special needs. This can include Veterans of War, mentally or physically challenged, or individuals placed in in a residential home by a local or State program.

Retail Business: see Business, Retail

Retail, Large-Product: A commercial facility including sales and service for new and used automobiles, trucks, mobile homes, recreational vehicles, and/or farm implements, that includes outdoor storage. This includes

Restaurant: A place or building or portion thereof where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

Rooming House: Owner occupied home renting bedrooms with access to common use area

Salvage Yard: As defined in NYS General Municipal Law § 136: A lot or area of land, or structure, or part thereof, used for the collecting, storage and/or sale of waste or discarded materials; or for the collecting, dismantling, storage and salvaging of junk machinery or vehicles, and for the sale of parts thereof. It shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or second hand motor vehicles, not in present condition for legal use on the public highways, are held, whether for the purpose of resale of used parts there from; or reclaiming for the use of some or all of the materials therein, whether metal, glass, fabric or otherwise; or disposing of the same; or for any other purpose. Such shall include any place of storage or deposit for any such purposes of used parts of waste materials from motor vehicles which, taken together, equal in bulk, one or more such junk vehicles.

School, Commercial: Instruction of four (4) or more individuals at one time for a fee on a regular basis. Includes commercially operated schools of beauty, business, dancing, driving, music and similar establishments.

School, Non-Commercial: Any Public, Private, or Parochial establishment other than a Commercial School used primarily for educational purposes. Home Schooling is further defined as the schooling of your own children in your own home. Home Schooling is considered a Residential use and not a "School".

Shopping Center: A lot occupied by more than one (1) commercial use unit, attached or detached, providing small product retail and services, large product retail and services, or office and business services in excess of ten thousand (10,000) square feet gross leasable area.

Short-term vacation rental. The rental of a house or portion thereof for a period of less than 30 nights, for which the guest compensates an owner or lessee of the dwelling, and does not meet the definition of a Bed and Breakfast or other hospitality use.

Solar farm, or solar collection system, major: An area used for a solar collection system principally used to capture solar energy and convert it to electrical energy for on-site use or to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity Solar farm facilities consist of one or more freestanding ground or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other structures and facilities.

Solar collection system, minor: a solar voltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source or collection, inversion, storage and distribution of solar energy for electricity generation or transfer of stored heat; secondary to the use of the premises for other lawful purposes; with the total

surface area of all solar collectors on the lot not to exceed 1,000 square feet and is considered a structure for setback purposes.

Special Flood Hazard Area: That area of the flood plain that, on the average, is likely to be flooded once every one hundred (100) years.

Stable, Commercial: A building in which horses are quartered for a fee. This includes all facilities that provide training, boarding, lessons, or sales.

Structure: Any existing or proposed walled or roofed building that is or is to be affixed to a permanent site.

Substantial Improvement: Any repair, alteration, reconstruction, or improvement of a structure, the cost of which equals or exceeds \$10,000 or 50% of the actual cash value of the structure before improvement, whichever is less. Substantial improvement is started when the first alteration of any structural part of the building commences.

Telecommunication Special Use: A use that is deemed allowable within a given zoning district but that is potentially incompatible with other uses and, therefore, is subject to special standards and conditions set forth for such use subject to approval by the Planning Board.

Telecommunication Tower: A structure on which transmitting and/or receiving antennae are located (including existing buildings and water tanks).

Telecommunication Tower Accessory Facility: *see Accessory Facility*

Transloading or Trucking Terminal: A facility for the receipt, transfer, short-term storage, and dispatch of goods other than trash.

Trash: *see Garbage*

Travel trailer: any portable vehicle, including but not limited to a tent camper or motor home, that is designed to be transported on its own wheels, and that is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes, and that may or may not include one or all of the accommodations and facilities customarily included in a mobile home.

Travel Trailer Camp: a parcel of land under single ownership that is designed and improved for use by two or more travel trailers.

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

Vehicle sales: an establishment regarded as a dealer under section 78.1(a) of New York Motor Vehicle Dealers and Transporters regulation. Selling, or offering for sale, more than five motor vehicles, motorcycles or trailers, other than mobile home trailers, in any calendar year, or displaying or permitting the display of three or more motor vehicles, motorcycles or trailer for sale at any one time or within any one calendar month upon premises owned or controlled.

Vehicle service: an establishment that, for compensation, is wholly or partially engaged in the business of repairing or diagnosing motor vehicle malfunctions or repairing motor vehicle bodies, fenders or other components damaged by accident or otherwise. It includes establishments whose activities consist solely of fueling, changing oil, water, batteries or tires, replacing fan belts, air filters or oil filters, as well as those engaged in the business or

repairing road building machines, farm machines, lawn machines, garden machines, and vehicles registered as special purpose vehicles.

Veterinary Services (exclusive of boarding): On premises health care for animals. Boarding is considered a Kennel and is regulated as such elsewhere in this document.

Warehouse: a business whose principal activity is the storage of merchandise or materials for others, and that occupies a total area greater than 1000 square feet. As used in this definition, “merchandise or materials” includes but is not limited to the following: data or information stored in any medium (including in print and electronic forms), electronics and telecommunications equipment, foods and beverages, items related to agriculture, and any other items that cause no external effects such as noise, dust or vibration when stored inside an enclosed structure. This definition also includes mini-storage businesses.

Water Rights Lines: Water rights lines are imaginary lines that extend into the lake in order to establish the riparian rights of adjoining lakeside properties. Water rights lines determine the boundaries for the placement of berthing and mooring facilities, and all other facilities subject to this law. Water rights lines are determined using the following method: 1. Determine the four points where the mean high water mark intersects the property lines of the parcel and the two adjoining lakeshore parcels. 2. Connect the points of intersection with straight lines. These lines are called mean high water tie lines. 3. Where two mean high water tie lines meet, measure the angle on the waterside. 4. Bisect (or divide by two) that waterside angle measurement. The bisecting line, projected out over the waterside, is the water rights line.

It is the owner’s responsibility to determine water rights lines. Where the water rights lines for a lakeshore property are less than 200 feet long at the point of intersection, the method described above must, if possible, be modified in order that each parcel’s water rights lines are at least 200 feet long at the point of intersection.

Wildlife: Wild game and all other animal life existing in a wild state, except fish, shellfish and crustaceans. (Conservation Law § 11-0103. 6 (a))

Winery Tasting Room- An establishment associated with a winery whose primary business is for wine sampling for the purpose of sale for off premises consumption. “Off premises” shall be considered outside the main indoors tasting room.

Wholesale Outlet: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This shall include lumber, plywood, and millwork yards unless the primary operation is directly to the general public as opposed to builders and contractors.

Wireless Telecommunications Infrastructure: a tower or other similar structure used to wirelessly transmit information and rising to a height of at least 15 feet above ground level.

Wildlife Refuge/Nature Preserve: An area maintained in its natural state for the preservation of both animal and plant life.

ARTICLE II — DISTRICT BOUNDARIES

201. Establishment

201.1 The Town of Varick shall be divided into the following types of districts, that shall be differentiated according to use and area, and for the purpose hereafter used and developed.

ARR Agricultural and Rural Residential District

HR Hamlet Residential District

LR Lakeshore Residential District

I Small Business Park and Institutional District

C Conservation District

WITE Warehouse, Industrial, Transportation, Energy District

L Lake Water District

FFO Floodway Fringe Over-Zone

ER Environmental Restrictions Overlay District

202. Official Zoning Map

The above districts shall be located, bounded, and described as shown by the Official Zoning Map of the Town of Varick and the descriptions herein. The Zoning Map is on file in the office of the Town Clerk, and, is made part of this zoning Ordinance.

203. District Boundaries

203.1 **The Agricultural and Rural Residential District** consists of all the parts of the town not included in districts HR, LR, I, CRE and L.

203.2 **The Hamlet Residential District** consists of two parts. Romulus: The district extends on Rt. 96 from the Romulus Town line to 2200 feet north of Cayuga St, on Seneca St from Rt. 96 to Cherry Hill Rd., and east on Cayuga St 2200 feet east of Rt. 96, and the whole of Prospect St. On each street, the district extends 250 feet from the center line of the street. Fayette: The district extends on Rt. 414 from Rt. 336 to the Fayette Town Line, and 250 feet east of the highway. It also encompasses Co. Rd. 124 from Rt. 414 and 500 ft eastward and 250 feet south of the road.

203.3 **The Lakeshore Residential District** consists of the area from the mean high water mark of Seneca Lake (446.84 feet BCD) to 500 feet east of the centerline of East Lake Rd., and from mean high water mark of Cayuga Lake (384.82 ft BCD) to 500 feet west of the centerline of State Route 89. BCD stands for Barge Canal Datum

203.4 **The Small Business Park and Institutional District** consists of the area designated “Institutional” in the Seneca Army Depot redevelopment plan of 1994. It is bounded on the north, 50 feet north of Access Rd (current north Depot fence line), from Rt. 96 A to the north extension of Perimeter Rd. It is bounded on the east by Perimeter Rd.

The south boundary extends from Rt. 96A, 50 feet south of North Patrol Rd and North-South Baseline Rd. The south boundary continues from North-South Baseline Rd, 4000 feet south of the north boundary, east to Perimeter Rd. In addition it contains the land from the intersection of State Route 96A and Access Rd., following the center line of Rt. 96A 5000 feet south of the center line of Access Rd., and 500 feet east of the center line of State Route 96A.

203.5 **The Conservation Energy District** consists of the area east of Rt. 96A, south of the Small Business Park and Institutional District, and west of the fence line along East Patrol Rd.

203.6 **The Lake Water District** contains two parts. On Cayuga Lake it extends from the mean high-water mark of Cayuga Lake (384.82 ft BCD), east to the town line. On Seneca Lake it extends from the mean high-water mark of Seneca Lake (446.84 feet BCD), west to the town line. BCD stands for Barge Canal Datum

203.7 Where boundaries are indicated as approximately following the centerline of streets or highways, such centerlines shall be construed to be such boundaries. Boundaries indicated as following shorelines of streams, lakes, reservoirs or ponds shall be construed to follow such shorelines.

Where boundaries do not appear to follow lot lines but do appear to be approximately parallel to street lines or highways, such boundaries shall be construed as being parallel thereto at such distance therefrom as indicated on the zoning map.

203.8 Area boundaries for the **Special Flood Hazard Area** or for the Floodway Fringe Over-Zone shall be interpreted from the Flood insurance Rate Map provided by the Federal Emergency Management Agency, and said Special Flood Hazard Map shall become a part of this ordinance. The Base Flood Elevation is as designated on the Flood Insurance Rate Map provided by the Federal Emergency Management Agency. Until such time as elevation levels of the 100-year flood are provided by the United States Department of Housing and Urban Development, the Special Flood Hazard Areas along the shorelines of Cayuga and Seneca Lakes shall be construed to be that area of land below 451 feet barge Canal Datum on Seneca Lake and 388 feet Barge Canal Datum on Cayuga Lake. Dimensions of other Special Flood Hazard Areas will be scaled from the Flood insurance Rate Map and compared with ground distances between definite natural and man-made points.

In the case of uncertainty as to the true location of flood plain boundary lines or an interpretation of flood plain regulations, the decision of the Board of Appeals is final.

203.9 **The Warehouse, Industrial, Transportation, Energy District** is located south of the Conservation Recreation District and north of the Town boundary, excluding those areas zoned Agricultural Residential.

203.10 **The Environmental Restrictions Overlay District** consists of 59 acres located in the northwest portion of the Conservation District.

ARTICLE III — ZONING DISTRICTS

301. Agriculture and Rural Residential District

301.1 Intent. The Agriculture and Rural Residential District is intended to preserve agriculture as a business and a land use, to protect the open rural nature of the community, to provide rural residences. The District is intended to maintain contiguous farmland and to have future residential development convert the least amount of farmland.

302. Hamlet Residential District

302.1 Intent. The Hamlet Residential District is intended to encourage denser development than the Agriculture and Rural Residential District so that infrastructure and public services can be provided more effectively and to foster a neighborhood feeling. Commercial development that contributes to the residential experience is encouraged, whereas commercial development that compromises the residential experience is not encouraged in the district.

303. Lakeshore Residential District

303.1 Intent. The Lakeshore Residential District is intended to retain quiet, open character and attractiveness despite dense development, and to protect the quality of water in the lake. Commercial development that contributes to the residential experience is encouraged, whereas commercial development that compromises the residential experience is not encouraged in the district.

304. Small Business Park and Institutional District

304.1 Intent.

The Small Business Park and Institutional District is intended to create an environment favorable to small businesses and institutions that create little disturbance, and no deleterious effects on the natural environment. Preferred uses are those that benefit from campus-like setting, such as assembly, laboratories, research and development, electronic data storage, light manufacturing, printing and publishing.

305. Conservation

305.1 Intent.

This district is intended to 1) conserve the natural flora and fauna, retain habitats supporting its Important Bird Area status, maintain the white deer herd; 2) provide outdoor recreation opportunities; and 3) provide a site for development of on-site or renewable sources of energy that are clean and have low off-site environmental impact, such as solar, wind, or biomass. Energy production that encourages business development elsewhere on the former Seneca Army Depot property is particularly desirable.

305A. Warehouse, Industrial, Transportation, Energy District.

307A.1 Intent. This district is intended to encourage economic development that makes use of the area’s physical assets including rail access and utility infrastructure, as well as agriculture and various commercial, industrial and storage uses.

305B. Environmental Restrictions Overlay

307B.1 Intent. The Environmental Restrictions Overlay is intended to require additional scrutiny of any uses in this area to ensure that they meet all appropriate standards to protect environmental quality and public health, as documented in Records of Decision and other documents.

306. Lake Water District

306.1 Intent. The Lake Water District is that part of the town under the water of Cayuga and Seneca Lakes. The District is intended to permit navigation and recreation, as well as enhance residential quality of life on the adjacent shore by preserving visual access to the lake. The provisions for this district should conform to any coordinated regulation established for entire lakes.

306.2 Conditional Uses

There are no conditional uses in this District.

306.3 General Development Standards

| <i>Development feature</i> | |
|-------------------------------|--|
| Setbacks required | |
| Front | Not Applicable |
| Side | 10 feet from water rights line |
| Rear | Not Applicable |
| | |
| Maximum Lot Coverage | Not Applicable |
| Main Structure Maximum height | 16 feet above 100-year flood line |
| Fences and Walls | Not permitted |
| Other structures | Docks and boat hoists are the only permitted uses. Boat hoists may be covered with a roof of standard roof construction to shed rain and protect from weather. Vertical walls around a hoist are not permitted and canvas sides/curtains are considered walls. The intent of this is to protect the boat, but not to obstruct neighbors’ lake views. The side setback applies to boat hoists, decks, walkways and docks. One dock may be constructed on lots with less than 200 feet of frontage. Lots that have 200 feet or more of frontage may have two docks. |

| | |
|--|--|
| | <p>Each permitted dock shall not exceed a total of 850 square feet, including walkways. For the purposes of this section, width is measured parallel to the mean high water mark; length is measured perpendicular to the mean high water mark. The open water space is not included in the calculation of dock area. The decking of a dock should be at least 1.5 feet above the 100-year flood elevation.</p> <p>A removable seasonal dock only requires a permit initially and may be reinstalled annually as long as it is the same size and meets the setbacks, placed in accordance with the constraints of the permit.</p> <p>If the lot is too narrow for a dock to meet the side setbacks, the ZBA may consider granting a variance for a temporary dock and hoist with smaller setback dimensions, if it is installed.</p> |
|--|--|

307. Special Flood Hazard Area Overlay Zone

307.1 **Intent.** The intent of the Floodway Fringe Overlay Zone District is to protect inhabitants from hazards due to a flood of the intensity that would occur as a maximum once in a hundred years (100-year flood). These Special Flood Hazard Area regulations are intended to protect the health, safety, and welfare of the inhabitants of the Town of Varick from hazards due to periodic but infrequent flooding. This protection shall include the protection of persons and property, the preservation of water quality and the minimizing of expenditures for relief, insurance, and flood control projects. This does not imply that areas outside the Special Flood Hazard Area or uses permitted within the Special Flood Hazard Area will be free from flooding or flood damages.

307.2 Precedence.

The provision of this zone shall take precedence over any other zoning article, ordinance and code to the extent that the provisions of this Ordinance covering the Floodway Fringe Overlay Zone are inconsistent with such other provisions. The Floodway Fringe Overlay Zone provides additional or overlay regulations to areas zoned in another manner but which are subject to inundation by the 100-year flood.

307.3 Development Standards.

The following regulations shall apply to the Floodway Fringe Over-Zone for new construction or substantial improvement:

(A) Buildings must be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure.

(B) Use Construction materials and utility equipment that are resistant to flood damage and locate such equipment so as to minimize or eliminate flood damage.

(C) Use construction methods and practices that will minimize flood damage and provide adequate drainage to reduce exposure to flood hazards.

(D) New or replacement water supply systems and or sanitary sewage systems shall be so designed as to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(E) On-site sewage treatment systems shall be located so as to avoid impairment contamination from the systems during flooding.

(F) Residential structures shall have the lowest habitable floor elevated to at least two feet above the 100-year flood level.

(G) Any structure built on piling shall be constructed with lowest floor elevated to at least two feet above the 100-year flood level.

(H) Any structure built on solid fill shall be constructed at an elevation of the 100-year flood level with the lowest floor elevated to at least two feet above the 100-year flood level.

308. Use Table

The following table prescribes which uses are permitted in each District. Abbreviations: *P* = permitted *C*=Conditional *N* = Not permitted *S*= Special Use. The numbers refer to the section of the code indicating the conditions for Conditional and Special Uses.

| | <i>Agricultural and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conservation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy (WITE)</i> |
|------------------------------------|---|--------------------------------|-----------------------------------|--|-------------------------|---|
| Public service | | | | | | |
| Park | P | P | P | N | P | P |
| Place of worship | C 310.23 | S 311.17 | C 310.23 | C 310.23 | N | S 310.23 |
| In Home Worship | P | P | P | N | N | N |
| Post Office | P | P | N | P | N | S |
| School (K-12) <36 students | C 310.2 | P | N | P | N | S |
| School (K-12) >36 students | S 311.13 | P | N | P | N | S 311.13 |
| Town or County municipal office | P | P | N | P | N | P |
| Fire house | P | P | C 310.3 | P | N | S |
| Water tower | S 311.12 | S 311.12 | N | S 311.12 | S 311.12 | S 311.12 |
| Hiking, biking Trail | P | P | P | P | P | P |
| Wildlife refuge or nature preserve | P | P | P | P | P | P |
| Cemetery | S | N | N | S | N | N |
| Correctional Facility | N | N | N | N | N | N |
| School – Commercial or Trade | N | N | N | S 310.2 | N | S 310.2 |

| Residential | <i>Agricultural and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conser-vation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy (WITE)</i> |
|--|---|--------------------------------|-----------------------------------|--|--------------------------|---|
| Camp | C 310.21 | C 310.21 | C 310.21 | N | N | N |
| Cluster Subdivision - residential uses only | P | P | P | N | N | N |
| Cluster Subdivision - mixed residential and non-residential uses | S | S | S | N | N | N |
| Dwelling, Single family | P | P | P | N | N | N |
| Dwelling, two family | P | P | P | N | N | N |
| Dwelling, multifamily | C 310.3 | C 310.4 | N | N | N | N |
| Dwelling above retail or office space | P | C 310.4 | C 310.4 | N | N | N |
| Mobile Home | C 310.5 | C 310.5 | C 310.5 | N | N | N |
| Mobile Home Park | S 311.2 | N | N | N | N | N |
| Planned Unit Development | S | S | S | N | N | N |
| Rooming House | N | C 310.6 | N | N | N | N |
| Seawall | N | N | C310.22 | N | N | N |
| Solar collection system, minor | P | P | P | P | P | P |

| Commercial | <i>Agricultural and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conservation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy (WITE)</i> |
|--|---|--------------------------------|-----------------------------------|--|-------------------------|---|
| Agriculture | P | N | C 310.7 | N | C 310.8 | P |
| Art studio | P | P | P | P | N | P |
| Bar | S 311.15 | S 311.15 | S 311.15 | N | C 311.14 | S 311.14 |
| Bed and Breakfast lodging | P | P | P | N | S 311.10 | N |
| Beverage container redemption operations regulated under 6 NYCRR §367.310 | S (SPR) | N | N | N | N | S (SPR) |
| Campground, Cottages, Travel Trailer Camp | S 311.11 | N | N | N | S 311.11 & 311.14 | S 311.11 & 311.14 |
| Canned Hunting | N | N | N | N | N | N |
| Child day care center | C 310.10 | P | C 310.10 | P | N | N |
| Commercial services (such as plumbing, electrical, carpentry, printing, off-premise catering.) | C 310.10 | P | C 310.9 & 310.10 | P | N | P |
| Construction debris processing facilities regulated under 6 NYCRR §360-16 | N | N | N | N | N | N |
| Equipment rental, including boats, canoes, sporting goods, appliances and tools | C 310.11 | C 310.11 | N | P | C 310.12 | S 310.12 |
| Funeral home | N | P | N | P | N | N |
| Gambling facility (such as casino or bingo hall) | N | N | N | N | N | N |

| Commercial | <i>Agricultural and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conservation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy (WITE)</i> |
|--|---|--------------------------------|-----------------------------------|--|-------------------------|---|
| Garbage, trash and refuse transloading, processing or disposal | N | N | N | N | N | N |
| Gas well | P | P | P | P | P | P |
| Gasoline sales, more than three pumps | S 311.4 | N | N | S 311.4 | S 311.4 | S 311.4 |
| Gasoline sales, three pumps or less | P | P | N | P | P | S 311.4 |
| Health care services (such as physician, dentist, chiropractor, massage therapist) | P | P | C 310.9 & C 310.10 | P | N | S 311.1 |
| Home occupation businesses | P | P | P | N | N | N |
| Hospital | N | N | N | N | N | S 311.1 |
| Hotel | N | N | N | N | N | S 311.1 |
| Inn | S 311.8 | S 311.8 | S 311.8 | N | S 311.14 | S 311.14 |
| Junkyard | N | N | N | N | N | N |
| Kennel, large | C 310.14 | N | N | N | N | N |
| Laboratory/R&D Facility | C 310.10 | C 310.10 | C 310.10 | P | P | N |
| Light manufacturing | C 310.15 | N | N | P | N | S |
| Livestock | P | N | C 310.7 | N | C 310.16 | S |
| Municipal Solid Waste Management Facility as defined in 6 NYCRR §360-1.7(a) | N | N | N | N | N | N |
| Nursery/Garden Shop | P | C 310.17 | P | P | C310.7 | P |
| Office, general business | P | P | C 310.10 | P | N | N |

| Commercial | <i>Agricultural and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conser vation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy (WITE)</i> |
|---|---|--------------------------------|-----------------------------------|--|--------------------------|---|
| Personal services (such as accountant, salon, barber, fishing guide, laundromat) | P | P | C 310.9 & C 310.10 | P | N | N |
| Physical fitness (such as gym, dance studio, yoga studio) | P | P | C 310.9 & C 310.10 | P | N | N |
| Private group instruction (such as seminar or retreat center, for less than 30 participants) | P | P | C 310.9 & C 310.10 | P | S 311.14 | N |
| Private group instruction (such as seminar or retreat center, more than 30 participants) | S 311.7 | N | N | N | N | N |
| Private individual instruction (such as piano lessons) | P | P | C 310.10 | P | N | N |
| Public utility infrastructure for the transmission of gas, electricity, telephone and cable services. | P | P | P | P | P | N |
| Recyclables Handling and Recovery Facility regulated under 6 NYCRR §361-1 | N | N | N | N | N | S (SPR) |
| Residential Care Home, with one to nine residents | P | P | C 310.10 | P | N | S 311.1 |
| Institutional Care facility, 10 or more residents | N | N | N | P | N | N |
| Restaurant, with vehicular-oriented or drive-through service | N | N | N | N | N | S |

| Commercial | <i>Agricultural and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conser vation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy (WITE)</i> |
|--|---|--------------------------------|-----------------------------------|--|--------------------------|---|
| Restaurant, without vehicular-oriented or drive-through service | C 310.18 | S 311.17 | C 310.18 | C 310.18 | C 310.18 | C 310.18 |
| Retail Sales, 3000 to 30,000 square feet | S 311.7 | N | N | S 311.7 | N | S 311.7 |
| Retail sales, less than 3000 square feet, indoors | C 310.11 | P | C 310.11 | P | N | S 310.11 |
| Retail Sales, outdoors on-premise sale of agricultural products | P | P | P | N | N | N |
| Retail Sales, outdoors, other goods | N | N | N | N | N | N |
| Sexually oriented business | N | N | N | N | S 311.9 | S 311.9 |
| Short-term vacation rental | S 311.23 | S 311.23 | S 311.23 | N | S 311.23 | N |
| Solar Farm | S 311.21 | N | N | N | N | S 311.22 |
| Storage of supplies and materials for commercial and industrial purposes (outdoors). | S 311.5 | N | N | C 310.19 | N | C 310.19, |
| Theater, under 500 seats | N | P | N | P | N | N |
| Transfer Station regulated under 6 NYCRR §360-11 | N | N | N | N | N | N |
| Travel Trailer, motor home, recreational vehicle | C 310.20 | C 310.20 | C 310.20 | N | N | N |
| Vehicle parking as principal use | N | N | N | C 310.19 | N | C 310.19 |
| Vehicle sales | N | N | N | C 310.19 | N | C 310.19 |
| Vehicle service | C 310.10 | N | N | P | N | S 311.1 |
| Veterinary service | P | P | C 310.10 | P | N | S 311.1 |
| Warehouse | N | N | N | P | N | P |

| Commercial | <i>Agricultural and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conservation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy (WITE)</i> |
|--|---|--------------------------------|-----------------------------------|--|-------------------------|---|
| Waste tire processing regulated under 6 NYCRR §360-13.1(d)(1) | N | N | N | N | N | N |
| Waste-to-energy resource recovery facilities regulated under 6 NYCRR §362. | N | N | N | N | N | N |
| Winery tasting room | P | P | P | N | N | N |
| Wireless telecommunications infrastructure | S 311.3 | S 311.3 | S 311.3 | S 311.3 | S 311.3 | S 311.3 |
| Commercial or industrial uses not listed above | S 311.10 | N | N | N | N | N |

In the **Lake Water District**, docks and boat hoists are the only permitted uses. See Section 306.

309. General Design Standards

309.1 Bulk Table

The following restrictions apply to construction on a single lot. Restrictions in the Lake Water District are in Section 306. It is incumbent on the landowner to ensure that all setbacks are met. The Code Enforcement Officer may request a survey determination of setbacks before issuing a Zoning Compliance Permit.

| <i>District</i> | <i>Agriculture and Rural Residential (ARR)</i> | <i>Hamlet Residential (HR)</i> | <i>Lakeshore Residential (LR)</i> | <i>Small Business Park and Institutional (BPI)</i> | <i>Conservation (C)</i> | <i>Warehouse, Industrial, Transportation, Energy District (WITE)</i> |
|---|--|--|--|--|-------------------------|--|
| <i>Setbacks. Minimum distance from property line to structure.</i> | | | | | | |
| Front, from centerline of public road | 70 feet | 50 feet, or to match adjacent dwellings* | 50 feet, or to match adjacent * | 10 feet | 50 feet | 10 feet |
| Side | 15 feet | 10 feet | 10 feet | 15 feet | 15 feet | 15 feet |
| Rear | 15 feet | 10 feet | 10 feet** | 15 feet | 15 feet | 15 feet |
| <i>Side and rear setbacks for accessory structures under 200 sq. ft and less than 15 ft high.</i> | | | | | | |
| Side | 5 feet | 5 feet | 5 feet | 5 feet | 5 feet | 5 feet |
| Rear | 5 feet | 5 feet | 5 feet | 5 feet | 5 feet | 5 feet |
| <i>Building envelope.</i> | | | | | | |
| Maximum Lot Coverage** | 20% | 80% | 25 % or 2000 sq ft, whichever is greater. | 30% | 10% | 30% |
| Main Structure Maximum height | 45 feet; except steeples, 100 feet. | 45 feet; except steeples, 100 feet. | 35 feet above primary entrance; no part shall be more than 2 times the distance from the | 100 feet. Antennas see Sec. 311.3. | 80 feet | 100 feet (except for tele-communications towers and antennas (see Sec. 311.3)) |
| property line measured from grade at the nearest property line***. East of St. Rt. 89 and within 70 ft of the center line, no higher than 12 ft above the center line of the highway. | | | | | | |
| *In HR, LR and CRE, a new residence may be built closer to the road if there are three or more residences within 200 feet in each direction along the road that are less than 50 feet from the road; in that case, the residence may be built with the same setback as the greatest setback of those existing residences. | | | | | | |
| ** Part of lot area that may be covered by a structure. | | | | | | |
| ***if the property line is on the lakeshore, the mean high water mark shall be used for determining setback and structure height. Decks may be within this setback. See 306.3 for Lake Water Dist. | | | | | | |

309.2 Town-wide design standards.

The following design and development standards shall apply in all Districts of the Town.

(A) Unregistered Vehicles. Notwithstanding the above restriction, a vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and properly constructed for such purpose.

(B) Outdoor storage areas. Outdoor storage areas shall be screened from the view of the public and residences on adjoining properties. No outdoor display, storage or collection of junk or junk cars or rubbish or unregistered vehicles (two or more unregistered vehicles) shall be permitted in a location visible from adjoining properties or public roads. This provision does not apply to agricultural equipment actively used on farms. This regulation is intended to supplement the New York State Regulations on Junkyards.

(C) Fences and walls. Maximum height eight feet; except twelve feet in Small Business Park and Institutional District. If mutually agreed upon, fences may be on the property line otherwise fences to be set back at least one half of the fence height from the property line. Both sides of the fence must be equally maintained. Fences and walls are not permitted in the Lake Water District (i.e. in the water).

(D) A Site Drainage Plan, which shall include (at minimum); site plan, slope percentage, existing and proposed drainage patterns and methods for controlling runoff, shall be required for all new construction and/or “significant regrading” defined as ; a disturbance of soil greater than 500 square feet and is within 300 feet of a lake or watercourse.

(E) Garbage, trash and refuse. The storage, processing or transloading of waste materials, as defined in in 27 NYCRR §362 is prohibited.

A “Site Drainage Plan” shall be submitted to the Code Enforcement Officer as part of the Zoning Compliance Permit. The CEO, will evaluate the plan and approve it by a checkbox on the application if he/she deems the proposed written plan is sufficient. A copy of the Site Drainage Plan shall be maintained by CEO. If he/she has concerns about the Plan or needs further details, the CEO shall refer the applicant to the Town Planning Board. If the Board cannot be satisfied, the applicant will be directed to hire a Professional Engineer, at the applicant’s expense, to prepare a complete Site Drainage Plan and then resubmit to the Planning Board. Circumstances that may require a Professional Engineering Plan may include, but not limited to, if there are wetlands involved, the building site is on a slope greater than 5% or there is a large drainage area above the building site that may direct large amounts of water towards the building site.

309.3 In the **Agriculture and Rural Residential District**, the following additional design and development standards shall apply.

(A) Dwelling size. Each dwelling unit constructed or offered for rent after January 1, 2008 shall be no less than 550 square feet.

(B) Dwellings offered for rent. Each dwelling unit shall have kitchen facilities that include at least a stove, a refrigerator, and a sink suitable for dishwashing. Bathroom facilities including at least a tub or shower, toilet and lavatory must be present inside each dwelling unit.

309.4 In the **Hamlet Residential District**, the following additional design and development standards shall apply.

(A) Dwelling size. Each dwelling unit constructed or offered for rent after January 1, 2008 shall be no less than 550 square feet.

(B) Dwellings offered for rent. Each dwelling unit shall have kitchen facilities that include at least a stove, a refrigerator, and a sink suitable for dishwashing. Bathroom facilities including at least a tub or shower, toilet and lavatory must be present inside each dwelling unit.

(C) Any use that is obnoxious or offensive or creates a nuisance to the occupants and visitors of adjacent buildings or premises by reason of the emissions of dust, fumes, glare, heat, liquids, noise odor, smoke, steam, vibrations, or similar disturbances is prohibited.

(D) Signs. Signs advertising businesses shall be a maximum size of 15 square feet. Signs shall be of professional design and quality, and be located at least 8 feet from the lane of travel on the road.

309.5 In the **Lakeshore Residential District**, the following additional design and development standards shall apply.

(A) Dwelling size. Each dwelling unit constructed or offered for rent after January 1, 2008 shall be no less than 550 square feet.

(B) Dwellings offered for rent. Each dwelling unit shall have kitchen facilities that include at least a stove, a refrigerator, and a sink suitable for dishwashing. Bathroom facilities including at least a tub or shower, toilet and lavatory must be present inside each dwelling unit.

(C) Residential parking. Residences shall have off-street parking for a minimum of two cars.

(D) Obnoxious Uses. Any use that is obnoxious or offensive, or creates a nuisance to the occupants and visitors of adjacent buildings or premises by reason of the emissions of dust, fumes, glare, heat, liquids, noise, odor, smoke, steam, vibrations, or similar disturbances is prohibited. The standard for judgment are those of a reasonable person with normal sensitivities.

(E) Signs. Signs advertising businesses shall be a maximum size of 15 square feet. Signs shall be of professional design and quality, and be located at least 8 feet from the lane of travel on the road. On the scenic byway, signage shall comply with the existing guidelines for the Cayuga Lake Scenic Byway.

(F) Common access sites. Lakeshore properties providing access to multiple residences are subject to the following provisions: Noise at the property line on the lakeshore shall not exceed 55 dB between 10 pm and 6 am. There shall be no open fires after 10 pm. Sufficient parking shall be provided that no vehicles are parked on the road. No waste discharge is permitted on the property. No artificial lights shall spill over to adjacent properties after dark.

Common-access sites must meet the following frontage requirements:

| Number of Households or Residences Using Site | Minimum Frontage |
|--|------------------|
|--|------------------|

| | |
|-----|--|
| 2-4 | 100 ft |
| >4 | 100 ft plus 20 ft per household over 4 |

Common-access sites are limited to a maximum of one accessory structure (storage shed, garage, etc.), per 100 feet of frontage.

309.6 In the **Small Business Park and Institutional District**, no additional design and development standards apply.

309.7 In the **Conservation District**, no additional design and development standards apply.

309.8 In the **Warehouse, Industrial, Transportation and Energy District**, no additional design and development standards apply.

310. Conditional Uses

310.1 **Procedure.** Conditional uses are approved by the Code Enforcement Officer if the conditions described in this section are met. Conditional uses are numbered in the use table (Section 308), for which the corresponding conditions apply.

310.2 **School, under 35 students.** Use is conditional on meeting the following restrictions on traffic, noise and appearance. Must have buffer of green space, 200 feet from structures to property line. Fewer than 75 student, visitor and staff vehicles per day (peak, not average.) ARR, WITE

310.3 **Multifamily dwelling.** Use is conditional on meeting the following restrictions on traffic, noise and appearance. Must have buffer of green space, screening by fence or vegetation; 200 feet from structures to property line. Exterior lighting does not spill over to neighboring properties. Provide two parking spaces per unit. Appearance shall not detract from aesthetics of the neighborhood. ARR

310.4 **Dwelling, multifamily or above retail or office space.** The total building size shall be at least 2000 square feet of net usable space. No fewer than 2 off-street parking spaces must be provided for each dwelling unit. The appearance of the property shall not detract from the visual aesthetic of the neighborhood. HR, LR

310.5 **Mobile home.** All mobile homes shall be on a permanent foundation slab on compacted gravel, with anchors or tie-downs capable of securing the stability of the mobile home. All mobile homes shall be provided with skirting to screen the space between the mobile home and the ground. Such skirting shall be installed within 90 days of occupancy and shall be of a material that shall provide a finished exterior appearance. Mobile homes not on a pad or foundation, or unoccupied for more than 12 continuous months, must be disposed of off site.

For agricultural farmworker housing on farms in the Seneca County Agricultural District, no permanent foundation is necessary, but must be removed if not occupied for three years. If more than two mobile homes are used for farmworker housing, the Planning

Board shall review the placement to assure bona fide agricultural use, and placement that avoids off-premises impact.

310.6 Rooming House. A Rooming House shall have a maximum of four bedrooms. Appearance of the property shall not detract from the aesthetics of the neighborhood. Required off-street parking will consist of 1 parking space per bedroom in addition to the owner's personal parking. There will be no outside storage for renter's personal property.

310.7 Agriculture in Lakeshore Residential District. In Seneca County Agricultural District, agricultural activities are not restricted by this Zoning Code. Elsewhere in the Lakeshore Residential District the number of animals per acre must be less than one Animal Unit, as defined by the New York State Department of Agriculture and Markets; the animals shall not generate persistent noise exceeding 75 dB or objectionable odor detectable on adjacent properties; the General Development Standards (Section 309) apply.

310.8 Agriculture in C District. Green energy-related agriculture is permitted to the extent that the natural flora and fauna in conserved, habitats supporting its Important Bird Area status are retained, and the white deer herd is maintained.

310.9 Use is permitted if the property is located on a State Highway, or has its entrance outside the Lakeshore Residential District.

310.10 Use is conditional on meeting the following restrictions on traffic, noise and appearance. Fewer than 10 client or customer vehicles per day (peak, not average.) Does not generate noise or odor detectable on adjacent properties. Supplies and equipment associated with business stored indoors, not visible from street or adjacent properties. Business exterior lights off after 10:00 pm. Signage maximum of 15 square feet, of professional quality. ARR LR

310.11 Small businesses with some retail traffic. (Retail sales, less than 3000 square feet, indoors; equipment rental.) Merchandise shall be indoors or under permanent cover, except up to 200 square feet of exterior display space. On-site parking sufficient to accommodate retail traffic. ARR, HR, LR, CRE

310.12 Rental of recreational equipment that can be used in this district is permitted. CRE

310.13 Small kennel. Dog runs and buildings housing them shall be at least 100 feet from the property line, and the dogs shall not create noise exceeding 55 dB at the property line.

310.14 Large kennel. Dog runs and buildings housing them shall be at least 300 feet from the property line.

310.15 Light manufacturing. Use is conditional on meeting the following restrictions on traffic, noise and appearance. No more than 10 employees. Building or outdoor manufacturing process shall be more than 100 feet from property line, with a vegetative screen between the manufacturing and neighboring residences. ARR

310.16 **Livestock in Conservation, Recreation and Green Energy District.** Animals for riding and transport (e.g. horses) are permitted, animals raised for food or sale (e.g. cattle, pigs) are not permitted. CRE

310.17 **Nursery or garden shop.** Merchandise may be outdoors. On-site parking sufficient to accommodate retail traffic. HR

310.18 **Restaurant.** Maximum capacity shall be 80 seats or less. Off-street parking shall be provided at one space per 2 seats of dining capacity. Business exterior lights to be off after 10:00 pm. Exterior signage shall be maximum of 15 square feet, and of professional quality. The building shall be set back 50 feet from the property line with adjacent residences, and employ screening to provide privacy for adjoining residents. The use of trees and shrubs is preferred to fencing. LRR, CRE

310.19 The area containing vehicles or equipment shall be screened from adjacent users within the District. Screening shall be done in a manner consistent with the professional campus environment. The use of trees and shrubs is preferred to solid fencing. No waste materials that result from these activities may be disposed of on the lot. IBP

310.20 Travel Trailers, motor homes, campers, or similar vehicles may be parked or located overnight within the Town if they meet shed side setbacks (5 feet) and any of the following:

A: On the property of the owner and

1. If used as a permanent seasonal residence (defined below), setbacks for structures under 200 square feet must be met (5 feet) as well as provisions in paragraph 310.5 concerning proper tiedown and skirting, and placement on a pad.

2. May not be used as permanent year round housing (defined below)

Permanent year round housing: occupied more than 8 months per year

Permanent Seasonal Residence: parked on property over 8 months per year and occupied up to 8 months per year

or

B. In a Travel Trailer Camp

or

C. On the premises of a travel trailer sales or rental establishment

or

D. If *occupied*, with property owner's permission, and for no more than 21 days in any calendar year; or, if it is the only travel trailer on the parcel, no more than 120 days. After the appropriate time periods above, a permit will need to be applied for through the Code Enforcement Officer. The permit may be issued if the travel trailer has adequate power and water and it discharges waste to a sanitary sewer. Should not be placed where it impinges on the neighbors' privacy. If the permit is denied, it will be presented to the Zoning Board of Appeals.

If *unoccupied* and with the property owner's permission, then must meet side setbacks and limited to one per property- no permits will be required.

or

E. It is stored in a building

310.21 **Camp.** No waste discharge is permitted on the property; waste must go to a sanitary sewer, a functioning septic system, or to a holding tank from which all contents are safely disposed of off-site. If occupied over 30 nights per year, must meet requirements for a dwelling.

310.22 **Seawall.** Permission from the NYS Department of Environmental Conservation and, if they require it, the Army Corps of Engineers. Any repair or replacement of seawalls is subject to a Zoning Compliance Permit and requires approval of the NYS Department of Environmental Conservation.

310.23 **Place of Worship.** Off street parking shall be provided at one space for every four persons of occupancy. Exterior lighting shall be directional in design and off after 10:00pm or the closing of the last event/activity of the day. Exterior signage shall be of professional quality, can be two sided and a maximum of 15 square feet in size. The building shall be setback 50 feet from the property line with adjacent residences and employ screening to provide privacy for adjoining residences. The use of trees and shrubs is preferred to wooden or other solid fencing.

311. Special Uses

Note: All Special Uses also require Site Plan Review (Sections 312 and 313).

311.1 Criteria The application procedure is described in Section 404.2. The Planning Board shall apply the following criteria to all proposed special use permits in addition to any criteria for particular uses specified in Sections 309, 310 and 311.

- (A) Compatibility. The proposed use shall be of a character that does not produce noise, odors, light and/or vibration that harmfully affect the surrounding neighborhood.
- (B) Vehicular Access. Proposed access points shall be adequate in width, grade, alignment, and visibility; not excessive in number; located at appropriate distances from intersections or places of public assembly; and satisfy other similar safety considerations. The requirements herein are satisfied if access to the site is sufficient to allow vehicles to enter and exit without creating significant delays on a public highway or right-of-way.
- (C) Circulation and Parking. The proposed use will not be detrimental to the flow of traffic or parking in the surrounding neighborhood.
- (D) Landscaping and Screening. All parking, storage, loading, and service areas shall be reasonably screened at all seasons of the year from the view of adjacent residential areas and the general landscaping of the site shall be in character with the surrounding areas. The proposed site satisfies the requirements herein if it is located more than 100 feet from any residentially zoned and/or used property or is situated so that it may be demonstrated that existing or proposed features of the site will mitigate any potential adverse effect on the residential property
- (E) Facilities and Environment. The proposed use will not place an excessive burden on public improvements, facilities, services or utilities and will not harm natural or scenic features.
- (F) A property previously a part of the former Seneca Army Depot may have deed restrictions imposed for environmental concerns, all development activities shall conform to these restrictions. Permit applicants shall provide a copy of the deed or other documentation identifying these restrictions with the application.

311.2 **Mobile Home Park.** Mobile Home Parks may be permitted provided that the following standards and procedures are adhered to:

- (A) Tract Requirements.

A front yard setback of seventy-five (75) feet shall be observed from the center of any roadway bordering the site of any mobile home in the park.

A setback of forty (40) feet shall be observed from any adjacent property line.

A landscape plan shall be prepared and carried out that will assure the Board of Appeals and Zoning Officer that an appropriate planting of trees and shrubs will be included in the park layout, including screening where necessary.

The tract shall be located and laid out so that no mobile home shall be closer than one hundred (100) feet to any existing single family detached or two-family dwelling.

All interior roads shall be properly surfaced to minimize dust and mud and be a width of at least twenty-two (22) feet.

Entrances and exits shall be so located to provide a minimum sight distance on the adjacent public road in both directions from the interior road at the point of intersection of not less than three hundred (300) feet.

Each mobile home park shall have a reserve water supply adequate for fire protection as specified and approved by the County Health Department.

Each mobile home park shall set aside ten (10) percent of the total acreage of the site as open space and recreation area. Part or all of such open space shall be in the form of developed recreation areas located in such a way, and of adequate size and shape, as to be usable for active recreational purposes.

All open spaces shall be stabilized by grass or other forms of ground cover that will prevent dust and muddy areas.

The total number of mobile homes shall not exceed four (4) per gross acre.

(B) Lot Requirements.

Each mobile home lot or site shall have an area of at least six thousand (6,000) sq. ft. with a minimum width of sixty (60) feet and a minimum depth of one hundred (100) feet.

No mobile home shall be closer than thirty (30) feet to another mobile home or other structure in the park.

No more than one (1) mobile home may be placed on any lot or site.

Each lot or site shall be provided with an approved system and/or connection for water and sewage in accordance with the regulations of the Seneca County Health department and the New York State Departments of Health and Environmental Conservation. Each lot shall be provided with connections for electricity and telephone.

A suitable parking pad shall be provided on each lot or site for one (1) mobile home and one (1) automobile.

Each lot or site shall front on an approved interior street, and there shall not be a direct access driveway to a public street or highway.

Temporary storage of trash and refuse should be in a manner approved by the Seneca County Health Department and in such a manner as to be shielded from public view.

No front or side yard shall be used for storage.

No mobile home shall be located less than 25 feet from the pavement edge of an interior mobile home park roadway.

The mobile home foundation or pad shall be provided with anchors or tie-downs capable of securing the stability of the mobile home.

The mobile home shall be provided with skirting or screen in the space between the mobile home and the ground. Such skirting shall be installed within 90 days of occupancy and shall be of a material that provides a finished exterior appearance.

311.3 Telecommunication Towers

(A) Special Use Permit Required:

No telecommunications tower shall hereafter be used, erected, moved, constructed, reconstructed, changed or altered except after approval of a telecommunication special use permit in conformity with these regulations. No structure shall be modified to serve as a telecommunication tower or to serve a telecommunication tower unless in conformity with these regulations. No antenna shall be constructed on an existing telecommunications tower wherein the carrier intends to share the use of the tower with another carrier unless the carrier desiring to share the use of the existing tower applies for and obtains a telecommunication special use permit from the town in conformity with section 404.2.

The regulations set forth in section 404.2 shall apply to all property within the town and all telecommunication towers and accessory facilities or structure shall be sited to have the least practical adverse effect on the environment.

Where the provisions of section 404.2 conflict with other laws and regulations of the town, the more restrictive shall apply, except when the application of other laws and regulations of the town are preempted by the 1996 United States Telecommunications Law or other telecommunication acts or regulations.

(B) Exemptions: The following are exempt from the application of this section:

- a) The repair and maintenance of existing communications towers and antennas.
- b) Antennas used solely for the residential household television and radio reception.
- c) Lawful or approved use existing prior to the effective date of this section (July 2, 2002).

(C) Application and Site Plan Requirements:

All applications for a special use permit shall be by written application on forms provided by the town. The applications shall include a site plan setting forth specific site data on a map in acceptable form and content, which shall be prepared to scale and in sufficient detail and accuracy. The application and site plan shall set forth the following information and documents.

1. Documentation on the proposed intent and capacity of use.
2. Adequate and appropriate information concerning the location, size and height of the proposed tower structure, including the number and design of the antennae proposed.
3. Documentation showing justification for any land or vegetation clearing required.
4. A description of all proposed auxiliary fixtures, equipment and structures including information on grade, material, color, lighting, road and parking.
5. A completed environmental assessment form (form to be provided by the town), that shall include a visual environmental assessment.
6. A landscaping plan that includes screening of the tower base and structures in compliance with the standards set forth herein.

7. A copy of the applicant's Federal Communications Commission license.
8. The application and site plan for towers over 100' shall set forth the following additional information and documents.
9. A certification from a professional engineer licensed by the State of New York certifying that the proposed tower structure, at a minimum, meets all applicable federal and state safety codes and all accepted industry standards for tower design and in connection therewith, the facility meets or exceeds structural requirements for loads, winds, ice and, if applicable, is designed to accommodate shared use (colocation) and/or cosittings.
10. The specifics with regard to technology and the technical characteristics of the proposed equipment, including information concerning frequency, transmission and maximum effective radiated power and direction of lobes. The applicant shall also provide a report and certification from a professional engineer licensed by the State of New York showing that the proposed telecommunication tower, when operational, will comply with the standards for radio frequency exposure, including NIER levels as adopted by the Federal Communications Commission.
11. A description of the basis for calculating capacity and design elements together with the applicant's proposed tower maintenance and inspection procedures and records system.
12. A propagation study showing the particular site subject to the application and justifying the proposed height of the telecommunication tower to be constructed on the site, and said propagation study shall show alternative sites utilizing towers of lesser height.
13. A detailed visual analysis based upon the results of the Visual Environmental Assessment from viewpoints within and outside of the municipality as requested by the Varick Code Enforcement Officer, Planning Board, or Zoning Board, a zone of visibility map from viewpoints suggested by the Varick Code Enforcement Officer, a pictorial representation of "before and after" view from key viewpoints both inside and outside the town selected by the Varick Code Enforcement Officer, Planning Board, or Zoning Board, and an assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting properties and streets.
14. A grid or map of all of the applicant's existing telecommunication tower sites within the town and within four miles of the town's corporate boundaries outside the town with a designation of site areas proposed or projected by the applicant and the height of the tower proposed or projected for installation within two years of the date of the application and, if available, any plan of installations beyond two years.

(D) Permitted Location:

1. Telecommunication towers and accessory facilities shall be, in order to comply with the 1996 United States Telecommunications Law, a special permitted use in agricultural, business, open and industrial zoning districts; however, it is the town's

preference that the telecommunication towers and accessory facilities be without preference to any zoning district:

- (a) Co-located on existing telecommunication towers.
- (b) Co-sited with existing telecommunication towers.
- (c) Sited on compatible municipal or public properties.
- (d) Sited on other quasi-public property owned by public benefit corporations or public utilities.

2. Telecommunication towers are restricted as to height within zoning district according to the Use Table below.

| Use Table for Commercial Antennas and Transmitters | | |
|--|-------------|-------------|
| | DISTRICT | |
| | BPI | All Other |
| Telecommunication tower, height of 100' or less | Special Use | Special Use |
| Telecommunication tower, height of more than 100' and less than 300' | Special Use | Special Use |
| Telecommunication tower, height of more than 300' | Special Use | Prohibited |

(E) Shared Use (colocation) and Cositing:

At all times, shared use (colocation) of existing telecommunication towers or cositing an additional telecommunication tower at an existing telecommunication site shall be preferred to construction of new telecommunication towers at different sites. Additionally, where such shared use (colocation) or cositing is unavailable, location of antenna on pre-existing structures shall be considered. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use (colocation) or cositing at existing facilities and use of other pre-existing structures as an alternative to a new construction or the creation of a new facility.

An applicant intending to share use (colocate) on an existing structure shall be required to document intent from an existing tower owner to share use (colocate). The applicant or owner of the tower shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs include but are not limited to structural reinforcement, preventing transmission or receiver interference, additional site screening and other charges, including real property acquisition or lease required to accommodate shared use (colocation). The town shall not be responsible to incur any costs whatsoever of adapting an existing tower or structure to a new shared use. An additional shared use requires amending the permit and approval by the planning board, which will assess the engineering analysis and visual impact of the additional use.

An applicant intending to cosite a telecommunication tower on the property occupied by an existing telecommunication tower shall comply with this section and all the telecommunication special use permit standards in the same manner as if the applicant were constructing a telecommunication tower at a new location.

In the case of new telecommunication towers, the applicant shall be required to submit documentation demonstrating good faith efforts to secure shared use (colocation) from existing towers in locations technically feasible as well as documenting capacity for future shared use (colocation) of the proposed tower. Written requests and responses, if received, for shared use (colocation) shall be provided. All new telecommunication towers shall be engineered to accommodate shared use (colocation) with other carriers.

(F) Setbacks:

Towers and antennae as a minimum shall comply with existing setbacks within the affected zone according to the setback table in table below. Additional setbacks may be required by the Planning Board to contain on site substantially all ice-fall or debris from tower failure and/or to preserve privacy and/or aesthetics of adjoining properties or property within the neighborhood, and such setbacks shall be otherwise keyed to design of towers and engineering information available. Setbacks shall apply to all tower parts, including guy wire anchors and to any accessory facilities.

| Telecommunication tower setback table | DISTRICT | |
|--|----------|-----------|
| | BPI | All other |
| FRONT YARD SETBACKS: | | |
| Telecommunication tower, height of 100 ft or less | 100 ft | 100 ft |
| Telecommunication tower, height of more than 100ft and 300ft or less | 300 ft | 300 ft |
| Telecommunication tower, height of more than 300 ft | 500 ft | - |
| SIDE YARD SETBACKS: | | |
| Telecommunication tower, height of 100 ft or less | 100 ft | 100 ft |
| Telecommunication tower, height of more than 100 ft and 300 ft or less | 300 ft | 300 ft |
| Telecommunication tower, height of more than 300 ft | 500 ft | - |
| REAR YARD SETBACKS: | | |
| Telecommunication tower, height of 100 ft or less | 100 ft | 100 ft |
| Telecommunication tower, height of more than 100 ft and 300 ft or less | 300 ft | 300 ft |
| Telecommunication tower, height of more than 300 ft | 500 ft | - |

(G) Visual Impacts:

All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. The applicant shall submit plans for adequate visibility of any guy wires from ground level to a height not less than eight feet, if the tower requires guy wires.

Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA) or as provided by this section or as may be required by the Planning Board. Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green or black below the surrounding treeline unless other standards are required by the FAA. In all cases, freestanding structures shall

be preferable to guyed towers. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

(H) Tower Height:

The tower height shall be determined by the Planning Board upon the applicant's submittal of a propagation study or other proof justifying the height of any telecommunication tower and/or antennae. The town generally prefers telecommunication towers of a height that will not require strobe lighting and/or specific painting as required by FAA rules and regulations.

(I) Access and Parking:

A road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the top of fill, the top of cuts or no more than ten feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(J) Removal of equipment:

If the telecommunication tower, antenna, accessory facility, fences or other appurtenances (all hereinafter referred to as equipment) constructed by the applicant are no longer used for the purpose of transmitting or receiving telecommunications, the applicant shall notify the Town Clerk of the town within 30 days of such termination that it is no longer using the equipment for telecommunication purposes, and within six months of the termination of the use of said equipment, the applicant shall remove the equipment from its site. The applicant shall post performance security in the form of a letter of credit with the Planning Board in an amount equivalent to 150% of the estimated cost of removal of the equipment as determined by the Planning Board and said letter of credit shall be on terms and conditions satisfactory to the Town Attorney. The letter of credit shall be reviewed every five years from the date of issuance of a special use permit by the Planning Board for the purpose of determining whether or not the letter of credit is at least 150% of the estimated cost of the removal of the equipment. The applicant shall increase the letter of credit to 150% of the estimated cost of removal of the equipment as determined by the Planning Board in the event that the letter of credit is deemed by the Planning Board to be less than 150% of the estimated cost of removal. If the applicant assigns its interest in the equipment or by operation of law no longer owns the equipment, the applicant's successors and/or assigns shall be obligated to post performance security with the Planning Board as provided in this subsection as if it was the applicant at the time the special use permit was granted pursuant to this section. In the event that the applicant leases the site on which the equipment is constructed, the applicant shall obtain an irrevocable consent, to be binding upon the landowner's heirs, distributees, successors and/or assigns permitting the applicant to remove the equipment within six months of the date it ceases to be used for telecommunication purposes and permitting the town to enter onto the landowner's land for the purpose of removing the equipment in the event that the equipment is not removed by the applicant within said six-month period. The consent shall be in a form satisfactory to the Town Attorney and shall, upon approval of the Town

Attorney, be recorded in the Seneca County Clerk's office. Upon removal of the equipment, the applicant is to restore the site by planting sufficient vegetation to cause the site to blend in with the surrounding area.

(K) Signage:

Telecommunication towers shall be signed with a sign no larger than two square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmit capabilities. The sign shall also contain the name(s) of the owner(s) and operator(s) of the antenna(e) as well as emergency telephone number(s). No other signage, including advertising, shall be permitted on any antenna(e), antenna(e) supporting structure, monopole or antenna tower unless required by federal or state law or regulation.

(L) Maintenance and inspection:

The applicant, its successors, and/or assigns, shall file annually with the town, on the anniversary date of the granting of the special use permit by the Planning Board, a written report certifying that the applicant, its successors and/or assigns are complying with maintenance and inspection procedures and records system, and that the telecommunication tower facility is not a hazard or a threat of a hazard to the health and safety of the public.

(M) Expiration and violation of telecommunication special use permits:

1. A telecommunication special use permit shall be deemed to authorize only the particular use applied for and all shall expire if:

(a) The telecommunication special use shall cease for more than six months for any reason.

(b) All the improvements required by the Planning Board prior to the issuance of the telecommunication special use permit are not completed within 12 months of the Planning Board granting a telecommunication special use permit subject to its issuance upon completion of various improvements, unless prior to that time, an extension has been granted by the Planning Board.

2. A violation of any of the terms and conditions of a telecommunication special use permit granted by the Planning Board shall be construed as a violation of this section, the town shall have the right of enforcement as set forth in this law.

(N) Technical consultants:

Upon the submittal by the applicant of the application and site plan, the Planning Board and/or Zoning Board of Appeals shall have the right, if it so chooses, to hire communication engineers, licensed structure engineers, or other technical consultants to assist in analyzing the application and site plan and the applicant shall reimburse for such costs.

311.4 Gasoline sales, more than 3 pumps. Site shall be on a state highway. Lighting shall not produce glare for drivers, nor spill light over to adjacent properties. Pumps shall be at least 500 feet from any residence on an adjacent property. The design shall enhance the appearance of the neighborhood.

311.5 Storage of commercial vehicles, equipment or supplies. The area containing vehicles or equipment shall be screened from adjacent users. The use of trees and shrubs is preferred to fencing. Traffic and noise generated from the use shall be limited so that the impact on the neighborhood is not greater than from other permitted uses.

311.6 Private group instruction, over 30 participants. Traffic and noise generated from the use shall be limited so that the impact on the neighborhood is not greater than from other permitted uses. The appearance should not overwhelm the neighborhood, and the design should be an architectural standard that enhances the community.

311.7 Retail sales, large. No large-product retail sales, rental, or storage operation shall be located less than one hundred (100) feet from any side or rear lot line. B. Screening. Such operation shall be screened from adjacent residential properties by fences, hedges, or other plantings, or other structures so as not to be visible from the adjacent residential properties.

311.8 Inn. The access to this Special use may only be located in the Lakeshore Residential Zone if it is from a State Highway and consists of a driveway with signage conforming to the Lakeshore Residential District. The side setback shall be 200 feet from the property line in the Agricultural and Rural Residential District; 300 feet from the property line in the Lakeshore District; and 15 feet in the Hamlet Residential District. Noise from normal operations shall not exceed 55 dB at the property line.

311.9 Sexually oriented business. No merchandise shall be visible from exterior. Signs shall be maximum of 15 square feet. Lighting shall be subdued, with no glare and no moving or flashing lights. Noise from normal operations shall not exceed 55 dB at the property line. Parking shall follow retain or restaurant requirements as appropriate for the proposed business use. Such businesses are not permitted to locate within 1500 feet of a residential zoning district.

311.10 Other commercial uses. Commercial uses not specified in the Use Table shall be permitted only if they are no more intense or obtrusive than uses that are specifically permitted. Traffic and noise generated from the use shall be limited so that the impact on the neighborhood is not greater than from other permitted uses.

311.11 Travel Trailer Camps. Travel trailer camps shall be subject to the following requirements:

(G) Site

1. The travel trailer camp shall be located in an area where grades and soil conditions are suitable to insure adequate drainage and be free at all times of stagnant pools of water.
2. The camp shall be at least four acres in size, with at least 60 feet of frontage on a public road.

(H) Travel Trailer Lot

Each travel trailer camp shall be marked off into travel trailer lots. Each travel trailer lot shall have a total area of not less than 3,600 square feet with a minimum width of 40 feet.

(I) Travel Trailer

1. No travel trailer shall be parked or otherwise located nearer than a distance of:
 - a) 25 feet from an adjacent travel trailer in any direction;
 - b) 60 feet from an adjacent property line of any third party;
 - c) 75 feet from the right-of-way line of a public street or highway;
 - d) 20 feet from the nearest edge of any street within the camp.
2. Only one travel trailer shall be permitted to occupy any one travel trailer lot.
3. No travel trailer shall be allowed to remain, whether occupied or not, in any travel trailer camp for more than 90 consecutive days each year or for any other period within a given calendar year which taken together aggregate more than 120 days.

(J) Travel Trailer Stand

1. Each travel trailer lot shall have a travel trailer pad, that will provide for the practical placement on and removal from the lot of the travel trailer, and retention of the trailer on the lot in a stable condition.
2. The pad shall be of sufficient size to fit the dimensions of the anticipated travel trailers.
3. The pad shall be constructed of an appropriate material that is durable and adequate for the support of the maximum anticipated loads.
4. The pad shall be suitably graded to permit adequate surface drainage.

(K) Accessibility

1. The travel trailer camp shall be easily accessible from an existing highway or street.
2. Where a travel trailer camp has more than 30 travel trailer lots, two points of entry/exit may be required by the Planning Board.
 - a) Such entrance(s) and exit(s) shall be designed and strategically located for the safe and convenient movement into and out of the camp, and to minimize friction with the free movement of traffic on a public highway or street;
 - b) All entrances and exits shall be approximately at right angles to the existing public highway or street;
 - c) All entrances and exits shall be free of any material that would block their visibility from the public highway or street to which they have access;
 - d) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with travel trailers attached.

3. The travel trailer camp shall have convenient access ways to all travel trailer lots and other important facilities within the camp; such access ways shall be designed to permit safe vehicular circulation within the camp, shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety, shall intersect at approximately right angles, and shall be of sufficient width.

(L) Utilities and Service Facilities

1. Water, Sewage and Sanitary Facilities. All campgrounds and travel trailer camps shall provide and maintain a potable water supply, sanitary facilities, sewage disposal system, sanitary garbage containers and all other waste service facilities as are adequate to comply with the public health laws of the State of New York and the rules, regulations and standards of the New York State Department of Health.
 - a) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and to every ten trailer lots within the camp to meet the requirements of such camp. Each ten lots shall be provided with a cold water tap;
 - b) Every travel trailer park shall be equipped with a dump station tied into a community sewerage system;
 - c) Toilet and other necessary sanitary facilities for males and females shall be provided in permanent structures. Such facilities shall be housed in either separate buildings or in the same building; in the latter case, such facilities shall be separated by soundproof walls. The male and female facilities shall be marked with appropriate signs and have separate entrances for each;
 - e) Lavatory facilities shall be supplied with running water;
 - f) The buildings housing such toilet and sanitary facilities shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of moisture-proof materials, and shall be kept clean and sanitary at all times. The floors of such buildings shall be of a water impervious material;
2. Other service facilities and buildings shall be provided as deemed necessary for the normal operation of the camp, such facilities or buildings to be maintained by the owner or manager of the camp in a clean, slightly, and sanitary condition.
3. Metal or plastic garbage cans with tight fitting covers shall be used in quantities adequate to permit the disposal of all garbage and rubbish. The cans shall be kept in sanitary condition at all times. The camp owner or manager shall be responsible for the collection and disposal of garbage and rubbish as frequently as may be necessary to insure that such cans shall not overflow.
4. Waste from all buildings and trailer lots shall be discharged into a community sewerage system.

(M) Open Space

The travel trailer camp shall provide common open space conveniently located within the camp for recreational and other appropriate purposes, such space to have a total area equal to at least 20 percent of the land area of the park.

311.12 **Water Tower.** Water towers shall be sited and constructed so that viewsheds are preserved. County, State and Federal requirements for safety shall be met.

311.13 **School, K-12 over 36 students.** Consider traffic, safety, impact on neighbors, screening.

311.14 **Hospitality Uses** in Conservation District and Warehouse, Industrial, Transportation, Energy (WITE) district. Uses that involve accommodating visitors shall not, as determined by the Planning Board, impair habitat of the natural flora and fauna, compromise its Important Bird Area status, or harm the white deer herd through construction or activities, including traffic, or to reduce the recreational opportunities for the public. It is the applicant's responsibility to provide project plans and engineering or biological assessments of impact with the amount of detail the Planning Board deems necessary for it to evaluate the project. Camping in these districts shall be limited to a maximum of 21 days within any 60 day period.

311.15 **Bar.** Application and Site Plan Requirements: All applications for a special use permit shall be by written application on forms provided by the town. The applications shall include a site plan setting forth specific site data on a map in acceptable form and content, which shall be prepared to scale and in sufficient detail and accuracy. The application and site plan shall set forth the following information and documents.

(A) Documentation on the proposed intent and capacity of use.

(B) Proposed Parking, Lighting and Signage with agreement that traffic, light, noise and signage shall not create a nuisance for existing uses and neighbors.

(C) Other stipulations for a Bar in the Town of Varick will be that the bar must close no later than midnight, the owner must disclose any type of entertainment and also the method of self-policing of any disturbances inside or in the parking lot of the establishment.

311.17 Places of Worship and Restaurants in Hamlet District.

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

(A) Access driveways shall be located no closer than 20 feet to side lot lines.

(B) Off-street parking shall be provided in accord with this Local Law. Said parking shall be located in the side and/or rear yard areas. Each off-street parking area shall be adequately illuminated, landscaped and screened from any adjoining residential site so as to prevent the illumination of adjoining residential properties by motor vehicle headlights utilizing the parking lot. All off-street parking shall be designed to complement the internal circulation pattern and the point or points of access to the property.

- (C) If a bus is to be used as part of the conditional use, a designated parking area shall be provided for the storage of said vehicle. Such parking area shall be located behind the principal building.
- (D) Site lighting shall be provided and so as to not illuminate adjoining residential sites. Site lighting shall be restricted to providing adequate security lighting for the property after the public use of the property has been concluded for the day.
- (E) All special permitted uses shall provide acceptable facilities for the storage of trash. In no instance shall any trash be stored outside of enclosed containers. All outdoor storage areas shall be screened from the view of adjoining properties with a fence or shrubs.
- (F) One unanimated, non-illuminated flat or window sign and one unanimated, free-standing sign, each not to exceed 15 square feet per side, shall be permitted. Illuminated signs may be permitted subject to the review and approval of the Town Planning Board.

311.18. **Cemetery.**

No new cemetery shall result in in-ground burials within a 100 year floodplain area or the construction of any mausoleum structure of greater than five hundred (500) square feet in size any closer than one hundred (100) feet from the perimeter of the cemetery. All applicable approvals from governmental entities with jurisdiction over this use are required.

311.19. The storage, processing or transloading of any **waste materials**, except for food processing or agricultural waste and marketable recyclable materials, is prohibited.

311.20 **Small-scale manufacturing**, and handling of materials for reuse, redemption and recycling. Shall be indoors. Site plan review shall consider neighboring uses and code restrictions on comparable-scale retail or light industrial uses.

311.21 Solar Farm or Major Solar Collection System, on site

1. Generates no more than 110% of the power consumed on the site over 12 months.
2. All the requirements of 311.22 apply.

311.22 Solar Farm or Major Solar Collection System

Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight. A Solar Energy Production Facility (aka Major Solar Collection System or Solar Farm) shall be permitted under a Special Use Permit when measures are taken, as provided in this section, to minimize adverse impacts on neighboring properties and protect the public health, safety, and welfare. This section shall pertain *only to major solar collection systems or solar farms*. Where other Sections of the Code conflict with this Section, provisions of this Section shall control.

1. A letter providing proof of feasibility from the local utility company is to be provided as part of the application indicating that utility company can handle the demands of the proposed project.
2. The design of a major collection system or solar farm shall comply with the bulk table (309.1) except that the lot coverage for the solar panels can be 50% if the ground under the panels is vegetated soil with typical water permeation. The lot shall not have more than 30% impermeable surfaces.
3. The design of the solar farm shall adhere to existing setback requirements of the zoning district. If the solar farm will be constructed by the utilization of ground mounting, then a ground mounting plan and process certified by a Licensed Professional Engineer must be submitted during the Special Use Permit application process. The mounting plan shall consist of standard solar manufacturer installation plans and processes for ground mounting or be addressed in the applicant's site plans.
4. Systems and solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
5. System shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, balloons, flags, banners, or similar materials, with the exception of the following: Necessary equipment information, warnings, or indication of ownership shall be allowed on any equipment of the System or where required by the New York State Building Code.
6. No System or any of its components shall be illuminated, except to the degree minimally necessary for public safety or maintenance.
7. All mechanical equipment, including any structure for batteries or storage cells, shall be fenced from adjacent properties to restrict unauthorized access and screened.
8. No System shall be used or constructed such that it becomes a private or public nuisance or hazard.
9. Storm water and snowmelt runoff and erosion control shall be managed in a manner consistent with all applicable federal, state, and local regulations and shall not impact neighboring properties.
10. Systems which have not been in active and continuous service for six months shall be removed at the owner's or operator's expense within an additional six months.
11. The site shall be restored to as natural conditions as possible within twelve months of the removal of the system.
12. Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.
13. The applicant shall post a performance bond with the Town Clerk in an amount equivalent to 150% of the estimated cost of removal of the

equipment as determined by the Planning Board and said performance bond shall be on terms and conditions satisfactory to the Town Attorney. The performance bond shall be reviewed every five years from the date of issuance of a special use permit by the Planning Board for the purpose of determining whether or not the performance bond is at least 150% of the estimated cost of the removal of the equipment. The applicant shall increase the performance bond to 150% of the estimated cost of removal of the equipment as determined by the Planning Board in the event that the performance bond is deemed by the Planning Board to be less than 150% of the estimated cost of removal. If the applicant assigns its interest in the equipment or by operation of law no longer owns the equipment, the applicant's successors and/or assigns shall be obligated to post performance security with the Planning Board as provided in this subsection as if it was the applicant at the time the special use permit was granted pursuant to this section. In the event that the applicant leases the site on which the equipment is constructed, the applicant shall obtain an irrevocable consent, to be binding upon the landowner's heirs, distributees, successors and/or assigns permitting the applicant to remove the equipment within six months of the date it ceases to be used for solar-collection purposes and permitting the town to enter onto the landowner's land for the purpose of removing the equipment in the event that the equipment is not removed by the applicant within said six-month period. The consent shall be in a form satisfactory to the Town Attorney and shall, upon approval of the Town Attorney, be recorded in the Seneca County Clerk's office.

14. Vegetation under and around solar panels should be planted and managed to maximize compatible ecosystems services: pollinator habitat, wildlife forage and carbon sequestration.
15. Abandonment
 - a) All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility.
 - b) If the applicant begins but does not complete construction of the project within eighteen months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
 - c) The decommissioning plan signed by a licensed professional engineer must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
 - i. Removal of above ground and below ground equipment, structures and foundations.
 - ii. Restoration of the surface grade and soil after removal of equipment.

- iii. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- iv. The plan shall include a timeframe for the completion of site restoration work.

311.23 Short Term Vacation Rentals

Property owners and managers are responsible for meeting the following conditions:

- (A) Sufficient parking for the number of guests on the rental property must be available on site. Parking by renters and guests on the street, private roads, neighboring driveways and yards is strictly prohibited.
- (B) Certification of a working septic system, if applicable, shall be provided by the applicant.
- (C) Seneca County safety requirements must be met.
- (D) Short-term rental owners must provide their neighbors, in writing, with contact information so that the owner or manager can be notified of, and remedy, problems with the property or renters. Property owners are responsible for renter compliance.
- (E) Any use that is obnoxious or offensive behavior New York State Open Fire regulation or creates a nuisance to the occupants and visitors of adjacent buildings or premises by reason of noise, odor, or smoke is prohibited.
- (F) Noise at the property line needs to comply with the Varick Noise Ordinance.
- (G) Pet owners must comply with the Varick Dog Ordinance, as well as the following:
 - a. Dogs must not leave the property of the STR; they should be leashed if being walked in the community.
 - b. Domestic pets, including dogs, should not be left alone for extended periods of time, especially if they bark or are destructive.
 - c. Dogs that bark more than a minimum amount are not a good fit to leave in a short-term rental.
- (H) There shall be no open fires between 11 pm and 7 am. All fires must be attended, and should not be smoky or smoldering.
- (I) Renters may not use the property for any commercial uses, monetary gain, or any large event.
- (J) These renter expectations must be posted in each short-term rental property.

A property owner may not have more than two short-term rental permits, directly or indirectly.

Note: All Special Uses require Site Plan Review.

312. Site Plan Review

312.1 Authority

The Planning Board of the Town of Varick is hereby authorized pursuant to New York State Town Law Section 274-a to review and approve, approve with modifications, or disapprove site plans within the town as designated in accordance with the standards and procedures set forth in this law. Site Plan approval by the Planning Board shall be required for multi-family residential development and for all non-residential uses, excluding agricultural uses.

312.2 General Review Criteria

The Planning Board shall require that all site plans comply with the following general review criteria:

- (A) that the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
- (B) that the site is designed so as to be in harmony with the comprehensive plan for the community;
- (C) that parking areas are adequate for the intended level of use, and arranged and screened so as to minimize negative impacts on adjacent properties;
- (D) that access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site as well as the town road system;
- (E) that the internal circulation of the site is arranged so as to minimize impacts on the town road system;
- (F) that the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
- (G) that any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
- (H) that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
- (I) that any changes to existing drainage patterns, or increased drainage due to development activity has no negative impacts on adjacent property;
- (J) that proposed water supply and sewage disposal facilities are adequate;
- (K) that development activity complies with all other standards and requirements of this law.
- (L) that the visual impact is not detrimental to the character of the area.

312.3. Application

The enforcement officer shall refer any application for a development permit that requires a site plan review to the Planning Board. Applicants are encouraged to meet with the Planning Board prior to submitting a formal application to discuss the project and the site plan review criteria. An application for a site plan review shall be filed with the Planning Board, and the appropriate fee shall be paid to the town clerk. The fee is determined by the fee schedule adopted by Town Board resolution and available from the town clerk. Three copies of the application and site plans shall be provided. The application shall include the following, except those waived by the Planning Board under Section 312.4:

- (A) Name and address of applicant, owner, and person responsible for preparation of drawings;
- (B) Date, northpoint,
- (C) of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
- (D) Complete outline of existing or proposed deed restrictions or covenants applying to the property;
- (E) Existing hydrologic features, including wetlands, together with a grading and drainage plan showing existing and proposed contours at a maximum written and graphic scale;
- (F) Boundaries of the site plotted to scale, including distances, bearings, and areas;
- (G) Locator map showing the site in relationship to the town;
- (H) Location and ownership of all adjacent lands as shown on the latest tax records;
- (I) Location, name, and existing width of adjacent roads;
- (J) Location, width, and purpose of five foot intervals;
- (N) Location, proposed use and dimensions of all buildings. Include the number and distribution by type of all proposed dwelling units, the designation of the amount of gross floor area and gross leasable area proposed for commercial or industrial activities, including retail sales and services, office use, and other uses.;
- (O) Location and design of all parking and loading areas including access and egress drives, fire lanes, and emergency access areas;
- (P) Provision for pedestrian access, including public and private sidewalks;
- (Q) Location of outdoor storage;
- (R) Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
- (S) Description of the method of securing public water supply, disposing of sewage, and the location and design of such facilities;
- (T) Location and design of all energy distribution facilities, including electrical, gas, and solar energy;

- (U) Location, size and design of all proposed signs;
- (V) Location and design of outdoor lighting facilities;
- (W) General landscaping plan and planting schedule including the location and proposed development of all buffer areas;
- (X) Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the Planning Board;
- (Y) A statement of the nature and extent of the interest of any officer or employee of the town, county, or state, in the applicant pursuant to General Municipal Law Section 809.
- (Z) An environmental assessment form (EAF) and, where required, a draft environmental impact statement (EIS);
- (AA) Other elements integral to the proposed development as considered necessary by the Planning Board.

312.4. **Waiver** of Submission Requirements

The Planning Board may waive any of the submission requirements listed in Section 312.3 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

312.5. Environmental Impact Review

The Planning Board shall be responsible for the completion of an environmental assessment form (EAF) for each application for site plan review. The Planning Board shall be responsible for compliance with 6 NYCRR Part 617 (State Environmental Quality Review regulations) in cooperation with other involved agencies in the review of any site plan.

312.6. Review

Upon a determination by the Planning Board that the application for a site plan review is complete, the board shall review the site plan taking into consideration the objectives for site plan review as outlined in Section 312.2 above, the general standards for all uses as outlined in Article 3 of this law, and any special standards for the use found in this law.

312.7. Variance

During the course of the review, should the Planning Board determine that a site plan approval may not be feasible without the granting of a variance as defined by Town Law Section 267, the Planning Board may at any time refer the application and site plans to the Zoning Board of Appeals for the consideration of such variance.

312.8. Public Hearing

The Planning Board may conduct a public hearing. Such public hearing, if conducted, shall be conducted within 62 days of the receipt of the completed application for a site plan review and shall be advertised at least five days before the hearing in a newspaper in

general circulation in the town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

312.9. County Planning Board Review

At least 10 days before the hearing, the Planning Board shall refer all site plan review matters that fall within those areas specified under General Municipal Law Section 239-m to the Seneca County Planning Board. Section 239-m applies to any use that falls within 500 feet of the following: the boundary of the town; a state or county park or recreation area; a state or county highway or expressway; a state or county owned drainage channel; a state or county land where a public building or institution is located; or the boundary of a farm operation in an agricultural district. If the Seneca County Planning Board does not respond within 30 days from the time it received a full statement on the referral matter, the Planning Board may act without such report.

312.10. Waiver of Public Hearing

The Planning Board may waive the public hearing. Such waiver shall not be allowed in any of the following circumstances:

1. the use is over 5000 square feet of floor or ground area;
2. the use is over 35 feet in height;
3. the use is determined by the Planning Board to be of a publicly controversial nature;
4. the applicant has requested a public hearing; or
5. the amount of traffic to be generated by the use is determined by the Planning Board to be significantly more than current levels.

312.11. Final Action

- (A) Within 62 days of the public hearing, or within 62 days of the acceptance of a complete application by the Planning Board where such hearing has been waived pursuant to Section 312.8 above, the Planning Board shall act on the site plans. The time within which the Planning Board must render its decision may be extended upon mutual consent of the applicant and the Planning Board. The Planning Board shall notify the applicant in writing, stating that the site plans are approved, approved with modifications, or disapproved. Actions contrary to the county planning agency require a majority plus one (of the entire board) vote. The decision of the Planning Board shall be filed in the office of the town clerk within five business days and a copy mailed to the applicant.
- (B) If the site plans are approved, and upon payment by the applicant of all fees and reimbursable costs due the town, the Planning Board shall endorse its approval on a copy of the application and site plans.
- (C) If the site plans are approved with modifications, the Planning Board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due to town, and upon approval of the modified application and site plans, the Planning Board shall endorse its approval on a copy of the application and site plans.
- (D) If the site plans are disapproved, the statement shall contain the reasons for

such findings. In such case, the Planning Board may recommend further study of the application and resubmission after it has been revised or redesigned.

312.12. Report to County Planning Board

If a referral to the county planning agency was made, the Planning Board shall report to the Seneca County Planning Board on its final action within 30 days, and set forth the reasons for any contrary actions.

313. Site Plan Review Design Standards

313.1. Application of Design Standards

- (A) An application for site plan approval shall not be approved unless the proposed use meets the standards of this article.
- (B) The Planning Board may waive and/or modify, subject to appropriate conditions, the provisions of any standards or requirements set forth in this article if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare; or strict adherence to such standards and/or requirements would cause unnecessary hardship for the applicant without achieving public benefit objectives. The Planning Board shall state its reasons for granting any waivers or modifications in writing, and file the same along with the site plan application and supporting documents.

313.2. Sewer, Water, and Public Facilities

Sewer, water, and other utilities shall be provided in accordance with the requirements of Chapter 1, Part 7, NYS Sanitary Code, and subject to any other town requirements.

313.3. Access and Traffic Standards

Site plan approval shall be conditional upon the applicant obtaining any necessary approvals from the jurisdictional permitting authority, e.g. county, or town highway departments. In addition, the following access requirements shall apply to the extent the Planning Board determines their appropriateness to the proposed use:

- (A) Private roads and driveways shall be constructed and maintained so as to provide for year-round access.
- (B) Private roads and driveways shall be finished with an appropriate surface such as: oil and chip, compact gravel, or blacktop.
- (C) There shall be a minimum distance of 35 feet between proposed and existing driveways on public roads.
- (D) Driveways shall be combined wherever possible to minimize the number of access points onto public roadways.
- (E) No driveway centerline shall intersect a roadline less than 70 feet from the intersection of any two roadways.
- (F) Driveway grade and width shall be such that adequate and safe access is provided for emergency and service vehicles during all seasons.

- (G) For multi-family residential and non-residential uses, the minimum maintained width of driveways shall be 20 feet which allows for incoming and outgoing vehicles to pass one another safely.
- (H) The additional traffic generated, together with existing traffic, shall not exceed the capacity of the highway(s) that serve the development.
- (I) In situations where the proposed additional traffic is likely to result in a significant decrease in traffic safety conditions, the Planning Board may require the applicant to provide traffic improvements as a condition of site plan approval, or to reduce the size or density of the proposed development.

313.4. Parking and Loading Standards

The following off-road loading standards shall be met by the applicant unless otherwise waived or modified by the Planning Board:

- (A) On-site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
- (B) Adequate off-street parking must be provided. There shall be at least two parking spaces for each unit in a multi family dwelling.
Commercial/industrial uses shall have one parking space per 1,000 square feet of gross floor area, or one space per two employees, whichever will require a larger number of spaces.
- (C) Minimum dimensions of parking spaces shall be eight feet by 18 feet. Car loading spaces shall be at least 15 feet in width and at least 25 feet in length, exclusive of access and turning areas. Truck loading spaces shall be at least 15 feet in width and at least 60 feet in length, exclusive of access and turning areas.
- (D) Curbing may be required along frontage to delineate access points.
- (E) Where possible, parking/loading areas should be located to the sides or rear of the use.
- (F) Any loading dock facing a road front shall be sufficiently far back from the road to enable the largest permitted tractor trailer to maneuver into said loading dock without obstructing traffic.

313.5. Landscaping and Screening

Landscaping and screening shall be provided as follows:

- (A) Existing vegetation shall be used to the greatest extent possible.
- (B) Along a property line facing a residential property, a 20 feet wide buffer strip of evergreen planting shall be provided to effectively screen a commercial/industrial or use from view. Mobile home parks and campground/travel trailer parks are covered as a Special Use elsewhere in the zoning code.
- (C) Along road frontage, a 20 feet wide buffer of landscaping shall be provided where appropriate, and designed so as not to obstruct sight distance at points of access.
- (D) Where appropriate, a wall, fence, or earthen berm of location, height, and design approved by the Planning Board, may be substituted for the required planting.

- (E) Where the existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.

313.6. Lighting

Adequate lighting shall be provided on a site to ensure safe movement of persons and vehicles and for security purposes. All lighting shall be designed and arranged so as to minimize glare and reflection on adjacent properties and roadways; and to maintain “dark sky” conditions.

- (A) The style of light and light standard should be consistent with the architectural style of the principal building.
- (B) The maximum height of freestanding lights should be the same as the principal building but not exceeding 25 feet.
- (C) Light fixtures shall be fully shielded (full cutoff) to reduce and eliminate light spillage onto adjacent property or upward into the sky.
- (D) Spotlight-type fixtures attached to buildings should be avoided.
- (E) Free-standing lights should be so located and protected to avoid being easily damaged by vehicles.

313.7. Signs

Signs shall conform to the following standards:

- (A) There shall be no more than one sign per entrance that identifies the development.
- (B) Signs shall be compatible with the general environment of the project site.
- (C) No moving parts, flashing lights or exposed neon tubing shall be allowed, without prior authorization of the Planning Board.
- (D) Maximum height for a free-standing entrance sign, from base elevation, shall be no greater than 20 feet.
- (E) Maximum area of a sign unless otherwise authorized, shall not exceed 32 square feet, unless a smaller size sign is required elsewhere in these regulations.

313.8. Drainage

On site drainage shall conform to the following requirements, in addition to those specified in Section 309.2.D:

- (A) To the adjacent properties at such locations or at such volume as to cause substantial damage to such lower adjacent properties.

313.9. Erosion Control

Erosion control plan shall be submitted where required by the Planning Board as follows:

- (A) Such plan may be required where development activities:
 1. Disturb five acres or more of land.
 2. Are to be conducted on a site that has a slope anywhere on the site that averages 15 percent or more over a horizontal distance of at least 100 feet. For purposes of this section, disturbed land shall mean any use of the land by any use requiring site plan approval, that results in a change in the

natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, wind, or ice from the site of its origin.

- (B) All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Every effort shall be made by the applicant to minimize velocities of water runoff, and retain sedimentation within the development site as early as possible following disturbances.

313.10 Visual Impact

The plan shall demonstrate how the project will minimize visual impact of the site as seen from neighboring residences, public land or roadways.

The Planning Board shall apply the following standards, unless waived:

- (A) Cut and fill activity shall be minimized and disturbed areas shall be restored with appropriate vegetation.
- (B) The site design shall conform to natural drainage ways, contours and landforms and minimize disturbance to these areas.
- (C) Development along and/or projecting above ridge lines and in other visually prominent locations is discouraged and may be prohibited by the Planning Board.
- (D) Clear cutting of trees is discouraged and may be prohibited by the Planning Board. Only minimal cutting for placement of structures is appropriate.

314. Cluster Subdivisions

(A) Legislative Intent.

Cluster Subdivision in the Town of Varick is determined to be beneficial to the community by concentrating development in a given area thus conserving the open space and rural character of the community. A Cluster Subdivision has the following benefits:

1. provides for a more coordinated and unified approach to development within the community in lieu of segmented utilization of land that occurs on a “lot-by-lot” basis;
2. reduces the amount of infrastructure required for land development and the cost of infrastructure maintenance necessary to serve the community;
3. provides flexibility and encourages innovative design techniques that otherwise would be restricted by standard use and area regulations contained within the Town of Varick Zoning Code.

(B) Required Clustering.

The Planning Board is authorized to require a Cluster Subdivision to meet any of the following objectives.

1. The clustering of development will reserve open space, recreational areas, large groves of trees, water courses and falls, beaches, historic spots, vistas and other similar assets, in furtherance of the comprehensive plan for the community.
2. The clustering of development will aid in the provision of road right-of-ways or for the protection of future road right-of-ways in furtherance of the comprehensive plan for the community.
3. The clustering of development will provide for a more economical and efficient provision of municipal utilities and road services.

(C) Permitted Uses.

1. Permitted uses within a Cluster Subdivision shall be the same as those permitted in the applicable zoning district. A Cluster Subdivision may be residential only or a mix of residential and non-residential uses. The total number of dwelling units may not exceed the number that is permitted on the site with a conventional subdivision design.
2. Uses that are allowed Conditionally or with a Special Use Permit may be included as part of a Cluster Subdivision design upon the approval of the Cluster Subdivision by the Planning Board and do not require separate approval by the Code Enforcement Officer or the Planning Board as would otherwise be required for Conditional or Special Permit uses.

(D) Lot Size and Density.

The Planning Board is authorized to modify the minimum lot size and setbacks established for each zoning district in Section 309.1 as part of approval of a Cluster Subdivision in accordance with the standards in Section 8 of the Town Subdivision Regulations provided the following minimum standards are maintained:

1. The minimum size of a Cluster Subdivision shall be 10 acres.
2. In no instance shall a Cluster Subdivision be bisected by a State Highway, County Highway or local collector road.

ARTICLE IV — ENFORCEMENT

401. Enforcement

401.1 All provisions of this Ordinance shall be enforced by the Town Board of Varick or by such official as may be hereafter appointed by said Board for the purpose of such enforcement. It shall be the duty of such enforcement official, if appointed, and in the absence of such appointment, it shall be the duty of the Town Clerk, to keep a record of all applications for permits and record of all permits issued with notation of all special conditions relating thereto. The Town Board of Varick shall issue no permit for the use of any property not in conformity with the requirements of this Ordinance and all other ordinances of the Town of Varick.

402. Duties of the Varick Code Enforcement Officer

402.1 It shall be the duty of the Varick Code Enforcement Officer or his duly authorized assistants, to cause any plans, buildings, or premises to be examined or inspected to determine that they are not in violation of the provisions of this Ordinance.

402.2 Where the Varick Code Enforcement Officer, in the course of his duties, determines that any plans, buildings, or premises are in violation of the provisions of this Ordinance, he shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies that may be invoked by the Town, and the violator's rights of appeal; all as provided for by this Ordinance. If the condition is not corrected by the date specified in the order, the Code Enforcement Officer shall issue an appearance ticket to the responsible party, and a copy to the town justice.

402.3 On the serving of notice by the Varick Code Enforcement Officer to the owner of any violation of any of the provisions of this Ordinance, the Certificate of Occupancy for such building or use shall be held null and void. A new Certificate of Occupancy shall be required for any further use of such building or premises.

402.4 The Varick Code Enforcement Officer shall maintain a permanent record of all matters considered and all action taken by him. Such records shall form a part of the records of his office and shall be available for the use of the Town Board, other officials of the Town, and available for inspection by the public.

402.5 The Varick Code Enforcement Officer shall transmit one copy of all approved or denied applications for a Zoning Compliance Permit or Special Use Permit to the Town clerk, one copy to the Town Tax Assessor, one copy to the Secretary of the Planning Board, one copy to Seneca County Code Enforcement, and, where applicable, one copy to the County Planning Board.

402.6 Where the Varick Code Enforcement Officer, in the course of his duties, determines that a property is apparently out of compliance with the New York State Property Maintenance Code and that non-compliance compromises community well-being, he shall refer the compliance issue to the Seneca County Health Department for enforcement.

403. Certificates and Permits

403.1 The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Ordinance. A Zoning Compliance Permit or Special Use Permit shall be a prerequisite to the erection, substantial improvement, or change of use of a structure.

(A) Zoning Compliance Permit: The Varick Code Enforcement Officer is hereby empowered to issue a Zoning Compliance Permit for any plans regarding the construction or substantial improvement of any building or part of any building, or the change in the use of any land or building or part thereof, where he shall determine that such plans are not in violation of the provisions of this Ordinance.

(B) Special Use Permit: Upon written direction of the Planning Board, the Varick Code Enforcement Officer is hereby empowered to issue any Special Use Permit provided for by this Ordinance.

(C) Certificate of Zoning Compliance: The Varick Code Enforcement Officer is hereby empowered to issue a Certificate of Zoning Compliance that shall certify that all provisions of this Ordinance have been complied with in respect to the location and use of the building, structure, or premises in question. The Varick Code Enforcement Officer is also empowered to issue a Certificate of Zoning Compliance for non-conforming uses provided that the non-conforming use is defined and the sections of non-conformance with this Zoning Ordinance are listed.

404. Application Procedure

404.1 Procedures for a Zoning Compliance Permit: All applications for a Zoning Compliance Permit shall be made to the Varick Code Enforcement Officer in the detail specified in Section 405 of this Article.

(A) Where the proposed use is a farm-related or a single or two-family residential use, the Varick Code Enforcement Officer shall carefully consider the application for compliance with this Ordinance and either issue or deny the Zoning Compliance Permit applied for.

(B) When the application is for any other permitted use in any Zone, the Varick Code Enforcement Officer shall submit one (1) copy of such plans, drawings, and statements to the Planning Board for its review.

The Planning Board shall, within thirty (30) days after the receipt of said material, make its report to the Varick Code Enforcement Officer. After careful consideration of the application for compliance with this Ordinance, the Varick Code Enforcement Officer shall either issue or deny the Zoning Compliance Permit applied for.

404.2 Procedures for Special Use Permit: All applications for Special Use Permits shall be made to the Varick Code Enforcement Officer. The Varick Code Enforcement Officer, after determining that an application is in proper form, shall transmit one copy of the application and all supporting documents to the Planning Board for action thereon. Where applicable under Sections 239(1) and 239(m) of the General Municipal Law, he shall also transmit one copy of the application to the County Planning Board.

The Planning Board shall, within thirty (30) days, conduct a public hearing on applications for Special Use Permits referred to it by the Varick Code Enforcement Officer. Within sixty (60) days from the date of such public hearing, and following a report back by the County Planning Board when applicable, the Planning Board shall by resolution either approve or disapprove the application so heard. In approving the application, the board may impose any modification or conditions it deems prudent to protect the health, safety or general welfare of the public.

The Planning Board shall use its discretion to determine whether the proposed use is consistent with the intent of the District for which it is proposed, does not have undue negative impact on the community, and conforms to the specific provisions of the Special Use. The Planning Board will also determine whether the proposed development requires a State Environmental Quality Review.

1. If an application is approved by the Planning Board, the Varick Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Planning Board and he shall issue the permit applied for in accordance with the conditions imposed by the Planning Board.

2. If any application is disapproved by the Planning Board, the reasons for such denial shall be transmitted to the Varick Code Enforcement Officer. The Varick Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Planning Board's reasons for disapproval.

404.3 Procedures for a Certificate of Zoning Compliance: Following the completion of the construction, re-construction, or substantial improvement of any building or where a change in the use of a structure is proposed, the applicant shall deliver to the Varick Code Enforcement Officer a letter stating that such construction has been completed or that a new use has been proposed. Within seven (7) days of the receipt of this letter, the Varick Code Enforcement Officer shall make all necessary inspections of the completed structure and proposed use to determine the conformance with this Ordinance. A Certificate of Zoning Compliance shall be issued only if the Varick Code Enforcement Officer finds that the construction and proposed use comply with all the requirements and provisions of this Ordinance.

404.4 Procedures for Appeal: Should an applicant choose to appeal a decision by the Varick Code Enforcement Officer to deny issuance of a Zoning Compliance Permit, an application for an appeal is filled out and the Varick Code Enforcement Officer shall submit one (1) copy of the application and supporting documents to the secretary of the Board of Appeals for referral to the Board for action. Where applicable under Sections 239(1) and 239(m) of the General Municipal Law, he shall also transmit one (1) copy of the application to the County Planning Board.

405. Application Details

405.1 Each application for a Zoning Compliance Permit or Special Use Permit shall be made in triplicate and with accompanying sketch or plan. The materials to be submitted with each application shall clearly show the conditions on the site at the time of the application, the features of the site that are to be incorporated into the proposed use or building, and the appearance and function of the proposed use or building. As a minimum, the application shall include the following information and plans for both “before” and “after” conditions:

(A) All uses

1. The location of the property, including its relationship to adjacent roads and property.
2. The location, use, design, and dimensions (including height) of each structure or building.
3. A description, including the location, of all public and private utilities and facilities to be used, including sewer, gas, water and electricity.
4. A Site Drainage Plan, which shall include (at minimum); site plan, slope percentage, existing and proposed drainage patterns and methods for

controlling runoff, shall be required for all new construction and/or significant regarding, which is defined as a disturbance of soil greater than 500 square feet and is within 300 feet of a lake or watercourse.

5. A Site Drainage Plan shall be submitted to the Code Enforcement Officer as part of the Zoning Compliance Permit. The CEO, will evaluate the plan and approve it by a checkbox on the application if he/she deems the proposed written plan is sufficient. A copy of the Site Drainage Plan shall be maintained by CEO. If he/she has concerns about the Plan or needs further details, the CEO shall refer the applicant to the Town Planning Board. If the Board cannot be satisfied, the applicant will be directed to hire a Professional Engineer, at the applicant's expense, to prepare a complete Site Drainage Plan and then resubmit to the Planning Board. Circumstances that may require a Professional Engineering Plan may include, but not limited to, if there are wetlands involved, the building site is on a slope greater than 5% or there is a large drainage area above the building site that may direct large amounts of water towards the building site.
6. Evidence that the County Health Department had reviewed and approved water and sewage plans.
7. When the application is for any use that requires a Notice of Intent for to be submitted to the New York State Department of Environmental Conservation, a copy of the signed Notice of Intent form and the Authorization Number issued by NYSDEC.

(B) All uses in the Special Flood Hazard Area must submit the following additional information and a statement as to their resistance to flood damage.

1. The type of materials and utility equipment that are intended to be used
2. The design by which provisions is made to anchor the structure to prevent flotation, collapse or lateral movement of the structure
3. Other structures and measures designed to prevent flood damage.

(C) Special Uses

1. A design plan in sufficient detail to allow the Planning Board and Code Enforcement Officer to evaluate the impact on the environment and community.
2. The Planning Board and/or Zoning Board of Appeals shall have the right, if it so chooses, to hire communication engineers, licensed structure engineers, or other technical consultants to assist in analyzing the application and site plan and the applicant shall reimburse for such costs.

(D) All Mobile Home Parks shall submit the following additional information:

1. Location of internal roadways and layout of individual mobile home lots
2. Location of entrances and exits
3. Landscape plan
4. Location of recreational area.

5. Location and design of trash and refuse area.
6. Any other information requested by the Varick Code Enforcement Officer or the Board of Appeals

406. Application Fees

406.1 Each application for a permit provided for by this Article shall be accompanied by a fee, as determined by the Town Board, payable in cash or in other form of security approved by the Town Attorney.

ARTICLE V — NONCONFORMING USES AND BUILDINGS

501. Nonconforming Uses and Buildings

501.1 Except as otherwise provided in this Ordinance, the lawful use of land or buildings existing at the date of the adoption of this Ordinance (August 18, 1975) may be continued even though such use or building does not conform to the regulations specified by this Ordinance.

501.2 A structure that is nonconforming to Section 309.1 of this ordinance may be continued and renovated. However any additions or new construction must conform to Section 309.1.

501.3 Uses that do not conform to Section 309.2 (A), 309.2 (B) may not be continued.

501.4 Non-conforming Conditional Uses (Section 310) may be continued but not expanded.

501.5 If a nonconforming building or use, existing at the time this Ordinance becomes effective, is subsequently changed to a conforming use; or is destroyed by fire, explosion, flood, or other causes to the extent of more than fifty percent (50%) of its true value; such building or use shall not again be altered or rebuilt except in conformity with the rules and regulations of the area in which such building is located.

Exception is made when the lot is nonconforming and a similar size building cannot be built and conform to the dimensional requirements of this ordinance. In such cases, the building may be rebuilt to similar size with the previous or larger setbacks.

ARTICLE VI — AMENDMENTS

601. Amendments

601.1 The regulations, restrictions, uses and boundaries provided in this Ordinance and the Official Zoning Map may be amended, supplemented, changed, modified, or repealed in accordance with the provisions of the Sections 264 and 265 of Article 16 of Town Law

and all other laws of the State of New York applicable thereto, and in accordance with the following procedures:

(A) Whenever any person, firm, or corporation desires that any amendments or changes be made in this Ordinance, including the text and/or map, as to any property in the Town, there shall be presented to the Board a petition requesting such change or amendment. The petition shall clearly describe the property and its boundaries and shall indicate the existing zoning district and the requested zoning district. The petition shall also show existing highways, municipal boundary lines, and state parks, if such exist, within five-hundred (500) feet of the proposed zoning change. The petition shall also list the names and addresses of all property owners bordering the area of proposed change, extending a minimum of 100 feet from all boundaries of the area of proposed change.

(B) The Town Board shall take action on the petition as is described in Sections 264 and 265 of the Town Law and Section 239(m) of General Municipal Law. Before the public hearing is held by the Town Board, said Board shall notify, in writing, all property owners directly adjacent to the proposed change. Notice to the adjacent property owner shall be given at least ten (10) days prior to the date of the public hearing.

ARTICLE VII — BOARD OF APPEALS

701. Creation, Appointment and Organization

701.1 A Board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Town Board, who shall also designate a Chairman. No person who is a member of the Town Board shall also be eligible for membership on such Board of Appeals. Of the members of the Board first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years from and after his appointment. Their successors shall be appointed for the term of five years from and after the expiration date of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of a term, it shall be filled by the Town Board by appointment for the unexpired term.

702. Powers and Duties

702.1 The Board of Appeals shall have all the powers and duties prescribed by Chapter 62, Section 267 of the Town Law of the State of New York and by this Ordinance that are more particularly specified as follows:

(A) Interpretation. Upon appeal from a decision by an administrative official to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(B) Variances. To vary or adopt the strict application of any of the requirements of this Ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots or other exceptional physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of

the land or building involved. No variance in the strict application of this Ordinance shall be granted by the Board of Appeals unless it finds:

That there are special circumstances or conditions fully described in the findings of the Board applying to such land or buildings and not applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or buildings.

That, for reasons fully set forth in the findings of the Board, the granting of the variance is necessary for the reasonable use of the land or building and that variance granted by the Board is the minimum variance that will accomplish this purpose.

That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

703. Procedure

703.1 The Board of Appeals shall act in strict accordance with the procedure specified by law and by this Ordinance. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, and available from the Zoning Officer. Every appeal or application shall refer to the specific provision of the Ordinance involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

703.2 The Board of Appeals shall conduct a public hearing on applications referred to it by the Varick Code Enforcement Officer in accordance with the procedures and requirements established elsewhere in this Ordinance. Within sixty (60) days from the date of such public hearing, and following a report back by the County Planning Board when applicable, the Board of Appeals shall by resolution either approve or disapprove the application so heard. In approving the application the Board may impose only those modifications or conditions specified in this Ordinance to protect the health, safety or general welfare of the public.

(A) If an application is approved by the Board of Appeals, the Varick Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Board and he shall issue the permit applied for in accordance with the conditions imposed by the Board of Appeals.

(B) if any application is disapproved by the Board of Appeals, the reasons for such denial shall be set forth in the Board's resolution and a copy of such resolution shall be transmitted to the Varick Code Enforcement Officer. The Varick Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.

704. Board of Appeals Office

704.1 The office of the Town Clerk shall be the office of the Board of Appeals and every rule, regulation, amendment, or repeal thereof and every order, requirement, decision, or determination of the Board shall immediately be filed in said office as required by Section 267 of the Town Law of the State of New York.

705. Notice of Board Hearings

705.1 The Board shall fix a reasonable time for the hearing of appeals and give public notice there of by the publication in the official paper of a notice of such hearing, at least five (5) days prior to the date of the hearing. Notice shall be served upon the applicant and to the regional State Park Commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property affected by such appeal, at least five (5) days prior to the date of the hearing. The Board shall also notify, in writing, all property owners directly adjacent to the property to be affected by said appeal.

ARTICLE VIII — VIOLATIONS

801. Enforcement

801.1 It shall be the duty of the Town Board, or the authorized Code Enforcement Officer, to enforce the provisions of this Ordinance, or of any determination of the Board of Appeals.

802. Penalties

802.1 The violation of any of the provisions of this Ordinance is a violation and shall subject the person violating the same to a fine not exceeding two hundred fifty (250) dollars, or to imprisonment not exceeding fifteen (15) days, or both.

803. Continued Violation

803.1 Continued violation shall be considered contempt of court, enforceable by the town justice.

803.2 If the condition remains uncorrected three months after the Code Enforcement Officer has issued an order to correct it, and if that order has been affirmed by the court, the Town may have the condition corrected by a qualified party, with the cost borne by the responsible party.