

# Town of Varick Zoning Code

Amended August 19, 2008



# **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, ordinances, restrictive or 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.

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.

Bar: A place or building or portion thereof where beverages, whether or not alcoholic, are sold.

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.

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.

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 part 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 apartment buildings.

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.

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.

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.

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: a place where scientific

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

research and development is conducted and performed. Most laboratories are characterized by controlled conditions (temperatures, humidity, cleanliness). Procedures often include sampling, pre-treatment and treatment, measurement, calculation and presentation of results. Some examples of technologies studies and industries served would be pharmaceutical, electronics, life sciences, materials, nanotechnology, biotechnology, petroleum, chemical, food and agricultural, manufacturing methods and support for many other industries.

Livestock: Agricultural animals raised for sale, or for draft. 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.

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

1. Manufactured as a relocatable dwelling unit intended for year around occupancy and for installation on a site without a basement or a permanent foundation;
2. Designed to be transported, after manufacture on its own chassis, and connected to utilities after placement on a mobile home stand;
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 dwelling units that are pre-built in two parts and transported to, and assembled on, a permanent foundation, 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*

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.

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.

Planned Unit Development:

Recreational vehicle: *see Travel trailer.*

Retail Business: *see Business, Retail*

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.

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.

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*

Travel trailer: any portable vehicle, including 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.

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.

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.

## 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
- CRE Conservation Recreation and Green Energy District
- L Lake District
- FFO Floodway Fringe Over-Zone

### 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 Consist of the area from the high water mark of Seneca Lake (446.84 feet BCD) to 500 feet east of the centerline of East Lake Rd., and from high water mark of Cayuga Lake (384.82 ft BCD) to 500 feet west of the centerline of State Route 89.
- 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 Recreation and Green 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 District contains two parts. On Cayuga Lake it extends from the high water mark of Cayuga Lake (384.82 ft BCD), east to the town line. On Seneca Lake it extends from the high water mark of Seneca Lake (446.84 feet BCD), west to the town line.
- 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.

## 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, Recreation and Green Energy**

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.

**306. Lake District**

306.1 Intent. The Lake 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

Development feature	
Minimum Parcel Size	Not Applicable
Minimum Parcel Width	Not Applicable
Minimum Public Frontage	Not Applicable
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, but not walls. The side setback applies to boat hoists. 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.

**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, Recreation and Green Energy (CRE)</i>
<b>Public service</b>					
Park	P	P	P	N	P
Place of worship	P	P	P	P	N
Post Office	P	P	N	P	N
School (K-12) <36 students	C 310.2	P	N	P	N
School (K-12) >36 students	S 311.13	P	N	P	N
Town or County municipal office	P	P	N	P	N
Fire house	P	P	C 310.3	P	N
Water tower	S 311.12	S 311.12	N	S 311.12	S 311.12
Hiking, biking Trail	P	P	P	P	P
Wildlife refuge or nature preserve	P	P	P	P	P

<b>Residential</b>	<i>ARR</i>	<i>HR</i>	<i>LR</i>	<i>BPI</i>	<i>CRE</i>
Camp	C 310.21	C 310.21	C 310.21	N	N
Dwelling, Single family	P	P	P	N	N
Dwelling, two family	P	P	P	N	N
Dwelling, multifamily	C 310.3	C 310.4	N	N	N
Dwelling above retail or office space	P	C 310.4	C 310.4	N	N
Mobile Home	C 310.5	C 310.5	C 310.5	N	N
Mobile Home Park	S 311.2	N	N	N	N
Planned Unit Development	S	S	S	N	N
Rooming House	N	C 310.6	N	N	N
Seawall	N	N	C310.22	N	N



<b>Commercial</b>	<i>ARR</i>	<i>HR</i>	<i>LR</i>	<i>BPI</i>	<i>CRE</i>
Agriculture	P	N	C 310.7	N	C 310.8
Art studio	P	P	P	P	N
Bed and Breakfast lodging	P	P	P	N	S 311.10
Campground, Cottages, Travel Trailer Camp	S 311.11	N	N	N	S 311.11 & 311.14
Canned Hunting	P	N	N	N	N
Child day care center	C 310.10	P	C 310.10	P	N
Commercial services (such as plumbing, electrical, carpentry, printing, off-premise catering.)	C 310.10	P	C 310.9 & 310.10	P	N
Equipment rental, including boats, canoes, sporting goods, appliances and tools	C 310.11	C 310.11	N	P	C 310.12
Funeral home	N	P	N	P	N
Gambling facility (such as casino or bingo hall)	N	N	N	N	N
Gas well	P	P	P	P	P
Gasoline sales, more than three pumps	S 311.4	N	N	S 311.4	S 311.4
Gasoline sales, three pumps or less	P	P	N	P	P
Health care services (such as physician, dentist, chiropractor, massage therapist, other licensed health care professional)	P	P	C 310.9 & C 310.10	P	N
Home occupation businesses	P	P	P	N	N
Hospital	N	N	N	N	N
Hotel	N	N	N	N	N
Inn	S 311.8	S 311.8	S 311.8	N	S 311.14
Junkyard	N	N	N	N	N

<b>Commercial</b>	<i>ARR</i>	<i>HR</i>	<i>LR</i>	<i>BPI</i>	<i>CRE</i>
Kennel, small	C 310.13	C 310.13	C 310.13	N	N
Kennel, large	C 310.14	N	N	N	N
Laboratory/R&D Facility	C 310.10	C 310.10	C 310.10	P	P
Light manufacturing	C 310.15	N	N	P	N
Livestock	P	N	C 310.7	N	C 310.16
Nursery/Garden Shop	P	C 310.17	P	P	P
Office, general business	P	P	C 310.10	P	N
Personal services (such as accountant, salon, barber, fishing guide, laundromat)	P	P	C 310.9 & C 310.10	P	N
Physical fitness (such as gym, dance studio, yoga studio)	P	P	C 310.9 & C 310.10	P	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
Private group instruction (such as seminar or retreat center, more than 30 participants)	S 311.7	N	N	N	N
Private individual instruction (such as piano lessons)	P	P	C 310.10	P	N
Public utility infrastructure for the transmission of gas, electricity, telephone and cable services.	P	P	P	P	P
Residential Care home, fewer than 10 residents	P	P	N	P	N
Residential Care home, more than 10 residents	N	N	N	P	N

Abbreviations: *P* = permitted *C*=Conditional *N* = Not permitted *S*= Special Use.

<b>Commercial</b>	<i>ARR</i>	<i>HR</i>	<i>LR</i>	<i>BPI</i>	<i>CRE</i>
Restaurant, with vehicular-oriented or drive-through service	N	N	N	N	N
Restaurant, without vehicular-oriented or drive-through service	P	P	C 310.18	P	C 310.18
Retail Sales, 3000 to 30,000 square feet	S 311.7	N	N	S 311.7	N
Retail sales, less than 3000 square feet, indoors	C 310.11	P	C 310.11	P	N
Retail Sales, outdoors on-premise sale of agricultural products	P	P	P	N	N
Retail Sales, outdoors, other goods	N	N	N	N	N
Sexually oriented business	N	N	N	N	S 311.9
Storage of Commercial Vehicles	S 311.5	N	N	C 310.19	N
Storage of supplies and materials for commercial and industrial purposes (outdoors).	S 311.5	N	N	C 310.19	N
Theater, under 500 seats	N	P	N	P	N
Travel Trailer, motor home, recreational vehicle	C 310.20	C 310.20	C 310.20	N	N
Vehicle parking as principal use	N	N	N	C 310.19	N
Vehicle sales	N	N	N	C 310.19	N
Vehicle service	C 310.10	N	N	P	N
Veterinary service	P	P	N	P	N
Warehouse	N	N	N	P	N
Winery tasting room	P	P	P	N	N

Abbreviations: *P* = permitted *C*=Conditional *N* = Not permitted *S*= Special Use.

<b>Commercial</b>	<i>ARR</i>	<i>HR</i>	<i>LR</i>	<i>BPI</i>	<i>CRE</i>
Wireless telecommunications infrastructure	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

In the Lake 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 development. Restrictions in the Lake 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 building 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, Recreation and Green Energy (CRE)</i>
<i>Development feature</i>					
Minimum Parcel Size	0.7 acre	0.5 acre	0.7 acre	0.7 acre	0.7 acre
Minimum Parcel Width	100 feet	50 feet	100 feet	100 feet	100 feet
Minimum Public Frontage	100 feet	50 feet	100 feet	100 feet	100 feet
<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, or to match adjacent dwellings*
Side	15 feet	10 feet	10 feet	15 feet	15 feet
Rear	15 feet	10 feet	10 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
Rear	5 feet	5 feet	5 feet	5 feet	5 feet
*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. **if the property line is on the lakeshore, the mean high water mark shall be used for determining setback. Decks may be within this setback.					
<i>Building envelope.</i>					
Maximum Lot Coverage. Part of lot area that may be covered by a structure .	20%	80%	25 % or 2000 sq ft, whichever is greater.	30%	10%

Main Structure Maximum height	45 feet; except steeple, 100 feet.	45 feet; except steeple, 100 feet.	35 feet above primary ent- rance; no part shall be more than 2 times the distance from the	100 feet. Telecom- munications towers and antennas may be taller as a Special Use (Sec. 311.3).	80 feet
property line measured from grade at the nearest property line**. East of St. Rt. 89, 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. **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.					

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, jointly owned fences may be on the property line. Solely owned 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 District.

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 32 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) Drainage Design. New structures must meet drainage design standards that document the amount of storm water expected at the site of the structure, how the structure will withstand and change that runoff, and how deleterious impact to downslope property will be prevented. Drainage design is also required for other construction if the disturbance is greater than 500 square feet and is within 300 feet of a lake or watercourse.
- (B) Dwelling size. Each dwelling unit constructed or offered for rent after January 1, 2008 shall be no less than 550 square feet.
- (C) 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.
- (D) Residential parking. Residences shall have off-street parking for a minimum of two cars.
- (E) 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.

(F) Signs. Signs advertising businesses shall be a maximum size of 32 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.

(G) 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. Exception is made on lakeshore areas, where one dock per 100 feet of frontage may be erected in addition to the one structure.

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

309.7 In the Conservation, Recreation and Green Energy District, the following additional design and development standards shall apply.

(A) Drainage Design. New structures must meet drainage design standards that document the amount of storm water expected at the site of the structure, how the structure will withstand and change that runoff, and how deleterious impact to downslope property will be prevented. Drainage design is also required for other construction if the disturbance is greater than 500 square feet and is within 300 feet of a lake or watercourse.

### **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, over 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
- 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 that goes below frost line, 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
- 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 CRR 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 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 less than 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 less than 30 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 fencing. No waste materials that result from these activities may be disposed of on the lot. IBP
- 310.20 Travel trailer. No motor home, camper, or similar travel vehicle shall be parked or located overnight within the town except:

(A) On the property of the owner. If used as a permanent (parked on property over 8 months per year) seasonal residence (occupied up to 8 months per year), setback for structures must be met. May not be used as permanent year-round (occupied more than 8 months per year) housing.

(B) In a travel trailer camp

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

(D) With the permission of the property owner for no more than 21 days in any calendar year; if it is the only travel trailer on a parcel, no more than 120 days. After 21 days, 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 if it does not discharge waste except to sanitary sewer; and if it is placed so as not to impinge on neighbors' privacy. If the permit is denied, it will be presented to the Zoning Board of Appeals.

(E) If 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 building permit and requires approval of the NYS Department of Environmental Conservation.

### **311. Special Uses**

311.1 The application procedure is described in Section 404.2.

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

(A) Tract Requirements.

1. 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.
2. A setback of forty (40) feet shall be observed from any adjacent property line.
3. 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.
4. 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.
5. All interior roads shall be properly surfaced to minimize dust and mud and be a width of at least twenty-two (22) feet.
6. 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.
7. Each mobile home park shall have a reserve water supply adequate for fire protection as specified and approved by the County Health Department.
8. 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.
9. All open spaces shall be stabilized by grass or other forms of ground cover that will prevent dust and muddy areas.
10. The total number of mobile homes shall not exceed four (4) per gross acre.

(B) Lot Requirements.

1. 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.

2. No mobile home shall be closer than thirty (30) feet to another mobile home or other structure in the park.
3. No more than one (1) mobile home may be placed on any lot or site.
4. 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.
5. A suitable parking pad shall be provided on each lot or site for one (1) mobile home and one (1) automobile.
6. 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.
7. 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.
8. No front or side yard shall be used for storage.
9. No mobile home shall be located less than 25 feet from the pavement edge of an interior mobile home park roadway.
10. The mobile home foundation or pad shall be provided with anchors or tie-downs capable of securing the stability of the mobile home.
11. 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:

1. 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 304.2 .

2. The regulations set forth in section 304.2 shall apply to all property within agricultural, business, open and industrial zoning districts in the town and all telecommunication towers and accessory facilities or structure shall be sited to have the least practical adverse effect on the environment.
3. Where the provisions of section 304.2 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:

1. The repair and maintenance of existing communications towers and antennas.
2. Antennas used solely for the residential household television and radio reception.
3. 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.

The application and site plan for towers over 100' shall set forth the following additional information and documents.

8. 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.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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) Colocated on existing telecommunication towers.
  - (b) Cosited 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/Transmitters

	<b>DISTRICT</b>	
	<b><u>Open</u></b>	<b><u>Industrial</u></b>
Telecommunication tower, height of 100' or less	Special Use	Special Use
Telecommunication tower, height of more than 100' and 300' or less	Special Use	Special Use
Telecommunication tower, height of more than 300'	Prohibited	Special Use

(E) Shared Use (colocation) and Cositing:

1. 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.
2. 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.

3. 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.
4. 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:

1. Towers and antennae as a minimum shall comply with existing setbacks within the affected zone according to the setback table in section 304.2 E (2). 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.
2. Telecommunication tower setback table

	<b>DISTRICT</b>	
	<b><u>Open</u></b>	<b><u>Industrial</u></b>
<b>FRONT YARD SETBACKS:</b>		
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
<b>SIDE YARD SETBACKS:</b>		
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

(Table continues on next page)

Telecommunication tower setback table (continued)

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:

1. 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.
2. 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.
3. 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 as required in section 5.514.3 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 less than 30 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.
- 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:
- (A) 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.
  - (B) 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.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

To be determined. Consider traffic, safety, impact on neighbors, screening.

311.14 Hospitality Uses in Conservation Recreation and Green Energy District. Uses that involve accommodating visitors shall not 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.

## **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 an information 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 and other officials of the Town available for inspection by the public.



402.5 The Varick Code Enforcement Officer shall transmit (1) copy of all approved or denied applications for a Building Permit or Special Use Permit to the Town clerk, one (1) to the Town Tax Assessor, one (1) copy to the Secretary of the Planning Board, where applicable, one (1) 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 building Permit or Special Use Permit shall be a prerequisite to the erection, substantial improvement, or change of use of a structure.

(A) Building Permit: The Varick Code Enforcement Officer is hereby empowered to issue a Building 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 Board of Appeals, the Varick Code Enforcement Officer is hereby empowered to issue any Special Use Permit provided for by this Ordinance.

(C) Certificate of Occupancy: The Varick Code Enforcement Officer is hereby empowered to issue a Certificate of Occupancy 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 Occupancy 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 Building Permit: All applications for a Building 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 Building 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 Building 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 (1) 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 (1) copy of the application to the County Planning Board.

The Planning Board shall, within thirty (30) days, conduct a public hearing on applications for large businesses 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 Town Board and he shall issue the permit applied for in accordance with the conditions imposed by the Town 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 Occupancy: 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 transmit

by registered mail or deliver in person 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 the Occupancy 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 building 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 Building Permit or Special Use Permit shall be made in triplicate and with accompanying site 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

The location of the property, including its relationship to adjacent roads and property.

The location, use, design, and dimensions and height of each structure or building.

A description, including the location, of all public and private utilities and facilities to be used, including sewer, gas, water and electricity.

The manner in which adequate drainage is to be provided.

Evidence that the County Health Department had reviewed and approved water and sewage plans.

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 with 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 with 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) Special Permits. To hear and decide upon application for such permits as specified in this Ordinance.
- (C) 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:
  - 1. 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.
  - 2. 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.

3. 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 thereof 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.