

# **Town of Cairo**

## **Zoning Law**

**October 5, 2015**  
**Effective December 1, 2015**

**Prepared by the**  
**Town of Cairo Town Board**

# **Town of Cairo Vision Statement (From 2004 Comprehensive Plan):**

Cairo is an aesthetically pleasing, well-maintained community where civic pride and friendly, positive attitudes drive our success at providing a high quality of life for our residents. Our community is sustained by a diversity of cultural, recreational and educational opportunities for all ages. Cairo's forests, streams, and other natural resources are maintained and continue to contribute to our health and welfare.

Our government is responsive, works cooperatively with residents, businesses and community leaders, and delivers effective leadership and administration. An affordable broad-based tax system supports quality public services, a well-maintained infrastructure that allows for controlled growth and a safe and supportive living environment for all residents.

Main Street is the cultural and economic focus of the town and is filled with vibrant businesses, beautiful buildings and landscaped streets. It has a diversity of retail and service businesses that meet the needs of local residents and provides jobs for all income and education levels. Our many unique historic buildings and locations are preserved and appreciated. Cairo's economic initiatives take advantage of our most important assets – our great scenic beauty and small town ambiance.

# TABLE OF CONTENTS

<b>Section I. Title, Scope and Purpose .....</b>	<b>7</b>
A. Title and Scope. ....	7
B. Enacting Legislation and Purposes. ....	7
<b>Section II. Establishment of Districts .....</b>	<b>8</b>
A. Designation of Zoning Districts.....	8
B. Purpose of Districts.....	9
C. Zoning Map.....	11
D. Interpretation of District Boundaries. ....	11
E. Applicability of Zoning.....	11
<b>Section III. Existing and Nonconforming Buildings and Uses.....</b>	<b>12</b>
A. Continuation of existing nonconforming buildings and uses. ....	12
B. Extension of nonconforming use or structure. ....	12
C. Maintenance.....	13
D. Existing Lots of Record. ....	13
E. Pending Planning Board and Building Permit Applications.....	13
F. Buildings under construction. ....	13
G. Changes in District Boundaries. ....	14
H. Pre-existing single-wide manufactured home.....	14
I. Pre-existing Accessory Apartment. ....	14
J. Pre-existing Salvage, Junkyard or Auto Junkyard.....	14
K. Zoning Board of Appeals Review.....	14
<b>Section IV. Use Regulations .....</b>	<b>15</b>
A. Prohibited Uses. ....	15
B. Accessory Uses. ....	15
C. Schedule of Uses.....	15
D. Change of Use.....	24
E. Other Uses Requiring Site Plan Approval .....	24
<b>Section V. Density and Dimension Regulations .....</b>	<b>25</b>
A. Density Regulations .....	25
B. Regulation of Lot Dimensions .....	27
C. Lot Frontage Exceptions: .....	31
<b>Section VI. Density Incentives .....</b>	<b>31</b>
A. Purpose.....	31
B. Applicability. ....	32
C. Types of Incentives. ....	32
D. General Provisions .....	32
E. Procedures and criteria for approval of incentives. ....	33

<b>Section VII.</b>	<b>General Regulations for all Districts.....</b>	<b>36</b>
A.	General Performance Standards.....	36
B.	Access for Buildings.....	37
C.	Height Regulations.....	38
D.	Accessory Buildings and Uses.....	38
E.	General Lot and Yard Requirements.....	38
F.	Stormwater, Drainage, Grading, Erosion and Siltation Control.....	38
G.	Flood Plains.....	39
H.	Retention of Consultants.....	39
<b>Section VIII.</b>	<b>Supplementary Regulations for Specific Districts .....</b>	<b>39</b>
A.	Supplementary Development Regulations for Commercial Districts (H-C, MS - COM, MS, C- MU, C-32S, C23, C23E and I).....	39
B.	Supplementary Development Regulations for Rural Residence Districts and Mountain Top District (RR-1, RR-2, MT).....	40
C.	Supplementary Development Regulations for the Shinglekill Creek Overlay District (SCWO).....	42
D.	Supplemental Regulations for the Stream Corridor Overlay District.....	45
<b>Section IX. Parking, Access and Loading.....</b>		<b>46</b>
A.	Off –Street Parking .....	46
B.	Off – Street Loading Requirements .....	50
<b>Section X. Manufactured Home Parks .....</b>		<b>50</b>
A.	Establishment of a Manufactured Home Park.....	50
B.	Location Requirements.....	50
C.	Site Plan Approval.....	51
D.	Manufactured Home Park standards.....	51
<b>Section XI. Signs.....</b>		<b>55</b>
A.	General.....	55
<b>Section XII. Utilities.....</b>		<b>59</b>
<b>Section XIII. Conservation Subdivision Regulations .....</b>		<b>59</b>
A.	Applicability.....	59
B.	Permitted, Accessory and Special Use Permit uses.....	59
C.	Density.....	60
D.	Dimensional standards.....	60
E.	Conservation Subdivision Process.....	60
F.	Design Process for Conservation Subdivisions.....	62
G.	Site Design Criteria.....	63
H.	Streets driveways and Trails.....	64
I.	Permanent protection of open space.....	65
J.	Maintenance Standards.....	67

K.	Sewage treatment systems. ....	67
L.	Future Subdivisions .....	67

**Section XIV. Development Regulations for the Planned Resort District (PRD).....67**

A.	Intent. ....	67
B.	Objectives. ....	68
C.	General PRD Requirements.....	68
D.	PRD application procedure and approval process. ....	71

**Section XV. Special Use Permits.....76**

A.	Purpose.....	76
B.	Authorization to grant or deny special uses. ....	76
C.	Application for special use.....	76
D.	Procedures.....	77
E.	Factors for consideration. ....	80
F.	Individual Standards for Special Uses.....	81
1.	Home Occupations.....	81
2.	Multi-Family Dwellings.....	81
3.	Gas Station.....	83
4.	Bed and Breakfast.....	85
5.	Convenience Store .....	85
6.	Mine.....	86
7.	Accessory Apartments.....	90
8.	Equipment Storage Associated with Home Based or Commercial Businesses.....	91
9.	Kennels and Veterinary Hospitals .....	91
10.	Car Repair .....	92
11.	Self Storage Facility.....	92
12.	Car Wash.....	93
13.	Public Utility.....	94
14.	Campground.....	94
15.	Seasonal Camp.....	95
16.	Outdoor Recreational Business.....	96
17.	Hotel/Motel/Country Inn .....	97
18.	Manufacturing and Research Laboratory.....	98
19.	Wind Towers.....	98
20.	Bar/Tavern .....	100
21.	Cell Tower .....	100
22.	Restaurant.....	101
23.	Car Sales.....	101
24.	Warehouse.....	102
25.	Mortuary/Funeral Parlor.....	103
26.	Adult Uses.....	103
27.	103Senior Citizen Housing.....	103
28.	Mass Gatherings.....	103

<b>Section XVI. Administration and Enforcement.....</b>	<b>106</b>
A. Zoning Enforcement Officer.....	106
B. Application and Approval for Building Permit. ....	108
C. Complaints and Enforcement Steps.....	109
D. Criminal and Civil Penalties.....	111
E. Appeals.....	112
<b>Section XVII. Zoning Board of Appeals.....</b>	<b>113</b>
A. Establishment.....	113
B. Powers.....	113
C. Conduct of Business.....	114
D. Permitted action by Board of Appeals.....	116
<b>Section XVIII. Amendments.....</b>	<b>117</b>
A. Authority.....	117
B. Referral to Town Planning Board.....	117
C. Public Hearing and Notice.....	118
D. Publication of Notice in Newspaper.....	118
E. Adoption.....	118
<b>Section XIX Severability.....</b>	<b>118</b>
<b>Section XX. Definitions.....</b>	<b>118</b>
A. General.....	118
B. Word usage.....	118
C. Terms defined.....	119
<b>Appendix A. Supplemental Design Standards.....</b>	<b>144</b>
A. General.....	144
B. Purposes.....	1444
C. Applicability.....	1455
D. Design Standards for Non-Residential Uses in All Districts.....	1455
E. Supplementary Design Regulations for the Main Street Downtown (MS) and the Main Street Commercial (MS-COM) Districts.....	1522
F. Supplementary Design Regulations for the C-32S and I Districts.....	1544
G. Supplementary Design Regulations for the RR and MT Districts.....	1544
<b>Appendix B. Backyard Poultry and Livestock Rearing Acreage Requirements.....</b>	<b>1566</b>
<b>Appendix C: Visual Assessment Process.....</b>	<b>1566</b>

## Section I. Title, Scope and Purpose

**A. Title and Scope.** This Zoning Law shall be known as the “Zoning Law of the Town of Cairo, Greene County, New York” and is a law regulating the density of development, location, design, and use of structures and land in the Town of Cairo.

**B. Enacting Legislation and Purposes.** This Zoning Law is enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Article 2, Section 10, *et. seq.* of the Consolidated Laws and Town Law Section 261, to protect and promote public health, safety, comfort, convenience, economy, aesthetics, general welfare, natural, agricultural and cultural resources, and for the following specific purposes:

1. To implement the Town of Cairo Comprehensive Plan adopted in 2004, and as may be amended from time to time.
2. To achieve the overriding goal established in the Comprehensive Plan to maintain and enhance the unique features of Cairo that makes it a quality place to live,
3. To conserve the Town’s natural and scenic beauty, and rural character.
4. To maintain the environmental quality of Cairo, including but not limited to ridgelines and steep slopes, stream corridors, wetlands and other surface water features, groundwater resources, wildlife habitat, and ecological systems.
5. To protect open spaces and active farmlands.
6. To promote and encourage appropriate business development in suitable locations.
7. To protect the Town’s historic features and character, particularly in the hamlets.
8. To maintain the Hamlet of Cairo as the town center and hub for mixed uses and more dense residential development with a building scale, massing, layout and design that is pedestrian oriented and consistent with the traditional character of the hamlet.
9. To promote and encourage revitalization of Main Street in Cairo while encouraging a variety of other business growth opportunities in appropriate locations.
10. To provide a range of housing types and foster affordable and moderately-priced housing.
11. To ensure a safe and efficient flow of traffic and encourage a circulation system that promotes pedestrian opportunities.

12. To ensure that new development addresses current and future needs for community facilities and services.

13. To protect residences from nuisances, odors, noise, pollution, and other unsightly, obtrusive and offensive land uses and activities, and to secure safety from fire, flood or other dangers.

## **Section II. Establishment of Districts**

**A. Designation of Zoning Districts.** To fulfill the purposes of this Zoning Law and the Town of Cairo Comprehensive Plan, the Town of Cairo hereby establishes the following zoning districts, as shown on the Zoning Map:

### Hamlet Districts

H-C – Cairo Hamlet

H – Hamlet which includes:

H-SC (South Cairo)

H-RT (Round Top)

H-A (Acra)

H-P (Purling)

MS - COM – Main Street Commercial

MS – Main Street Downtown

M - Municipal

### Commercial/Mixed Use Districts

C-MU - Commercial Mixed Use

C-32S – Commercial Route 32 South

C-23 – Commercial Route 23

C-23E – Commercial Route 23 East

I- Industrial

### Residential Districts

RR-1- Rural Residential One

RR-2 – Rural Residential Two

MT – Mountain Top

### Overlay and Special Districts

SCO – Stream Corridor Overlay

SCWO – Shinglekill Creek Watershed Overlay

PRD – Planned Resort Development District

CIO – Commercial Overlay

AU – Adult Use District



## **B. Purpose of Districts.**

1. Hamlet - Cairo (HC): To promote the hamlet of Cairo as the town center and principal location for commercial, cultural and residential uses. This district allows and promotes a mix of residential and commercial structures that have a building scale, dimensions and design that is pedestrian oriented and consistent with the traditional character of the Hamlet. Commercial development shall be carefully controlled to protect neighboring residential properties from impact, while at the same time permitting needed growth. Hamlet (H) (Includes Acra, Round Top, South Cairo, and Purling): Allows for a mix of residential and small scale commercial uses designed in a manner that reflects the traditional scale, density, and character found in these areas.

Main Street Commercial (MS-COM): To allow for a variety of retail, service, and commercial uses along Main Street. This district allows for larger uses that require more space than other locations on Main Street, but promotes compatibility and consistency with the scale, design, theme, and pedestrian atmosphere of Main Street.

Main Street Downtown (MS): To sustain the economic viability of the Main Street in the hamlet of Cairo by preserving its historic character and role in the community, and allowing for compatible redevelopment. It is intended that the mixed use, scale, and pedestrian oriented character associated with the Main Street Downtown district will be strengthened through improvements to existing properties and new infill development that is consistent with its distinct historic scale, architecture and uses. The desired mix of uses shall consist of retail, service and office establishments on the ground floor, and allowing for non-residential or residential above.

Commercial Mixed Use (C-MU): To allow for a mix of commercial and residential uses located on certain locations along state highways that are consistent with the rural scale, dimensions, character, and environment, and to ensure that commercial uses are compatible with residential uses found along those routes.

Commercial Route 32 South (C-32S): To allow for commercial uses that are larger in scale and intensity, or more vehicle-reliant uses such as, but not limited to, warehouses and light industrial manufacturing, located along Route 32 south of the hamlet of Cairo.

Commercial Route 23 (C-23): To allow for mixed residential/ and agricultural-related retail commercial uses that would enhance, rather than compete with, Main Street Commercial (MS-Com) or Main Street Downtown areas including, but not limited to, professional offices, or small light industrial facilities.

Commercial Route 23 East (C-23E): To allow for mixed residential, agricultural-related retail commercial uses and general commercial uses that would enhance, rather than compete with, Main Street Commercial (MS-Com) or Main Street Downtown areas including such uses as, but not limited to, professional offices, small light industrial facilities, car repair/sales and gas station/convenience store which are consistent with uses already in existence in the district. The more intense uses and density, as compared to the C-23 district, is an

acknowledgement that a goal for the future is the introduction of municipal water and/or sewer to the properties located in this district adjacent to the current Town water and sewer districts.

8. Industrial (I): to allow for industrial uses.

Rural Residential One (RR-1): To allow for residential density that is supported by limited soil capacity for on-site septic systems. Further purposes are to promote development that is designed in a manner to be consistent with the protection of environmentally sensitive, open space, agricultural, and scenic resources.

Rural Residential Two (RR-2): To establish low residential density that is supported by very limited groundwater resources and limited soil capacity for on-site septic systems. Further purposes are to promote all development designed in a manner consistent with the protection of environmentally sensitive, open space, agricultural, and scenic resources.

Mountain Top (MT) Residential: to allow for residential and recreational-oriented development in a manner consistent with the character and environmental sensitivities found in the mountainous areas of Cairo, including but not limited to scenic views, ridgelines, steep slopes, and wooded hillsides.

Stream Corridor Overlay (SCO): The purpose of this overlay district is to protect the critical vegetation and banks along the streams located within the Town of Cairo.

Shinglekill Creek Watershed Overlay (SCWO): The purpose of this overlay district is to protect the well and recharge areas associated with the groundwater used for public water supply for the hamlet of Cairo.

Planned Resort Development District (PRDD): The Planned Resort Development District is an unmapped “floating” zoning district that is established only upon approval of an applicant’s submission to the Town of Cairo Town Board. The purpose of this floating district is to allow for expansion of or establishment of new resort uses to be developed as a unit and in a manner that encourages flexibility and innovation in siting, design, and scale of structures to minimize environmental, aesthetic, cultural, or infrastructure impacts.

Adult Use District: Established pursuant to Local Law #3 of 2006 to mitigate potential adverse effects of adult uses on the Town’s residential areas as well as its schools, places of worship, parks and other designated open space areas, historic and scenic resources, and civic and cultural facilities.

Municipal: To limit residential and commercial uses on town-owned lands in order to preserve access and use of land for municipal functions including but not limited to highway, and town hall and offices, and for other uses that benefit the entire community.

Commercial Island Overlay (CIO): To recognize and allow certain small pockets of commercial uses in the Town so that such parcels retain their conforming uses within the zone in which they are located and define the specific uses allowed therein.

### **C. Zoning Map.**

The location and boundaries of the districts described in this Zoning Law are shown on the map entitled “Zoning Map of the Town of Cairo”, which shall be referred to as the “Zoning Map”, certified by the Town Clerk as adopted by the Town Board of the Town of Cairo. This map together with all explanatory matter and future amendments is hereby adopted and is declared to be a part of this Zoning Law.

### **D. Interpretation of District Boundaries.**

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

1. Boundaries shown following the center lines of streets, highways, or railroad tracks shall be construed to follow such lines. These boundaries shall be automatically adjusted if a centerline is moved a maximum distance of fifty (50) feet.
2. Boundaries of zoning districts shown following existing Town boundary lines, property lines, or lot lines shall be construed to be coincident with those existing boundary, property or lot lines as of the date of approval of this Zoning Law.
3. For boundaries dividing a single lot under single or joint ownership of record at the time such district line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion.
4. Where Overlay District boundaries are based on natural features such as steep slopes, contour lines, soil types or ecological communities, such boundaries may be more precisely established through field investigation by a qualified professional such as an engineer, geologist, soil scientist, ecologist or other similarly trained person. Any costs associated with such field investigation shall be borne by the applicant or landowner.
5. In all other cases not covered by the rules above, the Zoning Board of Appeals shall determine the district boundaries at the request of the Zoning Enforcement Officer or of the Planning Board.

### **E. Applicability of Zoning.**

- 1 Unless otherwise permitted by this Zoning Law except for commercial or multi-family structures, no more than one principal building or use shall be permitted on any individual lot.
2. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, occupied, designed or arranged to be used, for any purpose or in any

manner except in conformity with all regulations and requirements specified in this Zoning Law for the zoning district in which such building or land is located.

## **Section III. Existing and Nonconforming Buildings and Uses**

### **A. Continuation of existing nonconforming buildings and uses.**

Any existing use, accessory uses, lot or structure that does not meet the requirements of this Zoning Law shall be considered nonconforming and shall be allowed to be continued indefinitely subject to the provisions below. The provisions of this section shall apply to all lots, uses or structures existing on the effective date of this Zoning Law, and to any lot, land use or structure that becomes nonconforming by reason of any future amendment to this Zoning Law.

1. Non-conforming uses and/or accessory uses shall not be moved to another location where such use would be non-conforming.
2. Non-conforming uses shall not be changed to another non-conforming use without prior approval by the Zoning Board of Appeals. If the Zoning Board of Appeals approves such changes, they shall conform, to the greatest extent practical, to this Zoning Law and the current design standards and shall be subject to Site Plan approval by the Planning Board pursuant to Local Law #4 of 2008 as may be amended from time to time.
3. The discontinuance of any nonconforming use or accessory use for a period of more than three years shall terminate the nonconforming use status of that use. A nonconforming use or accessory use so terminated shall thereafter only be replaced by a conforming, permitted use. The Zoning Board of Appeals may issue a variance to allow one additional one-year extension for use of a nonconforming accessory apartment.
4. A nonconforming use may be changed to a conforming use at any time, but shall not thereafter be changed back to a nonconforming use.
5. No lot shall be reduced in area so that it results in nonconformity with either the bulk or use provisions in this Law.

### **B. Extension of nonconforming use or structure.**

1. In all zoning districts except MS and MS-COM, a nonconforming use may be expanded within an existing structure or on an existing lot provided that the expansion area does not exceed fifty (50) percent of the pre-expansion gross floor area of the structure or the pre-existing lot area as it existed at the time of enactment of this Zoning Law. However, in no instance shall the expansion area of a nonconforming use be greater than ten thousand (10,000) square feet, if located within a building. If expansion is outside a building, it shall not exceed an area greater than 50% of its current use.

2. In all zoning districts except MS and MS-COM, a nonconforming structure may be expanded provided that the expansion area does not exceed fifty (50) percent of the pre-expansion gross floor area of the structure or the pre-existing lot area as it existed at the time of enactment of this Zoning Law. However, in no instance shall the expansion area of a nonconforming use be greater than ten thousand (10,000) square feet. If expansion is outside a building, it shall not exceed an area greater than 50% of its current use.

3. In the MS and MS-COM districts, an expansion or redevelopment of a nonconforming structure shall be allowed to maximize use of the parcel provided all minimum setbacks can be met, and the expansion does not exceed the maximum lot coverage for that district (Table 2).

4. Any such expansion of either a nonconforming structure or a nonconforming use or nonconforming accessory use shall require Site Plan review and approval by the Planning Board in accordance with Local Law # 4 of 2008 or any subsequent amendments or modified portions thereof.

### **C. Maintenance.**

Nothing in this Zoning Law shall prevent the renovation, repair or maintenance of a nonconforming structure made necessary by ordinary wear and tear.

### **D. Existing Lots of Record.**

Lots existing at the time of adoption of this Zoning Law that do not meet the minimum density or size requirements shall be allowed to have one principal structure provided that, otherwise, all applicable laws and regulations related to potable water and sewage disposal facilities as required by the Town of Cairo, Greene County Department of Health, New York State Department of Health, and/or the New York State Department of Environmental Conservation are satisfied.

### **E. Pending Planning Board and Building Permit Applications.**

Any Site Plan, subdivision or building permit application which was submitted to the Town of Cairo prior to, the effective date of this Zoning Law but has not yet been permitted may continue to be processed and considered by the Planning Board or Code Enforcement Officer provided the application is amended to fully comply with the requirements of this Zoning Law. The amended application shall not be deemed complete until such time as all submission requirements of this Zoning Law are received and accepted by the permitting authority. Where SEQRA applies, an application shall not be deemed complete until a Negative Declaration is issued or, where a Positive SEQRA Declaration has been or is issued, completed Draft Environmental Impact Statement accepted. This provision shall not be interpreted as vesting any rights in the applicant to approval on any applications submitted prior to, and pending, on the effective date of this Zoning Law.

### **F. Buildings under construction.**

Buildings under construction. When a subdivision or site plan application has been approved or when a building permit has been lawfully issued before the effective date of this Zoning

law and where construction has also begun within 180 days of the effective date of this Zoning Law, the building may be completed according to approved plans and approval conditions issued before the law was adopted. If upon completion, such building or use is nonconforming with this Zoning law, it shall thereafter be subject to all provisions of Section III.

### **G. Changes in District Boundaries.**

Whenever the boundaries of a district are changed by the Town of Cairo Town Board so that, under the regulations that apply in the changed area, a conforming use shall become a nonconforming use, all of the foregoing provisions of this section shall apply to such nonconforming use.

### **H. Pre-existing single-wide manufactured home.**

Nothing contained in this Zoning Law shall prohibit the replacement of any mobile home or manufactured home legally existing in the Town of Cairo at the time of adoption of this Zoning Law provided that the replacement structure is in full compliance with both the 1976 Federal regulations for mobile homes and the requirements of the New York State Uniform Fire Prevention and Building Code and that existing nonconformities or elements of non-compliance are not increased or expanded by the replacement.

### **I. Pre-existing Accessory Apartment.**

Nothing contained in this Zoning Law shall prohibit the continuation of an accessory apartment, located in either an owner-occupied principal dwelling or in an accessory structure on an owner-occupied lot, legally existing in the Town of Cairo at the time of adoption of this Zoning Law.

### **J. Pre-existing Salvage, Junkyard or Auto Junkyard.**

Where a valid and current salvage or junkyard license has been issued by the Town of Cairo, and the salvage or junkyard meets all the fencing, location, setback, or other requirements of Local Law #6 of 1985 or as amended or revised. (Salvage and Junk Yards), such use shall be allowed to continue for the duration of the license period. Upon renewal(s) of such license by the Town of Cairo, and upon proof that the use meets all the fencing, location, setback, or other requirements of Local Law #6 of 1985, the salvage or junkyard shall be allowed to continue as a lawful nonconforming use. All salvage or junkyards, including auto junkyards as defined in Section XX of this Zoning Law, that do not have a valid license, or that do not meet the fencing, location, setback or other requirements of Local Law #6 of 1985 shall not be considered a lawful nonconforming use and shall cease all activities associated with such use within three months of adoption of this Zoning Law. In the event of a change in any NYS dealer, dismantler or repair licensing requirement, an expansion of any lawful non-conforming use hereunder shall not be limited by the caps set forth in §III. B., and may be expanded to comply with such licensure change.

### **K. Zoning Board of Appeals Review.**

The Zoning Board of Appeals shall review and decide whether to grant or deny any requested expansion of a non-conforming use, structure, or lot that exceeds the limits

established in Section III of this Zoning Law, utilizing the standards set forth in Section XVII.D.2. herein.

## **Section IV. Use Regulations**

**A. Prohibited Uses.** Any use not listed in the table below as a permitted use, a use subject to a Special Use Permit, a use subject to Site Plan approval, or a use allowed as an accessory is prohibited.

### **B. Accessory Uses.**

Uses customarily incidental and subordinate to principal uses shown on the Use Table shall be allowed on the same terms as the principal uses on the same lot or on contiguous lots, unless otherwise indicated on the Use Table. Accessory uses connected to agriculture may occur on any lot located within the New York State Agricultural District.

### **C. Schedule of Uses.**

#### Key to Symbols

P = A permitted use, no Planning Board review or approval required. A Building Permit may be required however.

SU = A use that requires the issuance of a Special Use Permit granted by the Planning Board under the terms set forth in this Zoning Law. Unless exempted by the provision of the Town of Cairo Site Plan Review Law, any use requiring a Special Use Permit shall also require site plan approval by the Planning Board pursuant to the Town of Cairo Site Plan Law.

SP = A use that is allowed subject to meeting all standards of this Zoning Law and subject to the grant of Site Plan approval by the Planning Board in accordance with the requirements of Local Law # 4 of 2008 as may be amended from time to time.

X = Denotes a use not permitted in the district.

**Table 1. Schedule of Uses**

Use	MS	HC	H	MS-COM	RR-1	RR-2	MT	C-32S	C-23	C-23E	I	C-MU	M	CIO
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
<b>Residential Uses</b>														
Single Family	P	P	P	P	P	P	P	P	P	P	X	P	X	P
Two Family	P	P	P	P	P	P	P	P	P	P	X	P	X	P
Multi- Family Including Townhouses and Senior Citizen Housing	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	X	SU	X	SU
Accessory Apartments	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU- in existing residences only	SU	X	SU
Home Occupation, Minor and Pre-existing	P	P	P	P	P	P	P	P	P	P	P- in existing residences only	P	X	P
Home Occupation, Major or any Home Occupation in Accessory Structure	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU- in existing residences only	SU	X	SU



Use	MS	HC	H	MS-COM	RR-1	RR-2	MT	C-32S	C-23	C-23E	I	C-MU	M	CIO
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
Conversion of existing single family to two family dwelling	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	X	SU	X	SU
Double- wide manufactured home	X	P	P	P	P	P	P	P	P	P	X	P	X	P
Single- wide Manufactured Home, farm worker housing	X	X	X	X	P	P	P	X	X	X	X	X	X	P
Manufactured Home Park	X	X	X	X	X	X	X	X	X	X	Allowed as per Section X	Allowed as per Section X	X	X
Individual Single-wide Manufactured Home	Existing single-wide manufactured homes can be replaced with new single-wide manufactured homes on the same footprint in all locations. All other new, individual single-wide manufactured homes are allowed only in Manufactured Home Parks.												X	
Customary Accessory Use	P	P	P	P	P	P	P	P	P	P	P- in Existing residences only	P	P	P

**Non- Residential Uses**

<b>Agricultural Use</b>	<b>X</b>	<b>X</b>	<b>SP</b>	<b>SP</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>X</b>	<b>P</b>	<b>X</b>	<b>P</b>
<b>Use</b>	<b>MS</b>	<b>HC</b>	<b>H</b>	<b>MS-COM</b>	<b>RR-1</b>	<b>RR-2</b>	<b>MT</b>	<b>C-32S</b>	<b>C-23</b>	<b>C-23E</b>	<b>I</b>	<b>C-MU</b>	<b>M</b>	<b>CIO</b>
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
Use, Crops														
Auto Junk or	X	X	X	X	X	X	X	X	X	X	SU	X	X	X
Auto Salvage Yard	X	X	X	X	X	X	X	X	X	X	SU	X	X	X
Bank	SP	SU	SU	SP	X	X	SU	SP	SP	SP	X	SP	X	X
Bar/ Tavern	SP	SU	SU	SU	X	X	SU	SU	SU	SU	X	SU	X	X
Bed and Breakfast Inn	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	X	SU	X	SU
Beekeeping	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Campground	X	X	X	X	SU	SU	SU	X	X	X	X	X	X	SU
Camp, Seasonal	X	X	X	X	SU	SU	SU	X	X	X	X	X	X	SU
Car Repair	SU	X	X	SU	X	X	X	SU	X	SU	SU	SU	X	X
Car Sales	X	X	X	SU	X	X	X	SU	X	SU	X	SU	X	X
Car Wash	X	X	X	SU	X	X	X	SU	X	X	X	SU	X	X
Cell Towers (See also Local Law #1 of 2001)	SU	X	X	X	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU
Country Inn	SP	SU	SU	SU	SU	SU	SU	SU	SU	SU	X	SU	X	SU
Day Care Center or Nursery School	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	SP	X	SP

Use	MS	HC	H	MS-COM	RR-1	RR-2	MT	C-32S	C-23	C-23E	I	C-MU	M	CIO
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
Educational/ Training Facility	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	X	SU	X	SU
Equipment Storage Associated with Major Home Business or Commercial Use	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	P1	SU
Farm Markets	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	SP
Farm Stands	P	P	P	P	P	P	P	P	P	P	X	P	X	P
Farm in NY Ag District	X	X	X	X	P	P	P	X	X	X	X	X	X	P
Fuel Storage and Distribution Facility	X	X	X	X	X	X	X	X	X	X	SP	X	X1	X
Gas Station Convenience Store	X	SU	SU	SU	X	X	X	SU	X	SU	SU	SU	X	X
Horse Boarding	P	P	P	P	P	P	P	P	P	P	P	P	X	P
Junk Yard	X	X	X	X	X	X	X	X	X	X	X	X	X	X

1 Permitted when associated with Town use including to highway functions.

Use	MS	HC	H	MS-COM	RR-1	RR-2	MT	C-32S	C-23	C-23E	I	C-MU	M	CIO
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
Kennel	X	X	X	SU	X	X	X	SU	SU	SU	X	SU	X	X
Livestock Agricultural Use in New York Agricultural District	X	X	X	X	P	P	P	X	X	X	X	X	X	P
Manufacturing	X	X	X	SU	X	X	SU	SU	SU	SU	SU	X	X	SU
Manufacturing, Light	SU	X	X	SU	X	X	SU	SU	SU	SU	SU	X	X	SU
Membership Club	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SP	SU	X	SU
Mass Gathering	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU
Mine, Small and Large	X	X	X	X	SU	SU	SU	X	X	SU	SU	X	SU	SU
Municipal Use	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	SU	P	SU
Mortuary/ Funeral Parlor	SU	SU	SU	SU	X	X	X	SU	SU	SU	X	X	X	X
Office Building (> 10,000 Square feet)	SP	X	X	SP	X	X	X	SP	SP	SP	SP	SP	P	SU

Use	MS	HC	H	MS-COM	RR-1	RR-2	MT	C-32S	C-23	C-23E	I	C-MU	M	CIO
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
Office Building (<10,000 square feet)	SP	SP	SP	SP	X	X	SP	SP	SP	SP	SP	SP	P	X
Propane Storage or Distribution	X	X	X	X	X	X	X	X	X	X	SP	X	X	X
Public Utility	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	P	SP
Recreational Business, indoor	SP	SP	SP	SP	SU	SU	SU	SP	SP	SP	X	SP	X	SU
Recreational Business, outdoor	X	X	X	SU	SU	SU	SU	SU	SU	SU	X	SU	X	SU
Religious Structures	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	SP	X	SP
Research Laboratory	X	X	X	X	X	X	X	SU	SU	SU	SU	SU	X	SU
Restaurant	SP	SP	SP	SP	X	X	SU	SP	SP	SP	X	SP	X	X
Retail Business	SP	SP	SU	SP	X	X	SU	SP	SP	SP	X	SP	X	X
Retail Associated with a Manufacturing or Industrial Use	X	X	X	SU	X	X	SU	SU	SU	SU	SP	X	X	SU

Use	MS	HC	H	MS-COM	RR-1	RR-2	MT	C-32S	C-23	C-23E	I	C-MU	M	CIO
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
Riding Academy	X	X	X	X	SP	SP	SP	X	X	X	X	X	X	SP
Recycling or Scrap Yard	X	X	X	X	X	X	X	X	X	X	SP	X	X	X
Sawmill, Portable	X	X	X	X	P	P	P	P	P	P	P	P	X	P
Self-storage structures	X	X	X	SU	X	X	X	SU	SU	SU	SP	SU	X	X
Service Business, with no customers at site	SP	SP	SP	SP	X	X	SP	SP	SP	SP	SP	SP	X	SU
Service Business, with customers at site	SP	SU	SU	SP	X	X	SP	SP	SP	SP	SP	SP	X	X
Hotel	SU	X	X	SU	X	X	SU	SU	SU	SU	X	SU	X	X
Timbering	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary Construction Office	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	X	SP
Tourist Resort/ Spa	Resort/ Spa existing at the time of enactment of this Zoning Law shall be allowed to continue as a nonconforming use. New resorts shall be established as per Section XIV (Planned Resort Development).												X	X

Veterinary Hospital with Boarding Facility	X	X	X	X	X	X	X	SU	SU	SU	SP	SU	X	X
--	---	---	---	---	---	---	---	----	----	----	----	----	---	---

Use	MS	HC	H	MS-COM	RR-1	RR-2	MT	C-32S	C-23	C-23E	I	C-MU	M	CIO
P= Permitted Use SU= Special use SP- Site Plan X= Prohibited	Main Street	Hamlet Cairo	Hamlet	Main Street Commercial	Rural Residential One	Rural Residential Two	Mountain Top	Commercial Route 32S	Commercial Route 23	Commercial Rte 23 East	Industrial	Commercial Mixed Use	Municipal	Commercial Island Overlay
Veterinary Hospital, No Boarding Facility	SP	SP	SP	SP	SU	SU	SU	SP	SP	SP	SP	SP	X	SU
Warehouse	X	X	X	X	X	X	X	SP	SU	SU	SP	SU	X	SU
Warehouse, Accessory	SP	SP	SP	SP	X	X	SP	SP	SP	SP	SP	SP	SP	SU
Wind Tower	X	X	X	X	SU	SU	SU	X	X	X	X	SU	SU	SU
Adult Uses as defined in Section 4 of Local Law #3 of 2006	Allowed only in Adult Use District specified in Section 6 of Local Law #3 of 2006 (Adult Uses) and permitted as a Special Use. All requirements of Local Law #3 of 2006 shall be met.												X	X

#### **D. Change of Use.**

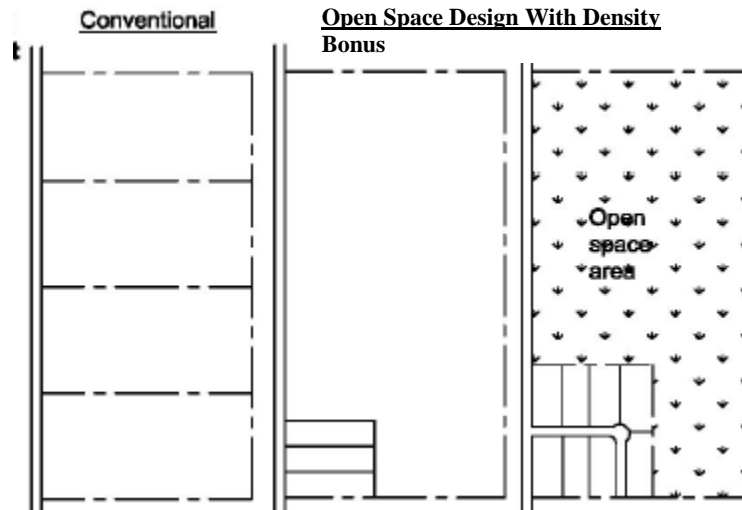
1. Change of Use to One Permitted by Right (P). Any change of a use to another use that is permitted by right (P) without Site Plan review or a without a special use permit shall not require approval from the Planning Board. Other changes of use may require Site Plan review and approval pursuant to Local Law #4 of 2008 as may be amended from time to time (Site Plan Review) and any future amendments before being undertaken.
2. Except for accessory apartments, a change of ownership, tenancy, or occupancy shall not be considered a change of use, unless the change would result in the enlargement or addition of a sign, the enlargement of a structure or construction of a new structure.
3. Change of Use to One Subject to Site Plan Review. Any change of a use to a use permitted only with Site Plan approval shall follow all standards and procedures of Local Law #4 of 2008 as may be amended from time to time (Site Plan).
4. Change of Use to One Permitted by Special Use Permit. Any change of a use to a use permitted only with special use permit approval shall follow all standards and procedures of Section XV.

#### **E. Other Uses Requiring Site Plan Approval**

Other land uses may require Site Plan approval pursuant to Local Law #4 of 2008 Article B as may be amended from time to time. Any persons uncertain of the applicability of this Zoning Law or of Local Law #4 of 2008 (Site Plan Review as may be amended from time to time) shall apply in writing to the Planning Board for a written jurisdictional determination.



## Section V. Density and Dimension Regulations



### A. Density Regulations

1. Density Calculation.
  - a. For Hamlet – Cairo (HC), Hamlet (H), Main Street Downtown (MS), Main Street Commercial (MS-Com) and all Commercial Districts (C-32S, C-23, C-23E, C-MU, and I): the density of development shall be based upon the total gross acreage of the parcel and calculated using the required minimum lot size pursuant to Table 2 of this Zoning Law.
  - b. Rural Residential (RR-1 and RR-2) and Mountain Top (MT) districts: The density of development shall be based upon the net gross acreage of the parcel and calculated using the required density of Table 2 of this Zoning Law. Density is to be measured as the number of dwelling units per acre. Minimum lot size shall be equal to that required to meet Department of Health requirements for water and septic systems. Use of average lot sizes is acceptable. Density shall be calculated upon net acreage after exclusion of the following lands:
    - (1) The 100-year flood plain as defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as those maps now exist or as they may be amended from time to time;
    - (2) Wetlands, including New York State designated wetlands (excluding the 100-foot buffer), and wetlands regulated by the U.S. Army Corps of Engineers or any successor agency, as those wetlands may now exist or as may be found to exist;
    - (3) Lands covered by natural or constructed water bodies including retention and detention basins.

(4) Steep topography in excess of twenty five percent (25%) slopes. For topography having slopes ranging between fifteen percent (15%) and twenty five (25%) percent, fifty percent (50%) of that land area shall be excluded from the calculation of density.

2. Monitoring Subdivisions. The density calculated pursuant to Section V (A) (1) above, is the total and maximum development potential for a particular parcel. Once this full development potential of the parcel has been reached through subdivision, no further subdivision shall be allowed. The following procedures have been established to help ensure proper monitoring of subdivisions.
  - a. The Planning Board shall keep a parcel-based map showing existing lots, parcel numbers, and land ownership along with a written register containing this information.
  - b. For each subdivision reviewed and approved by the Town of Cairo Planning Board, a written record of the number of lots and dwelling units approved under this Zoning Law shall be recorded on the register and on the Planning Board's subdivision map.
  - c. A property owner submitting a subdivision plan shall be required to specify on his/her plan, and on any approved final plat, which lot or lots shall carry with them the right to erect or place any unused allocation of dwelling units the tract may have.
  - d. As allotments are used up, the subdivision map and register shall be updated to reflect these changes.
  - e. The subdivision map and register shall be maintained by the Planning Board upon final approval of each subdivision and copies made available for inspection by the public.

## B. Regulation of Lot Dimensions

Table 2. Lot Dimensions

District	Lot Size for Residential Use (Min)	Lot Size for Non-Residential Use (Min)	Multi-Family Structure Lot Size and Density	Road Frontages (Min and Max)	Front Setback (Max)	Front Setback (Min)	Side Setback (Min) <sup>2</sup>	Lot Depth (Min) <sup>3</sup>	Rear Setback (Min)	Building Height (Max) <sup>4</sup>	Lot Coverage (Max)
<b>Hamlet Districts</b>											
<b>Hamlet – Cairo (HC)</b>	10,000 sf (1/4 acre) (where water and sewer is available) 20,000 sf (1/2 acre) (where water only is available).	1 ¼ acre	1 ¼ acre min lot size with 4 dwellings per acre	50 feet min	75 ft	15 ft	15 ft	100 ft	40 ft	35 ft	80%
<b>Main Street Downtown</b>	10,000 sf (where water and sewer are available) 20,000 sf (where water only is available)	20,000 sf	1 ¼ acre min lot size with 4 dwellings per acre	25 feet min and 150 feet max	15 ft	15 ft	15 ft	100 ft	40 ft	45 ft or 3 stories	70%
<b>Main Street Commercial I (MS-Com)</b>	10,000 sf (1/4 acre) (where water and sewer is available) 20,000 sf (1/2 acre) (where water only is available). If not water or sewer are available, 3 acres.	1 ¼ acre	1 ¼ acre min lot size with 4 dwellings per acre	50 ft min and no max	150 ft	50 ft	20 ft	NA	50 ft	35 ft	60%

Table 2, Continued:

AG

<sup>2</sup> Common walls may be used between a single building subdivided into two or more lots when located in the MS Downtown or MS Commercial, HC, and H districts.

<sup>3</sup> The required depth may be decreased at any point provided that the average lot depth conforms to the minimum required. Lot depth may be varied when a cluster or conservation subdivision design is required or proposed.

<sup>4</sup> Cupolas and other roof ornaments may extend above the roof height.

District	Residential Density	Lot Size for Non-Residential Use (Min)	Road Frontages (Min and Max)	Multi-Family Structure Lot Size and Density	Front Setback (Max)	Front Setback (Min)	Side Setback (Min)	Lot Depth <sup>5</sup> (Min)	Rear Setback (Min)	Building Height <sup>6</sup> (Max)	Lot Coverage (Max)
<b>Commercial/ Mixed-use Districts</b>											
<b>C-MU</b>	3 acre	2 acre	75 feet min and no max	4 acre min lot size with 4 dwellings per acre	No Max	50 ft	30 ft	150 ft	40 ft	50 ft	60%
<b>C-32S</b>	3 acre	2 acre	75 feet min and no max	4 acre min lot size with 4 dwellings per acre	No Max	50 ft	30 ft	150 ft	40 ft	50 ft	60%
<b>C-23</b>	3 acre	2 acres	75 feet min and no max	4 acre min lot size with 2 dwellings per acre	No Max provided parking lots are situated to the side or rear of the structure	50 ft	20 ft	150 ft	40 ft	50 ft	60%
<b>C-23 East</b>	10,000 sf (1/4 acre) (where water and sewer is available)	1 ¼ acre	50 ft. min and no max	1 ¼ acre min lot size with 4 dwellings per acre	No max	50 ft	20 ft	NA	50 ft	50 ft	60% w/water/ sewer 75%

AG

<sup>5</sup> The required depth may be decreased at any point provided that the average lot depth conforms to the minimum required. Lot depth may be varied when a cluster or conservation subdivision design is required or proposed.

<sup>6</sup> Cupolas and other roof ornaments may extend above the roof height.

	20,000 sf (1/2 acre) (where water only is available). If not water or sewer are available, 3 acres.										w/either
<b>Industrial</b>	Not Permitted	3 acres	150 feet min and no max	NA	No Max	75 ft	50 ft	200 ft	40 ft	50 ft	75%

Table 2, Continued:

<b>District</b>	<b>Residential Density (Dwelling Units per acre)</b>	<b>Lot Size for Non-Residential Use (Min)</b>	<b>Multi-Family Structure Lot Size and Density</b>	<b>Road Frontages (Min)</b>	<b>Front Setback<sup>7</sup> (Min)</b>	<b>Side Setback (Min)</b>	<b>Lot Depth<sup>8</sup> (Min)</b>	<b>Rear Setback (Min)</b>	<b>Building Height (Max)</b>	<b>Lot Coverage (Max)</b>
<b>Residential Districts</b>										
<b>RR-1 (Based on Septic Constraints)</b>	1 dwelling unit per 3 acres, average	3 acre	3 acre min lot size with 2 dwellings per acre	150 feet	50 ft	50 ft	100 ft	75 ft	35 ft	40%
<b>RR-2 (Based on Water Quantity)</b>	1 dwelling unit per 5 acres, average	5 acres	NA	150feet	50 ft	50 ft	100 ft	75 ft	35 ft	40%

AG

<sup>7</sup> The required lot sizes, road frontages, setbacks, and lot depth may be altered when a cluster or conservation subdivision is required or proposed.

<sup>8</sup> The required depth may be decreased at any point provided that the average lot depth conforms to the minimum required.

<b>Constraints)</b>										
<b>MT (Based on slopes)</b>	1 dwelling unit per 3 acres, average	3 acres	3 acre min lot size with 2 dwellings per acre	150 feet	50 ft	50 ft	100 ft	75 ft	35 ft	40%
<b>CIO (Based on Septic Constraints)</b>	1 dwelling unit per 5 acres, average	5 acre	3 acre min lot size with 2 dwellings per acre	150 feet	50 ft	50 ft	100 ft	75 ft	35 ft	40%

### **C. Lot Frontage Exceptions:**

Exceptions to the lot frontage requirements established in Table 2 of this Zoning Law include:

1. Cul-de-sac – Use of cul-de-sacs is discouraged. The Planning Board shall explore other design alternatives so as to avoid the use of cul-de-sacs where practicable. Where the Planning Board finds that use of a cul-de-sac road is necessary, an exception to the lot frontage requirement may be granted for lots located within the terminus of a cul-de-sac. In that case, all lots shall have a minimum “Lot Frontage” of fifty feet, as measured along the Right-of-Way of such cul-de-sac.
2. Flag Lots – Exception to lot frontage requirements may be granted for lots designed as “flag lots” in any RR district, provided that:
  - a. In the opinion of the Planning Board, the character of the land precludes typical subdivision development, or a unique and desirable lot can be created;
  - b. The purpose of creating the flag lot is not to circumvent typical subdivision with internal street development and does not negatively impact the continuing use of farmland;
  - c. The proposed lot has a minimum “Lot Frontage” of twenty-five (25) feet, as measured along the right-of-way of the fronting highway throughout the entire length leading to the buildable portion of the lot and there shall be 100 feet width at the actual building line; and
  - d. The required setbacks can be met when measured from the point where the lot meets the required minimum lot width for that zoning district.
3. For nonconforming lots and buildings allowed by the Zoning Board of Appeals to be rebuilt in a nonconforming manner, all existing setbacks in place and approved before enactment of this Local Law shall remain in effect for such rebuilding.

## **Section VI. Density Incentives**

### **A. Purpose.**

Pursuant to Section 261-b of the New York State Town Law, the Town of Cairo hereby establishes a program of incentives to encourage the preservation of open space, agricultural lands, and facilities and amenities that would benefit the Town in accordance with its adopted Comprehensive Plan. These amenities include open space, provision of senior citizen housing, preservation of historic, archaeological, or cultural features of the Town of Cairo, and provision of public recreational access.

## **B. Applicability.**

An applicant that has submitted a residential subdivision, special use permit or Site Plan application may apply for incentives to achieve community benefits or amenities as listed in Section VI (C).

## **C. Types of Incentives.**

Single incentive bonuses shall be subject to the maximums set forth below based on the total number of allowed dwelling units as determined by the Planning Board as calculated from Table 2 in this Zoning Law. No combination of incentives shall together exceed thirty percent (30%) of the total number of dwelling units allowed pursuant to Table 2. The following residential density incentives are established:

1. Open space/agricultural land preservation. For properties located in the RR-1, RR-2, H-C, MS, and MT districts, a residential density bonus may be granted when a conservation subdivision design is proposed and when at least fifty percent (50%) of the parcel is permanently preserved pursuant to Section XIII of this Local Law. The maximum residential density bonus that may be granted for the protection of open space shall not exceed fifteen (15%) percent.
2. Senior citizen housing. For properties located in the H-C, MS-Com, and MS districts, a residential density bonus may be granted for providing senior housing. A maximum residential density bonus of up to twenty-five percent (25%) of the proposed senior citizen housing units being created may be approved. The density bonus may be applied to the construction of senior or non-senior dwelling units.
3. Cultural, archaeological, historic facilities or other unique features that are to be deeded to the Town or to qualified not-for-profit agencies. For properties in any zoning district, a residential density bonus up to fifteen percent (15%) may be approved for the permanent preservation of cultural, archaeological, historical, or other unique features in the Town of Cairo.
4. Public access and recreation. For properties located in the RR-1, RR-2, H-C, MS, and MT districts a residential density bonus of up to twenty-five percent (25%) may be approved for the creation of public recreational lands or trails, public access to streams, railroad rights-of-way, or open space land, or for the provision of public fishing/hunting rights.

## **D. General Provisions**

1. Where an application seeks both subdivision and special use permit and/or Site Plan approval, the project shall be considered in its entirety and incentives shall not be granted separately for both approvals.
2. Incentives shall be granted only if the Planning Board determines that the offer of community benefits or amenities would otherwise not be required or those benefits or amenities would



not likely result from the applicable planning or State Environmental Quality Review process.

3. Where a parcel falls within two or more contiguous zoning districts, the Planning Board may approve an incentive representing the cumulative density as derived from summing all residential lots allowed in all such districts together with the incentive density, and may authorize actual construction to take place in all or any portion of one or more such districts.
4. Bonus units shall be similar in appearance and location to non-bonus units, shall contain on average the same number of bedrooms as the non-bonus units in the development, and shall be compatible with the design or use of the remaining units in terms of appearance, materials, and finish quality.
5. Community benefits may be provided for, either within the parcel being developed or off site at a different location, by:
  - a. Use of agricultural or other permanent conservation easements, or
  - b. Donations of land for conservation and other community benefit purposes, or
  - c. Construction of amenities, serving a Town-wide need, accessible to the general public, above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town law, or
  - d. Construction or improvement to public works above and beyond that required to mitigate proposed impacts in accordance with SEQRA and the Town law.
6. The community benefit may be located on the parcel to be developed and to which the incentive would be applied, or off-site.
7. For the purpose of density incentives, the minimum size for all lots in the RR-1, RR-2, and MT districts shall be equal to that required by the New York State Department of Health to meet water and septic system requirements.

#### **E. Procedures and criteria for approval of incentives.**

1. Submission of application. Applications for density incentives shall be submitted simultaneously to the Town Board and to the Planning Board. An applicant is encouraged to present its plans to the Town Board as early in the process as possible. The Town Board may schedule an informal workshop to discuss the incentive application and share information between the applicant, the Planning Board, the Town Board and the public.
2. Narrative statement. A narrative statement shall be submitted with the following information:
  - a. A description of the incentive being requested.
  - b. A description of the community amenity or benefit being offered to the Town.

- c. A current estimate of the market value, as applicable, or construction value of the proposed benefit.
  - d. A preliminary indication that there is adequate infrastructure for the density being proposed. This infrastructure evaluation should include wastewater treatment, water supply, transportation facilities, school capacity, waste disposal, and emergency service protection facilities. The statement should also indicate if, in the zoning district in which the proposal is located, there is capacity to handle the additional demands the incentive density and amenity may place on these facilities beyond the demand that would be placed on them without the incentive density.
  - e. An explanation as to how the amenity helps implement the physical, social or cultural policies of the Town of Cairo Comprehensive Plan.
3. The Town Board must approve an incentive bonus request prior to the granting of either preliminary plat approval or Site Plan approval by the Planning Board. Applicants may seek non-binding input from the Town Board as to whether the proposal is worthy of consideration prior to making an application or at any stage of the application process prior to the formal report issued by the Planning Board pursuant to subsection 6 below. Before approving an incentive bonus request, The Town Board must determine for each zoning district in which the incentive bonus density is to be located, that the district contains adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection. Further before approving an incentive bonus request, the Town Board shall also determine that there will be no significant environmentally damaging consequences and that such incentives or bonuses are compatible with the development otherwise permitted.
  4. Applications for incentive zoning shall be processed concurrently and with the same procedures applicable to subdivisions and/or special use/Site Plan approvals as set forth in this Zoning Law and the subdivision regulations of the Town of Cairo.
  5. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process before the Town Board. Consistent with the regulations implementing SEQRA, a coordinated review shall be conducted<sup>9</sup>.
  6. Prior to granting approval of the preliminary plat, Site Plan, or special use permit based on an incentive proposal but after at least one public hearing has been held, the Planning Board shall issue an advisory report regarding the incentive zoning to the Town Board. The Planning Board's report shall include the following:
    - a. The Planning Board's recommendations regarding the proposal, including an evaluation of the adequacy with which the benefit and incentives fit the site and how the development relates to adjacent uses and structures.

---

<sup>9</sup> The Planning Board shall be included in the coordinated review due to the requirement for site plan and special use permit approvals for a PRD application pursuant to 6 NYCRR Part 617.3 (g).

- b. A SEQRA evaluation as to whether the density bonus would result in any potential significant impacts on the environment and necessary mitigation measures and conditions necessary to ensure that the impacts of the proposal will be mitigated to the maximum extent practicable.
  - c. An assessment that adequate water supply, wastewater treatment, transportation, waste disposal and emergency protection facilities exists to serve the development, and that such development will not substantially and deleteriously impact upon the future development of adjoining properties.
  - d. A statement that the benefit would not otherwise result without the granting of incentive zoning.
7. Within 62 days of receipt of the Planning Board's report, the Town Board shall hold a public hearing on the incentive zoning application. Notice of the hearing shall be published in the official newspaper at least ten (10) days prior to the date of the hearing. The Town Board may provide for further notice as it deems appropriate.
  8. As required by NYS Town Law Section 261-b(3) (g), the Town Board shall evaluate the impact such incentives would have upon the potential development of affordable housing.
  9. The Town Board shall render its decision within sixty two (62) days of the close of the public hearing. The Town Board's decision shall be in writing and shall include the reasons supporting its decision.
  10. To approve incentive zoning, the Town Board shall determine that the community benefit provides sufficient public benefit to provide the requested incentive. No applicant for an incentive density bonus shall have any entitlement to a bonus and in no instance shall the Town Board be compelled to approve any incentive zoning request. The Board shall utilize the standards and procedure set forth in Section XV. Special Use Permits, when determining whether to approve or deny an incentive density bonus application. The Town Board may approve, approve with modifications or conditions or deny any incentive zoning application. Failure to render a determination within the sixty two (62) day period shall be deemed a denial.
  11. After the Town Board has rendered a decision, the record of decision shall be referred to the Planning Board for preliminary and/or final approval of the application with or without incentives, as prescribed by the Town Board. If the Town Board resolves to permit incentive zoning, no subsequent approval or permit, or approval by any official, board or agency of the Town, shall materially alter any condition imposed by the Town Board. In the event that any permit or approval by any agency within or without the Town materially alters any such condition, the project may not proceed until and unless the Town Board approves in writing, including the reasons supporting its decision, in its sole discretion, the modification of the condition.

12. The Town Board may engage consultants or an attorney as needed to assist in review of the application. Reasonable costs incurred by the Planning Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of an incentive bonus application shall be charged to the applicant. Such reimbursable costs shall be in addition to any fee as established by the Town Board. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for an incentive bonus application. The amount so determined by the Planning Board shall be deposited by the applicant in escrow with the Town Supervisor or his designee prior to the Planning Board's commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Town Supervisor or his designee. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to this provision, the Planning Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any incentive bonus approval be made until such sums have been paid in full.
13. Compliance with SEQRA. All applicable requirements of the State Environmental Quality Review Act shall be complied with as part of the review and hearing process. The applicant shall pay the cost of preparing a generic environmental impact statement if so prepared by the Town Board in enacting, amending and/or implementing this section.

## **Section VII. General Regulations for all Districts**

**A. General Performance Standards.** No use shall be permitted unless it complies with the performance standards set forth in this section. This section shall not apply to farm operations engaged in customary agricultural practices and located within a certified New York State Agricultural District, except where necessary to protect public health and safety. Continued conformance with such standards shall be a requirement for the continuation of any certificate of occupancy. The Planning Board shall ensure during project review that a proposed development conforms to these standards:

1. Noise. All provisions of Local Law #4 of 2008 and as may be amended from time to time), Article F (Limitations of Noise and Vibration) shall be met. Methods for reducing noise, where required, shall include, but not be limited to, truck silencers, mufflers, fencing, walls, natural buffers, earth berms, landscape plantings, structure location, and insulation. Noise and vibration limits and any conditions placed on a use by the Planning Board shall be enforced by the ZEO or any local, county or state police officer.
2. Odor, smoke, dust, and other atmospheric pollutants. The emission of odor, smoke and other particulate matter shall not be permitted in violation of any applicable federal, state, county or town law or regulation, including, but not limited to, Article 6, Part 201 of the New York State Code of Rules and Regulations and as may be amended from time to time. For the purpose of grading the density of smoke, the Ringlemann Smoke Chart or US Environmental

Protection Agency (EPA) Method 9 or 22 shall be used to determine the total smoke emitted. The emission of one smoke unit per hour or more and smoke with discernable density of No. 2 or higher on the Ringlemann Smoke Chart shall be prohibited. The production of odors of concentrations of noxious or explosive gases shall be prohibited.

3. Heat. No heat shall be produced that is perceptible beyond the boundaries of the lot from which the heat is emanating.
4. Industrial wastes. All State and federal laws, rules and regulations applicable to the discharge of solid and liquid waste shall be met. No solid or liquid wastes shall be discharged into any public sewer, private sewage disposal system, stream, or on or into the ground, except in strict accordance with the standards approved by the New York State Department of Health or other duly-empowered agency.
5. Fire and explosion hazards. All State and federal requirements applicable to fire and explosion hazards shall be met. The Planning Board may request an advisory opinion from the local fire department as to the department's capacity to address any potential fire and explosion hazards which may be generated by the application.
6. All open portions on any developed lot shall have adequate grading and drainage, and shall be reasonably maintained to prevent excessive dust migration from the parcel by using suitable landscaping with trees, shrubs, grass or other planted ground cover. Impervious surfaces such as gravel, crushed rock or other impervious surfaces as may be approved by the Planning Board are acceptable for roads, driveways and parking lots provided adequate drainage, stormwater and erosion control are provided for.
7. Vibration. No vibration shall be permitted which is capable of being felt by any person lawfully at any adjoining lot line.
8. Light Pollution and Glare. All exterior lighting, including security lighting, signs or other uses shall be directed away from adjoining streets and properties. No direct glare shall be permitted and all lighting fixtures shall be shielded so that the angle of illumination is directed downwards rather than out.
9. Except for those provisions which require compliance with applicable federal and state laws, rules and regulations, the Zoning Board of Appeals may issue a variance to the above standards utilizing the review procedure and standards set forth herein at Section XVII.D., entitled "Area Variances".

**B. Access for Buildings.** Every building shall have access to a public or approved private road, and all structures shall be so located on lots as to provide safe and convenient access for rescue and fire protection vehicles. All new roads and intersections shall receive approval from the Town Highway Superintendent and/or Town Engineer. Whenever a private road is utilized for access, a road maintenance agreement shall be submitted to the Town Attorney or Attorney for the Town and shall be filed with the County Clerk's Office following such approval.

**C. Height Regulations.** The following uses and structures are exempted from the height regulations in this Zoning Law: church spires, belfries, farm buildings, ventilators, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. Solar energy systems, cupolas, architectural elements such as gables that are not occupied spaces, water tanks, flag poles, public monuments, telecommunication towers (see Local Law #1 of 2001), and wind turbines may exceed height limits in the Dimensional Table, provided that they comply with all applicable sections of this law and other laws of the Town of Cairo.

**D. Accessory Buildings and Uses.** Accessory uses are subject to the following requirements:

1. Accessory uses shall not be established prior to the establishment of a principal use.
2. Any accessory building or structure hereafter constructed, erected, placed, structurally altered or enlarged, except as otherwise permitted in this Zoning Law, shall be subject to the following bulk requirements:
  - a. No accessory use or structure shall be permitted within the required set back as defined in Section B. Table 2 Lot Dimensions.
  - b. No accessory use or structure shall exceed twenty-one (21) feet in height.
  - c. No accessory use or structure shall be larger in building footprint than the principal structure.

**E. General Lot and Yard Requirements.** The following lot and yard regulations shall apply to all lots or tracts of land on which the structure is located.

1. Required yards shall be located on the same lot as the principal building or use.
2. Corner lots shall be deemed to have two front yards, two side yards, and no rear yard.

**F. Stormwater, Drainage, Grading, Erosion and Siltation Control**

It is desirable that stormwater runoff rates after development shall not exceed the rates that existed prior to the site being developed and therefore the following measurable standards are hereby implemented:

1. Erosion and stormwater control management practices shall be designed and constructed in accordance with the Stormwater Design Manual of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES), and with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations, or as amended or revised.
2. All non-residential land disturbances of one (1) acre or larger, or residential land disturbances of two (2) acres shall conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities (GP-02-01), or as amended or revised.

3. Rain gardens and bioswales should be installed to infiltrate runoff from parking lots and other impervious surfaces. Where vegetative solutions are not feasible, the Planning Board shall include porous surfaces to allow infiltration of stormwater to the maximum extent practical.

#### **G. Flood Plains.**

All requirements of the Town of Cairo Local Law #1 of 1988, Local Law #3 of 1989 and any subsequent amendments thereto shall be met.

**H. Retention of Consultants.** The Town Board, Zoning Board of Appeals and the Planning Board are hereby authorized to retain legal, engineering, and planning consultants and/or such other expert consultants as are determined to be necessary to enable the full performance of the duties of the respective Board relative to any matters before either Board.

Payment for the services of such consultants is to be made from funds deposited by the applicant with the Town in escrow accounts for such purpose according to Local Law #2 of 2004. It shall be the responsibility of the applicant to submit to the Town, prior to the commencement of any work associated with said application before the Board, or at such other time as directed by the Board, certified check(s) in amounts equal to the estimate of the expert consultant and/or engineer for the cost of services to be rendered to the Town. This sum shall be released by the Town to the consultant or engineer in payment for the services rendered to it upon acceptance by the Town of those services.

### **Section VIII. Supplementary Regulations for Specific Districts**

#### **A. Supplementary Development Regulations for Commercial Districts (H-C, MS - COM, MS, C- MU, C-32S, C23, C23E, and I).**

1. All commercial, multi-family, and non-residential buildings in the H-C, MS, MS-COM, C-MU, C-32S, C23, C23E and I districts shall follow the Building Design Standards of Appendix A. These standards shall be incorporated into all Site Plan and special use permit applications.
2. In the Main Street Commercial (MS--COM) District, no single non-residential building shall have a building footprint exceeding 45,000 square feet. To minimize the apparent scale of a large building greater than 80 feet in width, facades facing the main street shall be broken by periodic setbacks, and rooflines fitted with offsets and changes in pitch. (See Appendix A).
3. In the Main Street Downtown (MS) District, no single non-residential building shall have a building footprint exceeding 10,000 square feet in order to be consistent with the scale of buildings already existing in the hamlet. Exceptions may be made only if the facades of larger buildings are articulated to appear as multiple buildings, each with a maximum building footprint of 10,000 square feet.

4. Sidewalks shall be required in the Main Street Downtown District (MS) and along the Main Street (Route 23B) portion of the MS-COM district. All sidewalks shall be constructed in accordance with the Town of Cairo Sidewalk Report.
5. In addition to the design requirements of Appendix A, a permanent, year-round buffer consisting of vegetation, fencing or berms shall be provided for whenever a commercial use is adjacent to a residential use in the C-MU district,
6. In the C-23 District and C-23 East District, to the extent practicable existing tree and forested vegetation located along Route 23 shall be permanently maintained to act as a visual buffer and landscape element. Where no such vegetation exists, the Planning Board shall require landscaping to provide for such a visual buffer as set forth in this law at Section XV. F.
7. In the Industrial District (I), adequate provisions shall be made for the collection and proper disposal of all stormwater from the site in a manner which does not pollute groundwater or stream water. The proposed use shall not adversely impact the quantity of groundwater available to public or private water supply wells. Adequate control measures that prohibit on-site disposal of solid waste, pathological waste, or process waste, including aqueous-carried waste shall be provided for. The adequacy of the proposed control measures must be evaluated by the Planning Board in terms of their reliability and feasibility, as well as the degree of threat to groundwater in the event that the control measures failed. All handling and storage of solid waste, pathological or medicate waste, petroleum, pesticides, herbicides, radioactive material, hazardous substances, hazardous waste, or process waste shall meet the applicable standards of federal and New York State law and the rules and regulations of the New York State Department of Environmental Conservation. The industrial use shall ensure that adequate, safe off-site disposal is provided for. The Planning Board may require a spill response and containment plan to be in place to minimize groundwater or surface water contamination. Access to the I district shall only be from Ross Ruland Road Extension. A permanent buffer consisting of mature trees, shrubs, and other screening vegetation shall be maintained for a minimum of fifty (50) feet between the right of way of Ross Ruland Road Extension and any structure in the I district.

## **B. Supplementary Development Regulations for Rural Residence Districts and Mountain Top District (RR-1, RR-2, MT).**

1. All non-residential buildings in these districts shall follow the Building Design Standards of Appendix A. This provision shall not apply to agricultural buildings located on parcels of land that are located within a state certified agricultural district and are part of a farm operation.
2. No single commercial building shall have a building footprint exceeding 6,000 square feet.
3. Protection of Agriculture in New York State Agricultural District. When parcels of land are located within a certified New York State Agricultural District, or within 500 feet of the boundary of a certified New York State Agricultural District as defined in Article 25AA of the New York State Agriculture and Markets Law, the following shall apply to any residential or non-residential development:



- a. **Agricultural Buffers.** Buffers may be established between any farm and new non-farm use to reduce the exposure of non-farm uses to odors, noise, and other potential nuisances associated with the agricultural operation and to protect the agricultural operation from potential complaints related to same. Such buffers may consist of vegetative screening, woodlands, vegetated berms, or natural topographic features and shall be no less than fifty (50) feet in width. Buffers may be required to be larger depending upon the type of agriculture or farm use adjacent to the non-farm use, the topography and the proposed design and planting of such buffer. It may be the responsibility of the non-farm applicant, subject to approval by the Planning Board, to provide an effective buffer that will reasonably protect adjacent non-farm areas from agricultural procedures.
- b. **Required Disclosure.** In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise and vibration." This disclosure shall be required as a note on a subdivision plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, inclusion in an offering plan or real estate listing information sheet, or letter of notification.
- c. **Agricultural Data Statement.** Any application for a Special Use Permit, Site Plan approval, use variance, or subdivision approval requiring Town review and approval by the Town Board, Planning Board, or Zoning Board of Appeals that would occur on property within a certified New York State Agricultural District containing a farm operation, or on property with boundaries within five hundred (500) feet of a farm operation located in an Agricultural District, shall include an agricultural data statement as defined in Section XIX. The reviewing board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.
- d. All subdivisions within the RR district shall be platted to preserve the maximum amount of prime farmland soils and soils of statewide importance for continued agricultural use as practical. During subdivision review, insofar as practicable, building envelopes shall be identified and located in a manner to protect the maximum amount of prime and statewide important farmland soils as follows:
  1. On the least fertile soils for agricultural uses and in a manner which permits access to active agricultural land.
  2. Within any woodland contained within the parcel, or along the far edges of open fields adjacent to any woodland, to reduce impact on agricultural operations and to enable new construction to be visually absorbed by natural landscape features.

3. In locations least likely to block or interrupt scenic vistas as seen from public roadways.
- e. When parcels of land are located within a certified New York State Agricultural District as defined in Article 25AA of the New York State Agriculture and Markets Law, the following exemptions from provisions of this Zoning Law shall apply to land and buildings on farm operations:
  1. There shall be no height limits on agricultural structures, including but not limited to barns, silos, grain bins, and fences, as well as equipment related to such structures, as long as they are being used in a manner that is part of the farm operation.
  2. Agricultural structures shall be exempt from the maximum lot coverage requirements of Section IV.
  3. Agricultural structures shall meet all front, side and rear setbacks pursuant to Section IV.
  4. Agricultural structures and practices shall not require Site Plan review or Special Use Permit approvals.
  5. Mobile homes and single-wide manufactured homes meeting the definition of “Manufactured Home(s), single-wide, farm worker housing” in this Zoning Law shall be allowed without the requirement that they be located on a separate parcel, provided that all well and septic system requirements of the Department of Health are met.
4. Rural Siting Principles for Development in the RR and MT districts.
  - a. Siting guidelines of Appendix A, Section G are recommended but not required for the siting of single family residences on existing or newly subdivided lots. The rural siting standards of Appendix A, Section G shall apply to the siting of all uses that are subject to Site Plan or Special Use Permit approval, and for all major subdivisions and conservation subdivisions in rural residential (RR-1 and RR-2) or the MT districts.

### **C. Supplementary Development Regulations for the Shinglekill Creek Overlay District (SCWO)**

1. Purpose. The Town of Cairo hereby establishes an Overlay District to protect the health, safety, and general welfare of the community by preventing groundwater contamination to the Town’s public water supply system.
2. Boundaries. The Shinglekill Creek Watershed Overlay (SCWO) district consists of locations within the watershed of the Shinglekill Creek including the well fields and recharge areas of the Town of Cairo water supply system. The boundary of the district is shown on the Zoning Map of the Town of Cairo and the district boundaries are based on data presented in the

Groundwater Study of the Town of Cairo (New York Rural Water Association, 2008) and USGS topographical information.

3. Prohibited uses and activities in the SCWO district. The following uses and activities are prohibited:
  - a. The on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process wastes, including aqueous-carried waste (except for animal manure and associated bedding material, and agricultural use of food processing wastes where the waste is applied at or below rates used for agriculture).
  - b. Surface land application of septage, sewage, sludge, or human excreta except where permitted by NYSDEC for agricultural production. Where such application is permitted, the landowner shall submit to the Town a copy of all correspondence between the landowner/applicant and the applicable federal, state or local regulatory agencies and a copy of all applicable federal, state and local permits.
  - c. Disposal of snow or sand containing salt or deicing compounds that has been transported from off-site areas.
  - d. Stockpiling or storage for other than residential uses of coal, bulk chemicals, deicing compounds, hazardous substances, or hazardous waste.
  - e. Stockpiling or storage of fertilizers except in containers or structures designed to prevent contact with precipitation.
  - f. Storage of manure, except in conjunction with agricultural operations.
  - g. Construction of municipal or industrial sewage treatment facilities with disposal of primary or secondary effluent.
  - h. Mining and excavation of overburden and/or minerals from the earth for sale or exchange, or for commercial, industrial, or municipal use (except for the sale of incidental overburden and/or minerals from excavation related to construction as part of an agricultural or residential use).
  - i. Drilling of wells used for obtaining oil, obtaining natural gas, gas storage, solution mining, or brine disposal.
4. Lot coverage. The maximum lot coverage within the Overlay shall not exceed fifteen percent (15%) of the lot area except that agricultural operations are not subject to this requirement.
5. Subdivision design. All major subdivisions shall be designed as a conservation subdivision pursuant to XIII of this local law with no less than fifty percent (50%) of the parent parcel preserved permanently as open space.

6. Site Plan approval required. Prior to the issuance of a building permit, Site Plan approval shall be required, except for the following uses:
  - a. Construction or expansion of a one-family or two-family dwelling or any accessory structure that conforms to the maximum lot coverage requirement of the district;
  - b. Agricultural operations located within an Agricultural District created pursuant to New York State Agriculture and Markets Law.
7. Site Plan submission. In addition to other data set forth in the Town of Cairo Site Plan Law (Local Law # 4 of 2008), the following shall be submitted to the Planning Board for any Site Plan or special use permit approval:
  - a. For projects that disturb more than one acre of land or if NYS DEC requires a State Pollution Discharge Elimination Permit, a report detailing the proposed conveyance, storage, distribution, generation, use, treatment, and/or disposal of any stormwater runoff or sewage shall be developed. When a project is required to develop and file a Stormwater Pollution Prevention Plan (SWPPP) pursuant to New York State GP-02-01, the SWPPP shall document the methods for the removal of oil, gasoline, and other contaminants from runoff by the use of treatment swales, sediment traps, oil/gas separator, and/or other devices, and all measures and requirements of the New York State Stormwater Design Manual shall be followed.
  - b. To the maximum extent, runoff from impervious surfaces shall be recharged to ground water in a method to be approved by the Planning Board.
  - c. Copies of any applications made to any other governmental agencies and permits received from other governmental agencies.
  - d. Additional information or material as may be requested by the Planning Board.
8. Review and approval criteria. The following criteria shall be used by the Planning Board in reviewing applications within the Shinglekill Watershed Protection Overlay District and shall serve as minimum requirements for approval pursuant to this section. The application shall not be approved unless the Planning Board determines that the applicant has met all of these standards.
  - a. The application complies with the regulations and requirements set forth in this section.
  - b. Adequate provisions have been made for the collection and proper disposal of all stormwater that runs off proposed roads, parking areas, roofs, and other surfaces, and that adequate provisions have been made to ensure that ground water is recharged to the maximum extent practicable on-site.

- c. Filling, excavation and earth moving activity shall be minimized to the maximum extent practicable.
- d. Soil erosion and sedimentation shall be minimized to the maximum extent practicable.
- e. The proposed use is located in a manner that will not adversely impact the quantity of groundwater available to public water supply wells or other wells.
- f. The proposed use is designed with adequate control measures that prohibit on-site disposal of solid waste, pathological or medical waste, petroleum, radioactive material, hazardous substances, hazardous waste, or process waste, including aqueous-carried waste (except sewage). The adequacy of the proposed control measures must be evaluated in terms of their simplicity, reliability, and feasibility, as well as the degree of threat to public water supply wells and other wells in the event that the control measures failed.
- g. All handling and storage of solid waste, pathological or medical waste, petroleum, pesticides, herbicides, radioactive material, hazardous substances, hazardous waste, or process wastes shall meet the applicable standards of federal and New York State law and the rules and regulations of the New York Department of Environmental Conservation.
- h. The proposed use or activity must provide adequate provisions for the safe off-site disposal of solid waste, hazardous waste, process waste, and other wastes generated. All waste must  
  
be transported by licensed haulers where required and disposed-of at a licensed disposal facility having adequate capacity to accept the volume of waste to be generated by the proposed use.
- i. In order to enable a fast and effective response to an on-site release or spill of potential contaminants, the proposed use or activity must have adequate spill response and containment plans in place to minimize groundwater or surface water contamination.

#### **D. Supplemental Regulations for the Stream Corridor Overlay District**

All streams classified by the New York State Department of Environmental Conservation as a regulated stream C(t) or higher shall be included in the Stream Overlay District. No site disturbances, except for agriculture, shall take place within 100 feet of any stream bank located within the Stream Corridor Overlay District. Natural vegetation shall remain undisturbed to the maximum extent possible in order to preserve an environmentally healthy stream and stream corridor. Clearcutting and removal of vegetation is prohibited. However, selective cutting to remove individual trees to create “view corridors” from new structures or selective cutting of trees for forestry operations shall be allowed by the Planning Board.

## Section IX. Parking, Access and Loading

### A. Off –Street Parking

1. Off-street parking shall be provided to adequately assure the safe and convenient parking of vehicles out of the road right – of – way and in a manner that will afford safe pedestrian access to buildings. Off-street parking shall also be designed to consider snow removal, drainage, and maintenance.
2. Parking Lot Design
  - a. The Town finds that large and highly visible parking areas may damage the character of the Town, and harm the natural environment and visual character of the community. The Town also recognizes that inadequate parking or inappropriately designed parking can diminish quality of life by creating traffic congestion, safety hazards, inconvenience, and interfere with snow removal, drainage, and customer service. The Town seeks to balance the need for adequate parking with the need to minimize aesthetic harm resulting from parking lots and to avoid negative impacts of excessive parking requirements.
  - b. Off-street parking requirements for non-residential uses shall be established by the Planning Board based upon need of the proposed use. In the Hamlet of Cairo, the Planning Board may allow counting of existing off street or on-street parking to meet these requirements. Upon due consideration of the table below which is expressly set forth as a guideline, the Planning Board shall have the authority to deviate parking space requirements on a case by case basis based on need. Since businesses vary widely in their need for off-street parking, it is most appropriate to establish parking requirements based on the specific operational characteristics of the particular use proposed. In determining the parking requirements for any proposed use, the Planning Board shall consider:
    1. The projected maximum number of persons who would be driving to the use as employees, customers, clients, delivery and service personnel, members, students or other users at times of peak usage. Parking spaces shall be sufficient to satisfy eighty five percent (85%) of the anticipated peak demand after snow storage is deducted.
    2. The size of the structure(s), use, and the site.
    3. The environmental, scenic or historic sensitivity of the site. In cases where sufficient area for parking cannot be created on the site without disturbing those resources, the Planning Board may require a reduction in the size of the structure so that available parking will be sufficient.
    4. The availability of safely usable on-street parking.
    5. The availability of any off-street parking within five hundred (500) feet that is open to the public, or owned or controlled by the applicant, or available on a shared use basis.

6. Standards used in generally accepted traffic engineering and planning manuals shall be referred to; however, such standards shall be used as a guide.

c. Guidelines for the minimum number of off-street parking spaces to be provided are as follows:

Use	Number of Parking Spaces
Residential	2 per dwelling
Lodging	1 per each guest sleeping room plus 1 for each 1.5 employees
Office	1 per 300 square feet (sf) of gross floor area
Home Occupation	As required by the Planning Board
Automotive repair	1 for each employee for the largest shift, and an additional one parking space per service bay, plus requisite parking spaces for storage of vehicles being repaired.
Automotive sales	1 for each 700 sf of sales area within a building, but not fewer than five spaces for customer parking and one space for each two employees.
Bank	1 for each 500 sf gross floor area.
Bank, with drive through	1 for each 500 sf gross floor area. Stacking lanes shall accommodate 5 spaces per window.
Bed and breakfast	1 for each guest sleeping room, plus 1 for each 1.5 employees, plus required parking for the dwelling.
Car wash	1 for each employee, and stacking lanes shall accommodate at least three times the number of vehicles that may be within the wash process at one time. For self-serve washes, the employee spaces may be eliminated.
Convenience store associated with automotive service station	1 for each 150 sf gross floor area
Day care center	1 for each 6 children, plus 1 per employee.
Equipment storage	As required by the Planning Board.
Funeral home	1 for each 5 seats available under maximum occupancy, at least one parking space provided for each funeral vehicle and each employee.
Kennel	1 per 400 sf of gross floor area
Manufacturing and Light Manufacturing	1 for each 2 employees for the maximum employed shift, plus one space for each company vehicle, or one per 400 sf gross floor area, whichever is greater.
Membership club	1 for each member, plus one space per 200 sf gross floor area.
Public utilities	As required by the Planning Board.
Recreation, commercial indoor or	Bowling Alley: 3 for each alley

Use	Number of Parking Spaces
commercial outdoor	Tennis Court: 3 for each court Swim Club: 1 for each 4 members For any use not listed – as required by the Planning Board.
Religious institution	1 for each 4 seats or pew spaces or in places without seats, 1 for each 100 square feet of floor space used for public assembly
Research/laboratory facility	1 for each 2 employees for the maximum employed shift, plus one space for each company vehicle, or one per 400 sf gross floor area, whichever is greater.
Resort	1 for each guest sleeping room, plus 1 for each 1.5 employees
Restaurant	1 for each 150 sf of gross floor area
Retail use	1 for each 250 sf gross floor area
Self-storage facility	1 for each 4 storage areas, plus 2 for each dwelling.
Service business, with no customers at site	1 for each 250 sf gross floor area
Veterinary hospital	1 for each 400 sf gross floor area
Warehouse	1 for each 1,000 sf gross floor area
Uses not listed in this Zoning Law are to be determined by the Planning Board	Standards used in generally accepted traffic engineering and planning manuals shall serve as a reference.

- d. Where two (2) or more different uses occur on a single lot, the total amount of parking shall be the sum of the requirements for each individual use divided by 1.5 unless it can be demonstrated to the satisfaction of the Planning Board that the nature of the proposed uses will permit a lesser number of parking spaces. Use of shared parking lots is encouraged. The Planning Board may require more or allow less parking in situations where the flexible application of these standards is appropriate.
- e. All required off – street parking spaces shall be used solely to park motor vehicles by residents, visitors, patrons or employees. There shall be no sale, repair, or storage of vehicles within off – street parking areas.
- f. Reasonable and appropriate off-street parking requirements for structures and land uses that do not fall within the categories listed shall be determined in each case by the Planning Board.
- g. Adequate parking for handicapped persons shall be provided in accordance with applicable laws. Handicapped parking spaces shall be provided in accordance with all State and Federal ADA regulations (ICC/ANSI A117.1).
- h. Size of Parking Spaces



1. Each parking space shall be at least nine (9) feet wide and nineteen (19) feet long or as follows:

Angle	Stall Length	Min. Stall Width	Aisle Width
90	19'	9'	24'
60	18'10"	9'	16'
45	17'4"	9'	14'

- i. Off-street parking areas shall be located on the site in such a way as to minimize negative visual impacts on the character of the surrounding area. Where practicable this may be accomplished by locating off-street parking areas to the side or rear of the structure. If this is not practicable due to lot size or configuration, landscaping shall be used to minimize negative visual effects created by off-street parking areas in front of buildings in order to provide visual continuity with the surrounding area.
- j. The maximum finished grade for parking areas shall not exceed three percent (3%). Maximum grade of access drives shall be eight percent (8%).
- k. Landscaped islands shall meet requirements of 2 (i) and shall be integrated into parking areas to visually break up large expanses of paving and provide shading. Landscaping shall be at least fifteen (15) percent of the gross parking area, including sidewalks where required. Landscaping shall not block sight lines and plantings at parking facility entrances and exits shall be limited to ensure clear sight distances. Clear sight lines from doors and windows must also be protected. Lighting fixtures should be consistent with the character and style of the Town.
- l. Parking areas shall use the minimum lighting necessary and shall refer to Local Law #4 of 2008 as may be amended from time to time. The Planning Board may utilize the "Lighting for Parking Facilities" by the Illuminating Engineering Society of America (IESA) for guidelines for determining parking lot illumination requirements.
- m. Curbing shall be required for parcels located within the Main Street Downtown and Main Street Commercial districts. Curbing may be required along road frontage to delineate access points. The Planning Board may require curbing elsewhere when appropriate.
- n. Stacking lanes shall be required for all uses that involve drive-up customer services such as bank window tellers, fast food restaurants, pharmacies, car wash bays, etc., to avoid any stacking of vehicles in public right-of-ways.
- o. The Planning Board may require use of pervious surfaces for parking lots where permeable soils conducive to infiltration are found or the use of subsurface and under pavement stormwater management and treatment systems are incorporated.
- p. Parking lot areas may be used for snow storage provided the available parking excluding snow storage areas meet the standards of 2(c) of this sub-section, the snow melt will be

managed by the stormwater facilities designed for the site and the snow storage does not affect site lines at entrances and exits.

## **B. Off – Street Loading Requirements**

Off – street loading and unloading facilities shall be provided for commercial uses of greater than six thousand (6000) square feet as follows:

1. For retail, service, or office businesses of six thousand (6000) square feet, or more; a minimum of one space for the first six thousand (6000) square feet, plus additional loading spaces if warranted by use.
2. For wholesale business, storage, or warehouses where applicable, a minimum of one space for each establishment, plus one space for each additional eight thousand (8,000) square feet of gross floor area.
3. Each off – street loading space shall be at least fifteen (15) feet in width and at least twenty five (25) feet in length, exclusive of access and turning areas.
4. Any loading dock shall be to the rear of a building and shall be sufficiently far back from the road to permit the largest permitted tractor trailer to maneuver into the loading dock without obstructing traffic or taking up parking spaces. However, loading docks may be located to the side of a building provided the sides of the building do not face any street. Loading areas shall be sited to avoid conflicts with areas frequented by pedestrians or other vehicular traffic.

## **Section X. Manufactured Home Parks**

### **A. Establishment of a Manufactured Home Park.**

The Town Board may, after Planning Board review, public notice and hearing, approve, establish, describe, and designate a Manufactured Home Park on the Official Zoning Map of the Town pursuant to this section.

1. The same review and permitting procedures as per Section XIV (D)(2) of this Zoning Law shall be followed in the application for an approval of a Manufactured Home Park.

### **B. Location Requirements.**

1. Zoning Districts: A Manufactured Home Park may be established in the I and C-MU districts.
2. Impact to Surrounding Properties: The Manufactured Home Park shall not be detrimental to present and potential surrounding uses.

- a. Streets: Existing and proposed streets within the Manufactured Home Park shall be suitable and adequate to carry anticipated traffic within the proposed development and in the vicinity of the proposed districts.
- b. Utilities: Existing and proposed utility services shall be adequate for the proposed development and such utility services shall be placed underground.
- c. Highway Frontage: A Manufactured Home Park shall have frontage on, and direct access to, a New York State or Greene County Highway.

### **C. Site Plan Approval.**

All Manufactured Home Parks shall receive Site Plan approval from the Planning Board prior to construction and operation. Application for a Manufactured Home Park shall be accompanied by the required sets of plans prepared by a licensed Landscape Architect, Architect, Engineer, or Land Surveyor, shall be filed with the Town Clerk, and shall include the following:

1. The name and address of the applicant.
2. The location and deed of the Manufactured Home Park site.
3. Plans and specifications of all improvements and facilities constructed or to be constructed within the Manufactured Home Park.
4. Such further information as may be requested by the Town Board or Planning Board to enable a proper determination if the proposed Manufactured Home Park will comply with all legal requirements.

### **D. Manufactured Home Park standards.**

1. Site Development.
  - a. Site Size. Manufactured Home Parks shall be located on well drained sites comprising a minimum of five (5) acres but not less than the minimum lot size for the affected zone and a maximum of twenty (20) acres;
  - b. Grading. The site shall be properly graded to ensure rapid drainage so that no portion of the site is subject to flooding or erosion;
  - c. Minimum Frontage. Where no secondary access is provided, the site shall have a minimum of three hundred (300) feet of frontage on the highway providing primary access to the site.
  - d. Minimum Setbacks. No manufactured home, manufactured home accessory building, Manufactured Home Park office or service building shall be located within fifty (50) feet from any property line encompassing the site unless otherwise determined by the Planning Board that a lesser distance would be sufficient due to topography, existing on-

site screening or other circumstance to ensure adequate screening and buffering of adjacent properties.

- e. Rent/Ownership. The land lying wholly within the perimeter boundaries of any proposed or established Manufactured Home Park shall be held in single ownership and shall consist of separately dimensioned, individual lots, collectively held in single ownership and used entirely for rental purposes only.

2. Density/Lot Standards.

- a. Lot Density/Lot Setbacks. Each Manufactured Home Park shall be designed to accommodate separately identified manufactured home lots as follows:

**Minimum Lot Area**

Single wide unit.....	7260 square feet (sf)
Double wide unit.....	9700 sf
Maximum # Units/Gross Acre.....	4
Minimum Setback from Public Highway Right-of-Way Line.....	100 feet (ft)
Minimum Setback from Non-Dedicated Street Centerline.....	35 ft
Minimum Unit Separation.....	40 ft
Minimum Manufactured Home Lot Width.....	70 ft

- b. Homes within a Manufactured Home Park shall be installed in the Town of Cairo in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code Act.
- c. Manufactured Home Lot Access. All designated lots within a Manufactured Home Park shall have direct access to streets designed to Town of Cairo specifications and shall be approved by the Town Superintendent of Highways.
- d. Required Parking. Two (2) off-street parking spaces shall be provided for each manufactured home, with one (1) additional space for each four (4) manufactured homes. Every parking space shall be at least ten (10) feet in width and twenty (20) feet in length, and have adequate provision for maneuvering and for passage to and from streets.
- e. Required Manufactured Home Park Caretaker. Each Manufactured Home Park Licensee shall have a duly authorized attendant or caretaker on-call at all times who shall keep the Manufactured Home Park, its facilities and its equipment clean, orderly, and in a sanitary condition at all times.
- f. Manufactured Home Unit Expansion. Any manufactured home unit, whether it is a single-wide or double-wide unit, may be expanded, however:

- 1. Any expansion must maintain the required separation distance between units.;

2. Any single-wide unit proposed for expansion shall have a minimum lot area equal to that of a double-wide unit as specified in this Zoning Law.
- g. Open Space/Landscape Plantings. All areas of the site except wetland buffers, stream corridors, steep slopes, or other natural undisturbed areas not occupied by buildings, units, parking areas, driveways or walkways shall be maintained as lawn area with landscape plantings of trees and shrubs, or as natural areas as follows:
1. All margins along the front, side and rear property lines of the Manufactured Home Park site shall be planted with evergreen or deciduous trees in a mass planting or hedgerow, for the purpose of visual screening and noise abatement. Such plantings shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade, and suitable settings for the manufactured home and other facilities as approved by the Town of Cairo;
  2. The design of individual sites shall take into consideration the natural growth presently on the site and the nature and condition of the terrain as well as the relationship of the site itself with respect to adjoining lands. Screening and/or landscape plantings for such individual sites shall be provided as deemed necessary by the Town of Cairo Planning Board.
- h. Utilities. Each individual manufactured home unit shall be served by central water supply facilities and wastewater treatment facilities as approved by the New York State Department of Health and/or Department of Environmental Conservation.
1. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all manufactured home lots and buildings within the manufactured home park.
  2. Each manufactured home lot shall be connected to an on-site sewer plant, which shall connect to the manufactured home situated on the lot to receive the waste from shower, tub, flush toilets, lavatory and kitchen sink in the home. Sewer connections in unoccupied lots shall be so sealed as to prevent the emission of any odors and the creation of breeding places for insects and secure from tampering or opening by children or animals;
  3. Plumbing connections to each manufactured home shall comply with all regulations of the New York State Plumbing Code;
  4. Weatherproof electrical service connections and outlets shall be of a type approved by the New York State Board of Fire Underwriters;
  5. Access to the office telephone shall be required.

- i. Required Storage Space. Storage space for the use of manufactured home park residents shall be provided within a fully enclosed building in an amount equal to at least eighty (80) cubic feet for each manufactured home lot in the Park.
3. Recreation Areas. The Town of Cairo Planning Board shall also have the discretion to require certain recreation or community service facilities at the location of any proposed Manufactured Home Park. These include, but are not limited to, laundry facilities, public telephone, recreational facilities, parks, open spaces, playgrounds, meeting room and rest rooms. The Planning Board may find that due to size, topography or location of the Manufactured Home Park, land for parks, open spaces, playground or other recreational purposes cannot be properly located on the property, or that those amenities are not desirable. In that case, prior to approval and filing of the proposed plan, the Planning Board shall require that a payment in an amount equal to one hundred dollars (\$100) per manufactured home lot within the proposed Park shall be made by the applicant to the Town of Cairo and added to Town recreation funds pursuant to Section 277 of the New York State Town Law. Such amount shall be paid to the Town of Cairo at the time that final approval of the plan is made and no such plan shall be finally approved nor filed until such payment has been made.
4. Pedestrian. Pedestrian ways shall form a logical, safe, and convenient system of pedestrian access to all project facilities.
5. Snow Removal. The Owner of the Manufactured Home Park shall be responsible for snow removal from the Manufactured Home Park to the public highway. The owner shall be required to accomplish snow removal promptly so as to ensure the safety of the residents and access for emergency vehicles.
6. Site Lighting. Street lighting shall be provided at all entrances and exits to the Manufactured Home Park and on all internal streets, intersections, walkways and common areas. Such lighting shall provide an illumination of .6 foot candles to those areas and shall use full cut off or shielded light fixtures to reduce glare.
7. Fire Protection. A Manufactured Home Park shall be provided with suitable and operable fire extinguishers and other fire alarm and protection devices as may be prescribed by the fire district where the Manufactured Home Park is located. There shall be clear numbering of manufactured homes within the Manufactured Home Park with a layout map provided to the fire and disaster coordinator and to ambulance and police agencies. The local fire department and ambulance service shall review and approve access plans for the Manufactured Home Park to ensure adequate safety and emergency response. If applicable, in accordance with the Town of Cairo Local Law 3 # of 2007, entitled "911 Sign Law" and any amendments thereto, a 911 number sign must be displayed on all homes.
8. Reasonable costs incurred by the Planning Board shall be paid by the applicant in accordance with the requirements set forth in the Town of Cairo Site Plan Review Law (Local Law #4 of 2008 and as may be amended from time to time). If the applicant fails to replenish the escrow account when requested by the Town or there are unpaid amounts for which the applicant is responsible pursuant to this provision, the Planning Board, in its discretion, may

cease review of the application until such amounts are paid or deny the application. In no event, however, shall any Manufactured Home Park approval be made until such sums have been paid in full.

## **Section XI. Signs**

### **A. General.**

1. A sign shall be permitted to advertise non-residential uses on site. Signs shall be designed and constructed to convey information with clarity and without disrupting the character of the community. Such signs shall conform to the following general design principles:
  - a. No sign shall project into the public right-of-way or to be a hazard to traffic or pedestrians, obstruct any door, window, ventilating system or fire escape, or cause any other hazard to public safety. Sign setback shall be measured from the edge of the right-of-way, not the edge of the pavement.
  - b. Signs shall not be mounted on roofs or extend above the roof line unless they are mounted on the face of a parapet wall extending above the roof line, and that case, it shall not extend above the top of the parapet.
  - c. Externally illuminated signs, including building identification signs, shall only use shielded light fixtures. No exterior sign shall be illuminated beyond two hours after the close of business and in no event between the hours of twelve midnight and 6:00 am unless the premises on which it is located is open for business.
  - d. Any sign not in use shall be removed by the building owner within six (6) months after cessation of business.
  - e. Businesses located in corner buildings are permitted to have one sign for each street frontage.
  - f. Businesses with service entrances may identify such entrances with one sign that does not exceed two (2) square feet.
  - g. In addition to other allowed signs, one sandwich sign per business is allowed. The sandwich sign shall not exceed five (5) square feet, but may be made of wood, chalkboard or finished metal, have handwritten or painted letters. Sandwich signs must be located within four (4) feet of the main entrance to the business. Such signs shall not interfere with pedestrian circulation and must be removed at the close of business each day.
  - h. Two signs are allowed per business. However a commercial building housing multiple units is permitted one freestanding sign that includes listings of all businesses located on the premises and each individual business shall be permitted one additional sign to be mounted on the building or windows.

2. Exempt Signs. The following signs shall be exempt from requirements of this section:
  - a. Memorial or historical signs, names of buildings and dates of erections when cut or cast into any masonry, bronze, stainless steel or similar permanent material.
  - b. Traffic or other municipal signs.
  - c. Legal notices, emergency, or non-advertising signs.
  - d. A farm stand sign not exceeding twenty (20) square feet.
  - e. Temporary, non-illuminated signs on the premises for the following purposes:
    1. Real estate “For Sale” or “For Rent” signs not exceeding six (6) square feet and located on the front wall of the building or freestanding.
    2. Real estate signs, signs announcing anticipated occupancy of a site or building or which identify the contractors, architects, engineers, etc., on a building or site under construction should not exceed twenty (20) square feet in area.
  - f. Temporary, non-illuminated off-premises directorial signs for the convenience of the general public not exceeding two (2) square feet in area.
  - g. Signs or bulletin boards customarily incidental to places of worship, libraries or museums, erected on the premises for purposes of displaying temporary public information notices, not exceeding fifteen (15) square feet in area.
  - h. No sign shall be located in such a manner as to cause a visual obstruction to traffic.
3. Prohibitions. The following signs shall be prohibited unless otherwise exempted by the Planning Board:
  - a. Except for holiday seasons, grand openings and other special or temporary events, not to exceed thirty (30) days, no sign shall include or consist of pennants, ribbons, streamers, spinners or other moving, fluttering or revolving devices.
  - b. Signs which revolve, move, are animated or contain flashing and/or moving lights.
  - c. Signs erected on utility poles, trees, natural features of the site or on site features intended for other uses.
  - d. Advertising billboards.
  - e. Temporary, movable signs, except for holiday seasons, grand openings, and other special events, not to exceed sixty (60) days.



- f. Signs with mercury vapor, low or high pressure sodium and metal halide lighting, or plastic panel rear lighted signs, or internally lighted signs. Neon signs mounted inside the structures window are allowed.
- g. Signs that advertise products, except for farm stand signs advertising agricultural products.

4. Freestanding Signs. All freestanding signs shall comply with the following standards:

- a. Only one freestanding sign, which may be double-faced, shall be permitted for the primary frontage of a property on a public street. Two freestanding signs shall be allowed on street frontage when the property is a corner lot and the property is accessed from two different streets. Not more than one freestanding sign shall be permitted for each business structure regardless of the number of stores or businesses housed on the property. Each business located within the parcel may have one additional sign that is building mounted only.
- b. All signs should be erected a minimum of fifteen (15) feet from any roadway right of way.
- c. The maximum height for freestanding signs shall be twelve (12) feet.
- d. Externally lighted signs are required.
- e. The maximum size of the sign shall be 32 square feet in all commercial districts except the maximum size shall be 24 square feet in the MS and MS-COM districts.
- f. Freestanding signs may be required to have a landscaped base. Other landscaping options may be considered by the Planning Board.

5. Building Signs. Signs attached to a building shall conform to the following standards:

- a. The maximum area shall be equal to the width of the building front times one (1) foot, but in no case shall the sign area exceed ten percent (10%) of the building face area. The total sign square footage shall be in proportion to the building size.
- b. Signs shall not project above the highest point along the face of the building.
- c. Iconic signs, such as barber poles, eye glasses, etc., which are traditional in appearance and size shall not extend more than four (4) feet from a building wall and shall not occupy a space of more than fifteen (15) square feet when viewed from any angle.



- d. One sign not exceeding six (6) square feet in area may be hung under a roof overhang perpendicular to each storefront or from a building.
  - e. Traditional awning signs shall be allowed but shall not be translucent and illuminated from underneath or behind the awning.
  - f. Within the Main Street Downtown district, signs located in the highway right-of-way or hanging down from building or roof eaves shall be allowed provided all sign standards are met.
6. Sign Bonuses. The Planning Board is authorized to allow for a size bonus for signs associated with projects requiring Site Plan or special use permits. Signs eligible to receive a size bonus must meet certain design standards. The size of the sign as determined above can be increased

by the following percentages, not to exceed a twenty percent (20%) total bonus increase:

- a. five percent (5%) if the sign is made of wood or simulated wood materials.
  - b. fifteen percent (15%) if the sign only identifies the establishment.
  - c. fifteen percent (15%) if the sign is not illuminated.
  - d. fifteen percent (15%) for a ground sign.
  - e. fifteen percent (15%) for a façade or building sign that is integrated with the building and enhances the architecture and character of the building. Application will require a detailed scale drawing or photosimulation showing the proposed sign on the building with accurate color and detail. This bonus is available only in the Main Street Downtown District (MS) and in the Main Street Commercial District (MS-COM).
7. Sign Permits and Sign Administration. No new sign shall be erected without a Site Plan review and approval by the Planning Board. Signs that are part of a broader Site Plan or special use permit approval process shall be reviewed by the Planning Board at the same time as other aspects of the Site Plan or special use permit. Site Plan approval shall also be required for the construction, reconstruction, installation, expansion, contraction, alteration, or relocation of any sign associated with a use that is subject to this Zoning Law. An application to erect a sign, whether part of a Site Plan or special use permit application process or not, shall be made to the Planning Board and shall include: (a) a scale drawing of the sign showing type of sign; (b) dimensions, advertising content, materials, method and style of illumination; (c) method of structural support; (d) colors; (e) location on the land or building in relation to buildings, roadways, driveways and sidewalks; and (f) name of the sign owner and person responsible for maintenance of the sign. The Planning Board will accept a hand-drawn illustration of the sign to convey the above information. Upon approval of the sign by the Planning Board, the Zoning Enforcement Officer shall issue a sign permit.

## **Section XII. Utilities**

- A. In all non-residential and multi-family residential developments, the Planning Board may require that all utilities, exclusive of transformers, be placed underground at the time of initial construction. Required utilities may include water, sewer, storm drainage, telephone, cable, electricity, and wiring for street lights. Propane gas supplies and three-phase power systems may be placed above the ground surface where completely fenced or screened and not located in front of the building.
- B. Reasonable provision shall be made for the extension of utilities to adjoining properties, including installation of grates and manholes if necessary, and the granting and recording of easements as required.

## **Section XIII. Conservation Subdivision Regulations**

### **A. Applicability.**

- 1. Voluntary Application: A conservation subdivision development may be voluntarily applied to any parcel of land greater than five (5) acres in size in all Rural Residential and Mountain Top zoning districts (RR-1, RR-2, MT).
- 2. Discretionary Planning Board Application: Pursuant to Section 278 of the New York State Town Law, the Planning Board is authorized to require a conservation subdivision layout in all zoning districts except the hamlet of Cairo and Main Street (H-C and MS) when, in their discretion, they determine that the project or parcel contains one or more of the following:
  - a. More than twenty five percent (25%) of the site is occupied by a floodplain or flood hazard area as mapped by the Federal Emergency Management Agency.
  - b. More than twenty five percent (25%) of the site is occupied by steep slopes having a grade of twenty percent (20%) or higher.
  - c. More than twenty five percent (25%) of the site is occupied by Federal or State wetlands.
  - d. Any portion of the site is occupied by active agricultural lands.
  - e. The development proposed for the site is a residential development proposing ten (10) or more individual single-family dwelling units

### **B. Permitted, Accessory and Special Use Permit uses.**

Permitted, accessory and special use permit uses within a conservation subdivision shall be the same as those otherwise allowed in the zoning district in which the proposed development is located.

### **C. Density.**

The permitted number of dwelling units in a conservation subdivision shall not exceed the number of units that would be permitted according to the density requirements of Section V, unless a density bonus has been granted (Section VI). Density bonus units have to conform to the same layout requirements as all other units within the conservation subdivision.

### **D. Dimensional standards.**

Within the framework of limitations set forth in this section of the Zoning Law, the Planning Board shall allow alteration of lot dimensions and other site design requirements in order to properly accomplish the purposes of this Zoning Law and preserve the maximum amount of open space. Lots shall be arranged in a way that preserves open space and promotes land conservation as described in this section.

1. A conservation subdivision must preserve at least twenty five percent (25%) of the tract's acreage as open space land. House sites smaller than five acres, parking areas and roads shall not be included in the calculation of the minimum required open space.
2. Minimum street frontage: twenty five (25) feet.
3. The applicant shall include variations in the principal building position and orientation, but shall observe, as practical, the following minimum standards: Front yard setback of twenty (20) feet; Rear yard setback of forty (40) feet; Side yard setback of fifteen (15) feet separation for principal buildings; and building height of thirty five (35) feet.
4. Maximum impervious coverage. No more than twenty five percent (25%) of any given acre shall be covered with impervious surface in the form of access drives, parking areas or structures excluding residential structures unless it is within the Shingle Kill Creek Watershed Overlay District where no more than fifteen percent (15%) shall be covered.
5. Minimum lot size. The minimum lot size for developments requiring individual wells and septic systems shall be equal to that required by the New York State Department of Health to meet standards for water and septic system approvals.

### **E. Conservation Subdivision Process**

1. Sketch Plan. A Sketch Plan shall be submitted by the applicant as a basis for informal discussions with the Planning Board regarding the design of a proposed subdivision. This layout shall include an identification of primary and secondary conservation lands within a parcel(s), as described in Section F, below. The purpose of a sketch plan is to facilitate an expedient review of proposed new subdivision in conformance with the Comprehensive Plan. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the Planning Board, the Sketch Plan shall include an Existing Natural Resources Map and Site Analysis Map including the information listed below. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from governmental agencies, or from aerial photographs. The sketch plan is

not intended to be a highly engineered or exact document. Dependant upon the parcel conditions, the Planning Board may require one or more of the following items:

- a. Areas having slopes of twenty percent (20%) or greater.
- b. Wetlands, aquifer and aquifer recharge areas, if known, municipal water supply areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any.
- c. Agricultural lands including farmland within, and adjacent to, a New York State certified Agricultural District, and soils classified as being prime farmland or soils of statewide significance, if any.
- d. Sites where community sewer, community water, or community water and sewer are available or planned, if any.
- e. Lands within, or contiguous to, a Critical Environmental Area designated pursuant to Article 8 of the New York State Environmental Conservation Law, if any.
- f. Lands contiguous to publicly owned or designated open space areas, or privately owned and designated natural areas, if any.
- g. Historic structures or areas of national, state or local importance, if any, and specifically identifying those structures which are listed on either the federal or New York State Register of Historic Places.
- h. Sites in, or bordering on, known scenic locations identified in the Town's Comprehensive Plan, if any.
- i. Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species, or unique natural or geological formations, if any.
- j. General locations of vegetative cover conditions on the property according to general cover type including cultivated land, grass land, old field, hedgerow, woodland and wetland, and the actual canopy line of existing trees and woodlands.
- k. Lakes, ponds or other significant recreational areas, or sites designated as such in the Town's Comprehensive Plan, if any.
- l. Existing trails, inactive railroad beds, bikeways, and pedestrian routes of Town, State or County significance or those indicated in any Town, County or State plan for future trail development, if any.
- m. Ridge lines on the property.
- n. Location of all existing streets, roads, buildings, utilities and other man-made improvements.

- o. All easements and other encumbrances of property which are or have been filed of record with the Greene County Clerk's Office.
2. A preliminary plat shall be developed after the sketch plan meeting with the Planning Board and shall incorporate the approved sketch plan. The submission requirements for a Preliminary Plat include the requirements for Sketch Plans listed above and the submission requirements of the Town of Cairo Subdivision Regulations.
3. All other procedures and requirements of the Town of Cairo Subdivision Law related to Preliminary and Final Plat Approvals shall be followed.

## **F. Design Process for Conservation Subdivisions.**

1. Determine Lot Count as per Section V.
2. Delineate Open Space Lands. Proposed open space lands shall be designated as follows:
  - a. Primary Conservation Areas shall be delineated comprising open water (including streams, floodplains, and wetlands) and slopes over twenty percent (20%) and shall be designated on a map. Primary Conservation Areas shall be included in the required open space area to the greatest extent practical.
  - b. Secondary Conservation Areas shall be delineated and designated on a map. Secondary Conservation Areas shall be comprised of the area defined by the Comprehensive Plan as important to protect.
  - c. The primary and secondary conservation areas, together, constitute the total open space areas to be preserved, and the remaining land is the potential development area.
3. Specify Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
4. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified in this Zoning law and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding fifteen (15%). Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All requirements of the Town of Cairo Highway Law shall be met.

5. Draw Lot Lines. Upon completion of the preceding steps, lot lines are then drawn as required to delineate the boundaries of individual residential lots.

## **G. Site Design Criteria**

1. Residential structures in a conservation subdivision should be located according to the guidelines in Appendix A. paragraph G., which are listed in order of significance. The Planning Board may use its discretion to resolve any conflicts contained therein.
2. Open space standards:
  - a. The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The applicant shall also demonstrate that those sensitive areas will be protected by the proposed subdivision plan. Secondary Conservation Areas shall be included in the required open space area to the greatest extent practicable such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.
  - b. Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to, preserving wetlands and their associated upland habitats.
  - c. Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the tract, by a setback in accordance with Section VIII (B)(3).
  - d. Open space land shall, to the maximum extent practicable, be contiguous to avoid fragmentation and to create a critical mass of land either available for agriculture or left in a natural state. Open space lands shall be designated as a conservation lot owned in common, or designated and included as part of one or more lots. No individual parcel of common open space shall be less than five (5) acres except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection.
  - e. Any house lot over five (5) acres in size may be used for meeting the minimum required open space land provided that there is a permanent restriction enforceable by the duly organized and authorized land conservancy organization involved in the development that states the future use such as undisturbed wildlife habitat, managed agricultural field, or managed forest and that prevents destruction, development of, or use as a mowed lawn on that portion of the parcel. Any house lot less than five (5) acres does not qualify as open

space.

- f. The required open space may be used for community septic systems.
  - g. Stormwater management ponds or basins and lands within the rights-of-way for underground utilities may be included as part of the minimum required open space.
  - h. Recreation lands such as ball fields, parks, pool areas, etc. may not be considered part of the required open space.
3. Other Layout Criteria
- a. The building area of lots shall not encroach upon Primary Conservation Areas and their layout shall avoid Secondary Conservation Areas to the greatest extent practical.
  - b. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping.
  - c. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
  - d. Open space shall be directly accessible or viewable from as many home sites as possible.
  - e. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. A landscaping plan shall be developed to enhance the vistas which may exist and mitigate potential visual impacts of the subdivision.
  - f. Design around and preserve sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
  - g. Provide open space that is reasonably contiguous.
  - h. Protect wildlife habitat areas of species listed as endangered, threatened, or of special concern by either the United States Department of the Interior or the New York State Department of Environmental Conservation.
4. Building Design Standards. All design guidelines of Appendix A shall also be met for new non-residential structures to be located within the subdivision.

## **H. Streets driveways and Trails.**

- 1. Common driveway access may be provided. A pedestrian circulation and/or trail system shall be sufficient for the needs of residents, unless waived by the Planning Board.



2. Conservation subdivision streets shall meet the Town Highway Specifications. Where appropriate, the Planning Board shall work with the Highway Department to ensure that the Town of Cairo Highway Specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a conservation subdivision.
3. From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid long straight segments. Shorter straight segments connected by 90 degree and 135 degree bends are preferred in a more formal or traditional arrangement.
4. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.
5. Use of reverse curves should be considered for local access streets in cluster subdivisions in conjunction with long horizontal curve radii (at least two hundred fifty (250) feet) and where traffic speeds will not exceed thirty (30) mph. Further, use of single-loaded streets is encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
6. Bike paths and other pedestrian trails are encouraged.

#### **I. Permanent protection of open space.**

1. All required open space shall be restricted from further subdivision through one of the following:
  - a. A conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office. Due to the enforcement responsibilities carried out by easement grantees, this is the preferred method of ensuring permanent protection.
  - b. A declaration of covenants or deed restriction, in a form acceptable to the Town and recorded in the County Clerk's Office. This method should only be used where the applicant has demonstrated that a conservation easement is not practicable.
2. Open space land may be held in any form of ownership that protects its conservation values such as where the open space is owned in common by a homeowner's association (HOA). Open space may also be dedicated to the Town, County or State governments, transferred to a qualified non-profit organization, or held in private ownership. The applicant shall provide proof that the receiving body agrees to accept the dedication. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.
  - a. If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description

of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.

- b. The open space restrictions must be in perpetuity.
  - c. If land is held in common ownership by a homeowners association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs.
  - d. The Planning Board shall find that the HOA documents satisfy the conditions above.
  - e. The homeowners association shall be operating before the sale of any dwelling units in the development. The proposed homeowners association shall be established by the applicant and shall comply with the requirements of Section 352-e of the New York State General Business Law, and have an offering plan for the sale of lots in the subdivision approved by the New York State Department of Law, if required. In the event that the NYS Department of Law grants an exemption from the requirement of an offering plan, the applicant shall have in place a maintenance agreement acceptable to the Town that ensures perpetual maintenance of the open space.
  - f. Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.
  - g. The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
  - h. The association shall have adequate resources to administer, maintain, and operate such common facilities.
3. The conservation easement, declaration of covenants or deed restriction shall permanently restrict development of the open space and shall specify the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board shall approve the form and content of any easement, declaration, or restriction. The restriction shall be made a condition of the final plat approval. A conservation easement will be acceptable if:
    - a. The conservation organization is acceptable to the Town and is a *bona fide* conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
    - b. The conveyance contains appropriate provisions for proper reverting or re-transfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.

- c. A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space.
- d. The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

#### **J. Maintenance Standards.**

1. The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space.
2. Failure to adequately maintain any improvements located on the undivided open space and keep them in reasonable operating condition is a violation of the Zoning Law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or in the case of an HOA, the owners of properties within the development, and if unpaid, shall become a tax lien on such property.

#### **K. Sewage treatment systems.**

Sanitary sewage disposal systems, whether individual or community systems, may be located within, or extend into, required open space areas, provided that subsurface sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities for those systems are clearly defined in agreements submitted for approval as part of the subdivision application. Applications shall be approved that provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-a of New York State Town Law.

#### **L. Future Subdivisions**

When an applicant includes only a portion of landowner's entire tract, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with this section and to allow the Planning Board to adequately assess segmentation under the State Environmental Quality Review Act. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.

## **Section XIV. Development Regulations for the Planned Resort District (PRD)**

#### **A. Intent.**

It is the intent of this Planned Resort Development (PRD) district to provide flexible land use and design regulations through the use of performance criteria so that resorts may be developed within the Town which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be a separate entity without necessarily needing the participation

of other building sites or other common property in order to function. It is also the intent of this district to manage the environmental, aesthetic, and other negative impacts that may be associated with resort development.

## **B. Objectives.**

1. In order to carry out the intent of this Section, a PRD shall achieve the following objectives:
  - a. Incorporation of open space.
  - b. Preservation of natural features and resources including, but not limited to, topographic and geologic features, steep slopes, ridgelines, stream corridors, wetlands, scenic views, and floodplains.
  - c. Creative use of land and related physical development which maintains the rural character of Cairo.
  - d. An efficient use of land and road infrastructure that results in limited new road access points and traffic congestion.
  - e. A development pattern in harmony with the objectives of the Comprehensive Plan, including supporting retail and service businesses on Main Street.
  - f. Energy conservation through design, layout and orientation of structures.

## **C. General PRD Requirements.**

1. Minimum area. The minimum area required to qualify for a planned resort development district shall be ten (10) contiguous acres of land.
2. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of corporations. An application must be filed by the owner or jointly by owners of all property included in the project. In the case of multiple ownership, the application shall be signed by and approved plan shall bind all owners.
3. Permitted uses. Any use not listed in Section XIV (C) (3) shall be prohibited for a PRD.
  - a. Residential uses. In order to promote live-work environments, a PRD may be approved that includes multi-family housing or apartment buildings that serve the employees of the PRD businesses.
  - b. Tourist Resort Uses. Allowed uses in the PRD may be:
    1. Public and private recreational facilities, including but not limited to tennis courts, golf, spa, hiking trails, basketball, and volleyball.
    2. Lodging units including but not limited to hotels, cottages, campgrounds, or camping unit.
    3. Restaurants, retail shops, offices and infrastructure support services that are ancillary and accessory to the operation of the resort.
    4. Meeting rooms and conference facilities.

5. Customary accessory uses associated with items XIV(C)(a) and (b) of this Zoning Law shall also be permitted as appropriate to the PRD.
4. Intensity of land use.
    - a. The density of all PRDs shall be based on net acreage whereby all wetlands, streams, water bodies, floodplains, and slopes greater than twenty five percent (25%) shall be deducted from the total acreage prior to calculating allowable density of uses.
    - b. Twenty five percent (25%) of the parcel shall be permanently preserved open space as per Sub-section XIV(C)(4)(f) below.
    - c. The maximum number of residential uses allowed in a PRD shall be the same as that allowed by the underlying zoning district.
    - d. There shall be no more than sixty percent (60%) total building coverage of a site. The Planning Board shall determine in each case the appropriate land use intensity or dwelling unit density for individual projects. The determination of land use intensity, maximum density of guest units or dwelling unit densities shall be completely documented, including all facts, opinions and judgments justifying the selection of the rating or density, including how the objectives of the Comprehensive Plan are maintained.
    - e. No single building shall be larger than ten thousand (10,000) square feet (building footprint). No individual retail business, office or business service within the resort shall occupy more than two thousand (2,000) square feet. Entrances to any retail business, office or business service shall be from within a principal or accessory structure.
    - f. Open Space. Open space shall have adequate access, shape, size, dimension, character, location, and topography to preserve the natural resources on the property. There shall be no further subdivision or development of this open space and it shall be permanently preserved. The applicant shall document: (i) the areas that will be restricted from building coverage or disturbance; and (ii) areas where building coverage will occur through the identification of "building envelopes" within which a typical building footprint could be located. Open spaces shall be dedicated for natural resource conservation, wetland preservation, wildlife habitat, or scenic preservation. Streets and other impervious surfaces shall be excluded from the calculation of the minimum dedicated open space requirement.
    - g. Screening. All uses shall be screened from adjacent residential uses within or abutting the PRD by a buffer yard of forty (40) feet in width containing canopy trees, understory trees, and shrubs along the perimeter of the lot line abutting the residential use. A vegetated buffer yard of fifteen (15) feet shall be provided to screen all PRD uses from all public roadways. Existing vegetation along routes 23, 32, and 145 shall be retained and maintained to the extent possible so as to permit such vegetation to fulfill or contribute to the buffer and screening requirements. In lieu of compliance with the above buffer yard and screening requirements, an applicant may submit a detailed plan and specifications for landscaping and screening which will afford the same degree of buffering or

screening provided by the above requirements. Approval of an alternative to a forty (40) foot buffer shall be in the sole discretion of the Planning Board.

- h. Traffic impacts. A traffic study shall be required if the number of additional vehicle trips per day to be generated by the resort will exceed one hundred (100) on any existing public roadway. The applicant must provide for any road improvements, traffic access management, and traffic control to accommodate increased traffic generated by the PRD. The number of egress and ingress curb cuts shall be minimized. Roads within the PRD are to remain private but accessible to all fire and emergency services. The local fire department and ambulance service shall review and approve all access plans to ensure safety and access for emergency services.
- i. Building Height. No building shall be more than three stories in height.
- j. Public Utilities and Service Impacts. The PRD, at completion, shall not exceed the capacities of any public water supply, stormwater management facilities, sewers, solid waste disposal facilities, public safety, and emergency services of the Town. The applicant shall be responsible for demonstrating this to the satisfaction of the Town. Public facilities provided in connection with the PRD shall be constructed and located so as to minimize costs of municipal operation and maintenance. Where a proposed project at any point during its development would exceed the capacity of any of the services listed above, the applicant, prior to final Site Plan approval of the PRD by the Planning Board, shall negotiate, with the appropriate authority as determined by the Town, a strategy and program for mitigation. Where a capacity shortfall exists, the applicant shall be required to make the necessary improvements, or agree to pay for their pro rata share for the improvement, to accommodate the increased demand on facilities and services generated by the PRD. The results of these negotiations shall be subject to review and comment by the Planning Board and review and approval by the Town Board.
- k. Setbacks. The minimum distance from exterior property lines shall be:
  - (1) Principal structures - 100 feet
  - (2) Accessory structure - 60 feet
  - (3) Service structure - 100 feet
  - (4) Outdoor game courts and swimming pools which are generally available to all guests- 200 feet
  - (5) Parking lots and interior drives, excluding exterior points of access 100 feet
  - (6) Any portion of an equestrian facility, including structures, barns, stalls and corrals - 200 feet
- l. Parking: parking requirements shall be established in conjunction with PRD approval and special use permits based on information documenting usage of on-site facilities by guests or visitors and as contained in an approved traffic and parking analysis. The minimum number of parking spaces shall be provided for so as to prevent overbuilt parking lots. Use of pervious surfaces within parking areas shall be used to the maximum extent practical.

(1) All parking areas and driveways located within two hundred (200) feet of adjacent residential property shall be screened with a minimum three foot high, solid, decorative wall or a landscaped berm providing equivalent screening or a combination of both.

(2) Landscaped islands shall be provided every one hundred (100) feet within surface parking areas. Shade tree planters shall be provided between every four (4) stalls.

(3) No loading, truck parking, trash containers or outdoor storage area shall be visible from adjacent residences.

m. Lighting. All parking and driveway areas shall be located so as to prevent lights from shining onto adjacent residential property. All lighting requirements of the Town of Cairo Site Plan Review Law (Local Law #4 of 2008 and as may be amended from time to time) and any of its amendments for parking lots, ball fields, tennis courts, and other outdoor uses within the PRD shall be met.

#### **D. PRD application procedure and approval process.**

1. General. Whenever any PRD is proposed, before any permit for the erection of a permanent building in such PRD shall be granted, and before any subdivision plat may be filed in the office of the Greene County Clerk, the applicant or the applicant's authorized agent shall apply for and secure approval of such PRD in accordance with the following procedures. All time frames may be extended upon consent of the applicant.

2. Procedure.

a. Pre-application conference: Prior to the submission of a PRD application, the applicant shall meet with the Town Board to generally discuss the proposal.

b. Application: Six (6) copies of an application to amend the zoning map to establish a PRD shall be submitted to the Town Board. Such application shall include fees as established by the Town Board, deeds of current owners of all property within the proposed PRD as recorded with Greene County, names and current mailing addresses of all persons owning property within five hundred (500) feet of the proposed development, and a general plan as described below in Sub-section XIV(D)(4). The Town Board shall send written notice of the application consideration to all owners of property within five hundred (500) feet of the proposed PRD.

c. Town Board Approval: The establishment of a PRD in the Town of Cairo is a legislative act, similar to a rezoning. As a consequence, the establishment of a PRD requires the approval of the Town Board. Because the establishment of a PRD is a legislative act, the Town Board of the Town of Cairo has the same amount of discretion in deciding whether to adopt a PRD proposal as it does for any other legislative act. Applicants shall have no entitlement to any approval of a PRD proposal and the granting of applications shall be in the sole discretion of the Town Board. The Town Board may adopt a PRD only if it complies with the standards set in this Zoning Law, if it is in accordance with the letter

and spirit of the adopted Comprehensive Plan of the Town of Cairo and if it is in the best interests of the health, safety and general welfare of the people of the Town. The following steps shall be followed:

1. Creation of a PRD is subject to the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law). Consistent with the regulations implementing SEQRA, a coordinated review<sup>10</sup> shall be conducted. No PRD application shall be considered complete for consideration by the Town Board until either a negative declaration establishing that the proposal will not have a significant impact on the environment or SEQRA Findings Statement setting forth the necessary mitigation measures and conditions necessary to ensure that the impacts of the proposal will be mitigated to the maximum extent practicable.
2. Planning Board Referral: The Town Board shall, prior to establishing a PRD, and upon receipt of an application, shall submit the proposal to the Town of Cairo Planning Board and receive a recommendation from that Board. At this juncture, the Planning Board's review shall not be a full Site Plan or subdivision review, instead, its review shall be focused on whether the proposed PRD is consistent with the Town Comprehensive Plan and whether the Planning Board recommends amendment of the Zoning Law to establish the PRD. The Planning Board may also, at their discretion and at the expense of the applicant, consult with any engineer, attorney, planner, or other such professional reasonably necessary to assist the Planning Board in making its evaluation, recommendation and advisory opinion.
  - (1) Within thirty one (31) days of receipt of the application, the Town Board shall refer the application, general plan and all SEQRA materials to the Town Planning Board, and to the Greene County Planning Board pursuant to General Municipal Law Section 239-m. However, if the Town Board determines, in its sole discretion, that the proposal does not merit review because it does not meet the objectives of this Zoning Law or the Town's Comprehensive Plan, it shall so notify the applicant, and shall not refer the application to the Planning Board or the County Planning Board, and no further action on the application shall be taken.
  - (2) Planning Board Procedures: Upon referral, the Planning Board shall provide to the Town Board an advisory opinion on the proposed PRD within sixty (60) days of the next meeting of the Town Board following the Planning Board's receipt of the PRD application. The Planning Board may request additional information reasonably related to the PRD application. If the Planning Board requests additional information, its' time to render an advisory opinion is extended to the next meeting of the Town Board following receipt of such additional information. The time of receipt of such

---

<sup>10</sup> The Planning Board shall be included in the coordinated review due to the requirement for site plan and special use permit approvals for a PRD application pursuant to 6 NYCRR Part 617.3 (g).



information shall be deemed to be the date of the regular meeting following submission of the information to the Planning Board. The Planning Board may call upon the County Planning Department or Board, the Natural Resource Conservation Service, Soil Water Conservation District or any other public or private consultants that it feels are necessary to provide a sound review of the proposal. The advisory opinion shall be in the form of a report and shall contain the following content:

- (a) A recommendation to the Town Board that the application be accepted and that a public hearing be held for the purpose of considering PRD districting, or a recommendation that the Town Board reject the PRD application. This opinion shall be based on the following findings which shall be included as part of the report:
  - [1] How the proposal conforms to the Comprehensive Plan.
  - [2] How the proposal meets the intent and objectives of the PRD in the Zoning Law.
  - [3] How the proposal meets all the general requirements of the PRD.
  - [4] That the proposal is conceptually sound in that it meets a community need and it conforms to accepted design principals in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements.
  - [5] That there are adequate services and utilities available or proposed to be made available in the construction of the development.
- (b) The reasons for an unfavorable report shall be stated clearly. If appropriate, the report shall point out to the applicant what elements of the proposed project might be changed in order to better meet the criteria set forth in the immediately preceding subsection.

- 3. Public Hearing: The Town Board shall not vote to approve a PRD until it has held at least one (1) public hearing on the application following the submission of a complete application, and receipt of the Planning Board's recommendation on the application, has received the report of the Greene County Planning Board referral pursuant to GML 239-m, and has completed the SEQRA process.
- 4. The Town Board may, after receiving a recommendation from the Planning Board and the Greene County Planning Board, approve the general outline of the proposed PRD. This approval shall include establishment of the uses and densities that are allowable in the PRD as well as whether they are permitted uses or uses subject to Special Use Permits. Following Town Board approval of a PRD application, the property shall be labeled "PRD" on the official zoning map of the Town of Cairo with a notation that any development within this zone must be in accordance with the general plan approved in conjunction with approval of the PRD. No permits for development shall be issued within any area designated as PRD unless Site Plan approval is obtained pursuant to Local Law # 4 of 2008 (Site Plan Review, and as may be amended from time to time). If Site Plan approval for one or more phases of the general plan is not granted within three (3) years of such PRD zoning designation, the Town Board shall reserve the right, after notice and hearing, to rezone the undeveloped portion of the property to its

prior zoning classification.

- d. Review of Application: The Town Board may engage experts, including but not limited to, professional planners, architects, attorneys and engineers in reviewing the PRD proposal and associated SEQRA submissions. Reasonable costs incurred by the Town Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of PRD application including review of the SEQRA materials as per ECL Part 617. shall be charged to the applicant. Such reimbursable costs shall be in addition to any fee established by the Town Board. The Town Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a PRD. The amount so determined by the Town Board shall be deposited by the applicant in escrow with the Town Clerk at least five (5) days prior to the Town Board's commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Town Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Town Board shall notify the applicant of the additional amount that must be deposited with the Town Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to this provision, the Town Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any PRD approval be made until such sums have been paid in full.
  - e. Adoption of PRD: The Town Board shall not act on any application until all SEQRA requirements have been met. The Town Board shall act on an application to establish a PRD within ninety (90) days following completion of all SEQRA requirements. The Town Board's failure to act on a PRD application within this period shall not be deemed to constitute a default approval of the application. The Town Board may adopt a PRD only after following the procedures described above and making written findings regarding each of the standards set forth above for adoption of a PRD. The approval shall include a list of permitted uses, Special Use Permitted uses and any other minimum land use standards that the Town Board deems appropriate. The Town Board may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, lighting restrictions, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services, such as schools, firehouses and libraries, protection of natural and/or historic sites and other such physical or social demands.
3. Role of the Planning Board after Adoption of a PRD. The Planning Board's role after adoption of a PRD by the Town Board is to review Site Plans, subdivisions, and Special Use Permits for uses in the PRD pursuant to the requirements for those approvals in this Zoning

Law and in the Town of Cairo Subdivision Law.

4. PRD General Plan.

- a. A plan clearly showing the following information shall be submitted:
  1. Survey of bounds showing courses and distances, zoning districts and lot lines within the tract and of all abutting property, existing easements burdening and benefiting the tract, and structures existing on the tract and within five hundred (500) feet of its boundaries.
  2. Flood hazard areas, including base flood elevations.
  3. Topographic contours at a maximum of two (2) foot intervals showing existing grades.
  4. Existing vegetation, land forms and water bodies.
  5. Roadway plans for primary and secondary traffic circulation patterns showing proposed and existing right-of-ways and easements.
  6. Utility plans for public water, sanitary sewer, storm sewer, drainage, natural gas and underground electrical utilities.
  7. Delineation of development phases and acreage of each phase.
  8. Delineation of residential and non-residential use areas.
  9. Delineation of required and proposed open space.
  10. Principal ties to the community at large with respect to transportation, water supply and sewage disposal.
  11. General description of the provision of other community facilities, such as fire protection services and cultural and recreational facilities, if any, and some indication of how these needs are proposed to be accommodated.
  12. Natural features overlay showing other significant features including but not limited to, critical wildlife habitats, wetlands and wetland buffers, scenic views, and ridgelines.
- b. In addition, the following documentation shall accompany the application:
  1. Evidence showing how the applicant's particular mix of land uses meets existing community demands and impacts of proposed development of water, sewer, public safety, and emergency services of the Town and evidence showing that utilities and services are adequate to serve the demands of the proposed development. (Note: Evidence may be in the form of specific studies or reports initiated by the applicant or in the form of references to existing studies or reports relevant to the project in question.)
  2. Evidence that the proposal is compatible with the goals of the official Town of Cairo Comprehensive Plan.
  3. A general statement as to how common open space is to be owned and maintained.
  4. Evidence demonstrating the applicant's commercial capability and competence to carry out the plan along with his/her acknowledgment of the scope of the physical and financial obligations on applicant that the project will involve. (Evidence may be in the form of specific studies or reports initiated by the developer or in the

form of references to existing studies or reports relevant to the project in question.)

5. Summary table of residential uses, non-residential uses, and open space planned for each development phase and for the entire development.
6. Traffic Analysis, if required.

## **Section XV. Special Use Permits**

**A. Purpose.** Special Uses are considered permitted uses and are allowed in many different zoning districts, but only upon the issuance of a “special use permit” subject to conditions that are designed to protect surrounding properties and the neighborhood from the negative impacts of that permitted use. Because of their characteristics, or the unique characteristics of the area in which they are to be located, special uses require different consideration by the Planning Board so that they may be properly located with respect to the objectives of the law and their effect on surrounding properties.

**B. Authorization to grant or deny special uses.** The Town Board authorizes the Planning Board to grant or deny special uses in accordance with the requirements set forth in this section. No special use listed in this law may be permitted, enlarged or altered unless approved by the Planning Board.

### **C. Application for special use.**

Any application for a special use permit shall be made in writing. The application and required information shall be delivered to the Zoning Enforcement Officer at least fifteen (15) days prior to the date of the next regular meeting of the Planning Board. Seven copies of the application and required information as set forth below shall be submitted.

1. The application must include an Environmental Assessment Form (EAF) and all necessary documentation to comply with State Environmental Quality Review Act (SEQRA). No application shall be deemed complete until a Determination of No Significance has been made, or until a Draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.
2. Site Plan required. A Site Plan application and any required information from the Town of Cairo Site Plan Law (Local Law # 4 of 2008 and as amended or modified from time to time) shall accompany the special use permit application. Upon request by the applicant, the Planning Board may waive the submission of information that is deemed to be unnecessary and not required in making its decision on the special use permit application. The Planning Board shall review Site Plans and special use permit applications at the same time. However, at the request of the applicant, the reviews may be performed consecutively, with the Special Use Permit process proceeding first.

3. Fees. Fees for the special use permit application shall be in accordance with any fees established by the Town of Cairo. All application fees are in addition to any required escrow fees.
4. Expenses. The applicant shall be responsible for the total cost of environmental reviews that are determined to be necessary to meet the requirements of SEQRA. The Board may require assistance in this review in the form of professional review of the application by a designated private planner, engineer, attorney, or other type of consultant. In that case, or if the Board incurs other extraordinary expense in order to properly to review documents or conduct special studies in connection with the proposed application, the reasonable costs incurred by the Planning Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a special use permit application, Special Use Permit expansion application, or Special Use Permit renewal application, shall be charged to the applicant in accordance with a written escrow agreement supplied by the Town. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a special use permit, special use expansion or special use permit renewal. The amount so determined by the Planning Board shall be deposited by the applicant in escrow with the Town Clerk, in accordance with Section VII(H) of this Zoning Law, at least five (5) days prior to the Planning Board's commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Town Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to this provision, the Planning Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any special use permit, special use expansion or special use permit renewal be approved until such sums have been paid in full.
5. Informal consultation. Prior to submission of a formal application, applicants are encouraged, but not required to discuss the proposal with abutting landowners to ascertain any issues early in the application process.

#### **D. Procedures**

1. Public Hearing Required. Within sixty two (62) days of receipt of a complete application, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least ten (10) days prior to the date set for public hearing. In addition, not less than (10) days before the date of the hearing (not counting the date of the hearing), written notice sent certified, return receipt requested, of the public hearing shall be mailed to the owners of all property abutting the exterior boundaries of the land involved in the application, and to all other landowners having property located within five hundred (500) feet of the exterior boundaries of the land involved in the application at the mailing addresses for those owners as shown on the last completed assessment roll of the Town. The notice shall include the name of the project, the location of the project site, a brief description of the project, and the date, place, time and subject of the public hearing at which the Special Use Permit application will be reviewed. If an application for special use

permit approval contains an agricultural data statement, written notice of such application, including a description of the proposed project and its location, shall be mailed to the owners of land as identified by the applicant in the agricultural data statement. The cost of all such notices shall be borne by the applicant.

2. Site Plan Review. All requirements and procedures of Local Law #4 of 2008 and as may be amended from time to time (Site Plan Review Law) shall be met. The Planning Board shall conduct Site Plan and Special Use Permit reviews simultaneously. However, at the request of the applicant, the reviews may be performed consecutively, with the Special Use Permit process proceeding first.
3. SEQRA. The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. An application shall not be deemed complete until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.
4. Decisions.
  - a. Time of decision. The Planning Board shall decide upon the special use permit application within sixty two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law Sections 239-l and 239-m. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. Failure by the Planning Board to make a determination within sixty two (62) shall not be deemed as a default approval.
  - b. Type of Decision. In rendering its decision the Planning Board shall approve, disapprove or approve with modifications and conditions the special use permit application. In authorizing the issuance of a special use permit, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use.
  - c. Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.
  - d. Once a special use permit has been granted, it shall run with the land and apply to the approved use, as well as to any subsequent use of the property in the same use category, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the special use permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas.
5. Other Agency Review.
  - a. In its review, the Planning Board may consult with professionals such as but not limited to an engineer, attorney, surveyor, or planner and other Town and county officials and

board, as well as with representatives of federal and state agencies, including the Soil and Water

Conservation District, the United States Army Corps of Engineers or the New York State Department of Environmental Conservation. All fees related to consultation with professionals shall be borne by the applicant as per Section XV(C)(4) above.

- b. The Planning Board shall require proof that all permits required by other agencies have been applied-for prior to final approval.
6. Expiration of Special Use Permit. A special use permit shall become void one (1) year after approval if there has been a lapse in construction of more than six (6) months. The Planning Board may extend the period one time for a period of no more than six (6) months.
7. Renewal of Permit. The Planning Board, as a condition of approval, may require that special use permits be renewed periodically. Thirty (30) days prior to the expiration of a special use permit, the applicant shall apply to the Zoning Enforcement Officer for renewal of the special use permit. The Zoning Enforcement Officer shall inspect premises, verify that conditions of the permit have been met, and renew the permit for a time equal to the original special use permit. Where the Zoning Enforcement Officer determines that the applicant has not complied with the special use permit, permit renewal shall require Planning Board approval.
8. Area variance. Application for an area variance related to any special use permit proposal may be made directly to the Zoning Board of Appeals without the necessity of a decision or determination of the Zoning Enforcement Officer. All use variance applications to the Zoning Board of Appeals shall be made only after denial of a permit by the Code Enforcement Officer.
9. Existing violation. No special use permit shall be issued for a property in violation of this Zoning Law unless the granting of a special use permit and Site Plan approval will result in the correction of the violation.
10. Deemed to be conforming. Any use for which a special use permit may be granted shall be deemed a conforming use in the district in which the use is located, provided that the special use permit shall affect only the lot, or portion thereof, which is the subject of the special use permit application.
11. Expansion of special use. The expansion of any special use shall require amendment and approval of the special use permit by the Planning Board in accordance with the procedures set forth in this Zoning Law. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.

## **E. Factors for consideration.**

1. In authorizing the issuance of a special use permit, the Planning Board shall take into consideration the public health, safety, and welfare and shall prescribe appropriate conditions and safeguards to ensure accomplishment of the following objectives:
  - a. Compatibility of the proposed use with adjoining properties, and with the natural and built environment in the area.
  - b. Adequacy of parking for the proposed use and use of shared parking where feasible.
  - c. Accessibility to fire, police, and emergency vehicles.
  - d. Suitability of the property for the proposed use considering its size, topography, vegetation, soils, and hydrology and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads.
  - e. The proposed use shall protect natural environmental features and not impact traffic, or generate excess noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.
  - f. Vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures and traffic controls shall be adequate to serve the special use and not negatively impact the overall traffic circulation system of the neighborhood and the Town.
  - g. Pedestrian traffic access and circulation will be provided-for in a safe and effective manner.
  - h. Location, arrangement, size, and design of the special use, including all principal and accessory structures associated with that use, shall be compatible with the neighborhood in which it is located and with the rural and small town character of Cairo.
  - i. Landscaping is appropriate to act as a visual and/or noise deterring buffer between the project and adjoining properties.
  - j. Usable open space for playgrounds and recreation is provided for multi-family developments.
  - k. Stormwater and drainage, sanitary waste and sewage, water supplies for fire protection, drinking and general consumption, solid waste disposal and snow removal storage areas are adequate to serve the use.
  - l. The character of the town, neighborhood and values of surrounding properties are safeguarded, including protection against noise, glare, unsightliness, or other objectionable features.



- m. The special use shall not negatively impact historic, scenic, or natural environmental features.
- n. The location and size of the proposed use, the nature and intensity of operations involved in or conducted in connection with the use, the size of the site in relation to the use, and its site layout are all compatible with existing neighborhood uses and the environment.

## **F. Individual Standards for Special Uses**

### **1. Home Occupations**

- a. Minor home occupations do not need review and approval by the Planning Board but shall be registered with the Code Enforcement Officer.
- b. Major home occupations shall receive Site Plan approval by the Planning Board prior to initiation of business activities. To be approved, major home occupations must comply with all of the applicable following criteria:
  - 1. The home occupation must be incidental to the use of the dwelling unit for residential purposes.
  - 2. The residential property where a home occupation is to occur must be owner-occupied.
  - 3. No more than thirty percent (30%) of the total floor area (heated, habitable space) of the dwelling unit and all accessory structures on the parcel may be used for home occupation purposes.
  - 4. The home occupation shall not produce noise, vibration, dust or odor, heat or glare in excess of the typical residential use.
  - 5. One unanimated, non-illuminated sign of not more than six (6) square feet shall be allowed for major home occupations. There shall be no other exterior evidence of the home occupation.
  - 6. Business operation hours, lighting and signage, shall be set so as not to adversely affect adjacent uses as per Appendix A and Section XI (Signs).
  - 7. Adequate parking must be demonstrated. At a minimum, there shall be two (2) spaces for the residential use, plus one space for each five hundred (500) square feet of floor space of the home occupation located to the rear of the residence or the parking area shall be landscaped or screened to mitigate negative visual impacts.

### **2. Multi-Family Dwellings including Senior Housing**

- a. The maximum impervious surface area coverage, excluding paved areas for recreational facilities, such as a basketball or tennis court or a pool, shall be fifty percent (50%).

- b. The density shall be in accordance with Table 2 of Section V. B. “Required Lot Dimensions”. The Planning Board shall ensure that any proposed density will meet all New York State Board of Health requirements for waste water treatment systems and water supplies.
- c. Sidewalks shall be provided, as appropriate, to connect the residential units with parking areas, public streets, recreation areas, and other apartment building(s) and other existing sidewalks.
- d. Buffer areas shall be used to separate the residential units from the recreational areas and to maintain natural areas between multi-family structures. Buffer strips shall consist of trees, hedges, dense plantings, earth berms, and other changes in grade.
- e. Landscaping and screening shall conform to the following minimum standards:
  - 1. Along road frontage, a ten (10) foot deep, landscaped buffer shall be provided and designed so as not to obstruct sight distance at road access points.
  - 2. Units shall be sited, when practicable, for maximum preservation of mature trees (trees of twelve (12) inches or more in diameter at breast height [dbh]).
  - 3. Clear cutting of the site area is prohibited.
  - 4. Solid waste and recycling receptacles of adequate capacity shall be provided for the maximum number of residents. Receptacles shall be screened from view by fencing or landscaping and regularly emptied to prevent odor and unsanitary conditions. The receptacle shall be equipped with a cover and designed to prevent loose litter.
- f. Internal Road System. Road standards for multi-family developments shall conform with the following standards:
  - 1. A looped road system, or a road network with two (2) separate access points, shall be provided for developments of more than three (3) multi-residential dwelling units.
  - 2. Internal circulation systems shall be able to accommodate all service and emergency vehicles and shall provide for year-round access.
  - 3. Private roads within a multi-family development shall not exceed an average grade of eight percent (8%). No section shall exceed a grade of ten percent (10%) unless otherwise allowed by town standards. The local fire department and ambulance service shall review and approve all access to ensure adequate safety and access for emergency services.

4. The project's traffic impacts on the roads that serve it shall be mitigated to the greatest degree practicable and shall be developed according to the following standards:
  - a. The site development plan shall assure that additional traffic generated, together with existing traffic, shall not exceed the capacity of the highway(s) that serve the development.
  - b. In situations where the proposed additional traffic is likely to result in a significant decrease in the quality of traffic safety conditions, the Planning Board shall require the applicant to provide traffic improvements as a condition of Site Plan approval, or to reduce the size or density of the proposed development so as to reduce the potential traffic increase.
  - g. One sign per entrance that identifies the development is permitted and should be compatible with the general environment of the project site. The maximum height for each two (2) sided, freestanding entrance sign, from grade to the highest point on the sign or sign structure shall be no greater than six (6) feet, and the maximum area of one side or face of a sign shall not exceed ten (10) square feet.
  - h. In addition to the above, all senior housing applications shall conform with the requirements, rules, regulations and statutes of the State of New York governing such uses including but not limited to the Public Health Law Articles 46, 46-A, and 46-B and NYCRR Titles 10 and 18, as applicable and as amended. No special use permit shall be issued unless the applicant shall obtain the required license, permit and/or certification from the NYS Department of Health and provide proof thereof to the Planning Board.

### **3. Gas Station**

- a. Filling stations (and that portion of a convenience store that may have gas facilities) shall be permitted only on lots having at least two (2) acres of area and having at least two hundred fifty (250) feet of road frontage.
- b. Except for any access drive, the area to be used by motor vehicles as well as any structure shall not encroach on any required yard area.
- c. No fuel pump shall be located closer than twenty (20) feet from any side lot line nor closer than thirty five (35) feet from any street line, as measured from the outside of the fuel island.
- d. All repair work shall be conducted within a completely enclosed building. The maximum height of that building shall be twenty five (25) feet.
- e. The Applicant shall demonstrate that adequate on-site parking is available for employees and customers as part of the application.

- f. The Planning Board shall require architectural designs that ensure that gas stations and gas canopies will meet the standards set forth in Appendix A.
- g. The Planning Board may limit the number of gas pumps to ensure consistency in scale between the gas filling station and adjacent land uses.
- h. There shall be no glare of gas pump island canopies outside the boundaries of the site. All gas pump island canopy lights shall be recessed with no bulb, lens or globes extending below the casing or canopy ceiling.
- i. No signs shall be allowed on the canopy mansard, fascia or roof area covering gas pumps.
- j. There shall be no amplified sound audible at property lines. The Planning Board may prohibit the outdoor use of amplified sound for gas stations if, in their opinion, such sound could disturb adjacent residences.
- k. All pumps, pump islands, tanks, piping and canopies shall be removed when fuel dispensing activity has been inactive for a period of twelve (12) months.
- l. The gas pump island canopy shall reflect the design of the building and be consistent with the main structure's roofline.
- m. Construction, maintenance and inspection of any gas filling station shall use all applicable federal, state and county environmental protection and mitigation requirements relative to installation, use and removal of tanks and pumps.
- n. The Planning Board shall require a traffic impact analysis.
- o. Applicants shall prepare and maintain on site, an acceptable Spill Prevention, Control and Countermeasure Plan prepared under the supervision of a professional licensed engineer.
- p. Employees shall be up-to-date in Spill Prevention training.
- q. The Planning Board may limit hours of operation or limit acceptable hours of fuel delivery where a gas station is adjacent to residential uses.
- r. Applicants shall evaluate site conditions and provide information, analysis, and evidence that the proposed gasoline filling station will not degrade the quality of groundwater. Mitigation measures if needed, including, but not limited to use of encased above ground tanks, shall be implemented to reduce or eliminate risks to groundwater.

#### **4. Bed and Breakfast**

- a. Bed and breakfasts shall be owner-occupied and their Certificate of Occupancy shall so stipulate. Further, all bed and breakfasts up to five (5) units must also be consistent with all New York State Uniform Fire Prevention and Building Code standards.
- b. Off-street parking shall not be located in a front yard and shall be screened from roads and adjacent properties so as to provide no variation from the residential character of the site. Off-street parking spaces for members of the owner's family residing in the dwelling unit as well as one (1) parking space per guest room shall be provided.
- c. Each bed-and-breakfast shall be established, maintained and operated so as to preserve and complement the residential character and integrity of the surrounding area.
- d. A single exterior sign or display may be established on the site of the bed-and-breakfast. The sign or display shall not exceed six (6) square feet in area. No freestanding sign should be located less than fifteen (15) feet from the front property line or less than five (5) feet from the side property line. Further, the sign or display shall be as unobtrusive as reasonably possible and may be externally illuminated.

#### **5. Convenience Store**

- a. Exterior display of merchandise for sale will be allowed only on paved walkway within three (3) feet of the building.
- b. Loading areas shall minimize impacts to the surrounding properties and the neighborhood. Screening and buffer yards shall be provided if adjacent to residential use.
- c. At least one (1) building entrance, and all principal windows, shall face the street.
- d. Use of alternative pavements (brick pavers, porous pavement) is encouraged.
- e. There shall be a minimum lot size of twenty thousand (20,000) square feet.
- f. Vehicle entrances shall be minimized to maximize safety and efficient traffic circulation while minimizing impacts to the surrounding neighborhood.
- g. The applicant shall demonstrate to the satisfaction of the Planning Board that the use is compatible with neighborhood.
- h. Exterior lighting shall not glare on adjacent property or public right-of-way.
- i. The hours of operation may be restricted.
- j. The scale, massing, and building design shall comply with the design standards as set forth in Appendix A.
- k. Parking shall not be in the front yard (unless impractical).

## 6. Mine

- a. For certain mining activities, the New York State Mined Reclamation Law (MLRL), et seq., establishes that New York State Department of Environmental Conservation (NYS DEC) is responsible for the regulation and permitting of mining activities and reclamation of same for operations that extract one thousand (1,000) tons or seven hundred fifty (750) cubic yards or more of a mineral during twelve (12) consecutive calendar months. The NYS DEC is the entity responsible for administering a MLRL permit for mining. All large and small mines, as defined in this Local Law shall require a special use permit and site plan approval by the Planning Board.
- b. Exemptions. The following activities shall not require a mining special use permit:
  1. The removal of up to five hundred (500) cubic yards of earth material in twelve (12) consecutive months as set forth above.
  2. Operations in connection with construction of improvements, changing of contours, and grading of lots in an approved subdivision, or on a parcel associated with an approved Site Plan provided that no more than five hundred (500) cubic yards of earth materials are removed from the lot.
  3. Construction of a pond where no more than eight thousand (8,000) cubic yards of material are removed from the site.
- c. For Small Mines (500 to 749 cubic yards) When No NYS DEC MLRL Permit Required. The Planning Board, in reviewing an site plan and special use permit application for a small mine shall consider the health, safety and welfare of the community and shall address the following issues:
  1. No mining may take place within seventy five (75) feet of any property boundary nor within two hundred (200) feet from any public roadway.
  2. The existence or creation of manmade or natural barriers designed to provide adequate screening and the type, length, height and location of same.
  4. The control of dust; so that dust does not migrate off the site.
  5. The hours of operation which shall not exceed twelve (12) hours in any one day nor commence before 7:00 a.m. on any day nor extend beyond 7:00 p.m. on any day, nor shall there be any operation conducted on Sunday.
  6. No excavation shall take place within five (5) feet of the existing water table except for pond excavation.

7. The steepness of slopes excavated so as to minimize erosion or other environmental impacts.
8. Adequacy of public roadways or rights of way providing direct access to and from the site. In this regard, if town roads are used for ingress and egress, these roads need to be constructed in accordance with the latest version of the Town of Cairo's highway design standards with regard to adequate shoulders, adequate pavement and adequate sub-base. If the existing town roadway proposed to be utilized for direct access to and from any site does not meet these standards, then mining at the proposed site shall not be permitted, unless suitable arrangements are made by the applicant to improve the Town roadway to meet these requirements upon permission from the Town, and without any significant expense to the Town.
9. Reclamation of the proposed site.
10. Drainage of the area, both during and after excavation.
11. The Planning Board may, if it deems appropriate, direct that the applicant proceed to mine in stages and may require reasonable provisions in connection with closing and reclamation of the existing stage prior to permitting the applicant to commence mining activities in the next stage.
12. Upon reclamation, no sharp pits, depressions or soil erosion problems shall be created and no slopes or banks shall exceed whatever slope is necessary in order to obtain stability.
13. The Planning Board may require suitable fencing for enclosing the property if it deems that this is appropriate and appropriate signage for security and safety.
14. The applicant must demonstrate that the proposed access to and from the property will not create safety or traffic hazards.
15. Loading and hauling. Trucks and vehicles shall be loaded and operated so as not to spill gravel, rocks, sand or other earth materials upon the roads and highways utilized to and from the site, or otherwise impair or damage to the roads or highways.
16. Noise and vibration. The applicant shall be required to take all measures necessary in order to reduce the noise level to the extent possible. The applicant shall demonstrate that there shall be no vibration effecting properties beyond the limits of the lot.
17. The Planning Board may, in its discretion, require the applicant to submit written proof that the proposed mining is not subject to the laws and rules set forth in the New York State Mined Land Reclamation Law.

18. In considering whether to grant a Special Use Permit, the Planning Board shall also determine that the project meets all of the requirements set forth in the Town of Cairo Section XIV, General Standards for the Granting of a Special Use Permit.
  19. No dumping or other disposal of either solid or liquid waste shall be allowed as part of the mining operation.
  20. The Planning Board may also consider such other measures reasonably necessary to mitigate any other environmental impact that may arise as a result of the mining operation.
- d. For Large Mines (> 750 cubic yards) Subject to NYS DEC MLRL Requirements. The applicant for such permit shall simultaneously apply to both the NYS DEC and the Planning Board. With regard to all Special Use Permits which are subject to the applicant having to obtain a permit from DEC, the Planning Board, in granting such special use permit shall consider the health, safety and welfare of the community and shall advise the NYS DEC on the following:
1. Whether mining is permitted in the location indicated on the MLRL permit application.
  2. The appropriate setbacks from roads and property boundaries.
  3. The location and design of barriers to restrict access to the mine.
  4. Dust control measures.
  5. Hours of operation.
  6. Any other issue as may be referenced in and appropriate under the MLRL.
- e. Application Requirements for Small and Large Mines: Applications for a special use permit and site plan review shall be submitted in writing to the Town of Cairo Zoning Enforcement Officer for Site Plan and Special Use Permit reviews by the Planning Board. In addition to any other Site Plan, Special Use or DEC Mining Permit Applications that may be required, an application for a local mining approval shall show the following:
1. The full names, signatures and addresses (both mailing and physical) of the owner, lessee, operator and applicant and the written consent of the mortgagee, if any.
  2. Proof of ownership of the property and the names and addresses of all parties having an interest in any entity involved as the owner or operator of the site, such as a limited liability company, corporation or limited partnership which owns or has an interest in the property. If the property is owned in whole or in part by a corporation or limited



liability company, the applicant shall provide the names and addresses of all officers, stock shareholders or members of each entity.

3. Description of proposed operations. A statement clearly detailing the nature and extent of operations, including the type and amount of material to be filled, re-graded or removed, the manner in which it will be accomplished, the proposed hours of operation, and a time schedule for the completion of the various stages of the operation.
  4. Site Plan Map. A Site Plan map drawn to scale, prepared by an engineer or surveyor licensed to practice in the State of New York, showing all improvements on the property as well as the proposed area for mining and other improvements to be constructed in connection with the mining operation.
  5. Boundaries of property. The boundaries of property where the excavation is proposed and the area to be excavated, filled or re-graded.
  6. Existing contours. Existing contours in the area of operations and the proposed contours after completion of the work, which contours shall be prepared from an actual field survey, shall be based on a bench mark note and described on the map and shall be drawn to a scale of not less than one hundred (100) feet to the inch and with a contour interval not to exceed two (2) feet. If necessary, the Planning Board may require more detailed contours.
  7. Existing and proposed water bodies and drainage. Existing and proposed watercourses, water bodies, erosion control and drainage on the premises.
  8. Surrounding area. Surrounding streets and property lines and names of property owners, natural features, existing and proposed structures, a phasing plan, if any, and the environmental assessment form necessary to comply with SEQRA.
  9. Other. Such other maps, plans, boring tests, feasibility studies and engineering data as may be required by the Planning Board in order to determine and provide for the proper enforcement of these regulations.
- f. Other criteria; inspection.
1. The Town Zoning Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation at any time. If the Town Zoning Enforcement Officer determines that there is a violation of operating conditions and/or that the mining operation is not being conducted or cannot be conducted in accordance with the plans as approved, the mining permit shall automatically become null and void, upon notification sent to the permittee by regular mail to the address given on the application. The permittee may change this address given on the application. The permittee may change this address from time to time in writing submitted to the Town Zoning Enforcement Officer.

- g. Length of permit. The Planning Board shall determine the length of any mining permit issued, however, no mining permit shall be issued for more than five years. If it is contemplated that the mining operation will take more than 5 years, then the applicant shall apply to the Planning Board for renewal of the permit before the expiration of the 5 year period.
- h. Pre-existing mines: With respect to mines which currently are being operated in the Town of Cairo pursuant to valid permits which have not expired, the owner of any such property shall be entitled to continue the operation of same pursuant to the provisions of a valid permit currently in effect through the time that such permit expires. Thereafter, any application for renewal of an existing valid permit shall be subject to the provisions of this law.

## **7. Accessory Apartments**

- a. Accessory residential structures and accessory apartments. One accessory apartment may be located in an accessory structure or a principal building provided that the following conditions are met.
  - 1. The accessory apartment shall be connected to the same well as the principal building (if located outside the Cairo Water District).
  - 2. Accessory apartments shall not be counted as a residential unit for purpose of determining density.
  - 3. No permit shall be granted for an accessory apartment without certification of the adequacy of the septic system.
  - 4. Any lot may contain one accessory apartment by right, if the lot has at least the minimum acreage required for a residence. An accessory apartment shall be no larger than fifty percent (50%) of the total square footage of the principal structure, not including an unfinished basement.
  - 5. The principal dwelling shall be owner-occupied. The owner shall be responsible for all maintenance and upkeep of the accessory apartment.
  - 6. There shall be no more than one (1) accessory apartment unit per dwelling or lot.
  - 7. For an existing structure, the entry to the original dwelling structure and its design shall be such that the appearance of the dwelling will remain as a single family dwelling.

8. All dwelling units, and the structures in which they are situated, shall meet all standards and requirements of the New York State Uniform Fire Prevention and Building Code.

#### **8. Equipment Storage Associated with Home Based or Commercial Businesses**

- a. The outside storage of goods, supplies, parts, materials, or heavy equipment including the use of portable on-demand storage units, must be located in the rear yard only and hidden visually from adjacent residential uses or shall be stored in an enclosed structure.
- b. Outside storage areas shall not exceed twenty five (25%) percent of the total area of the site for commercial uses where allowed, and 30% for home based businesses.
- c. Parking shall be completely screened from view from the public road and from adjacent residential uses.
- d. The Planning Board shall evaluate impacts related to noise, traffic, hours of operation, and lighting requirements and shall minimize negative impacts on adjacent uses.

#### **9. Kennels and Veterinary Hospitals**

- a. Animal waste shall be disposed of in a manner acceptable to the Department of Health. All on-site disposal containers for waste shall be covered and emptied regularly to control odors.
- b. Land burial of animals on-site in association with a commercial kennel or veterinary hospital is prohibited.
- c. The minimum area required shall be two (2) acres for a kennel and for a veterinary hospital having a kennel facility with a maximum of six (6) animals for boarding or kenneling on such minimum parcel. An additional three (3) animals per acre may be kenneled for each additional acre with a maximum of twenty five (25) animals for any such use.
- d. All facilities associated directly with the kennel or veterinary hospital, whether indoors or outdoors, shall be set back a minimum of one hundred (100) feet from any property line.
- e. Parking shall be located behind the front line of the principal building to the side or rear of the structure.
- f. The Planning Board shall evaluate potential noise impacts and shall minimize negative impacts to adjacent uses which may include sound proofing.
- g. The Planning Board may require visual screening of outdoor runs.

## **10. Car Repair**

- a. All automotive repair work shall be conducted in fully enclosed building. All vehicles whether registered or not, stored on the premises in excess of seventy two (72) hours shall be shielded from view from the road or placed in an enclosed storage yard.
- b. The exterior display or storage of new or used automobiles, or of automobile parts, is prohibited.
- c. Where an automotive repair use adjoins a residential use, a landscape screen with a minimum height of ten (10) feet, shall be provided adjacent to the shared property line.
- d. Bay doors to the garage shall not front on any public right-of-way. Bay doors shall face the rear yard. The Planning Board may approve an alternative orientation to mitigate impacts to adjoining uses.
- e. Dumpster locations shall be screened from public view. All refuse shall be disposed of in appropriate waste containers and removed from the premises on a regular basis. Waste oil, grease and other solvents shall be disposed of in accordance with all applicable federal, state and local laws.
- f. No parking shall be permitted within the front yard unless the Planning Board shall determine that negative visual impacts can be mitigated by requiring landscaping or screening.

## **11. Self Storage Facility**

- a. The minimum front setback shall be thirty five (35) feet.
- b. No security fencing, security gate, or other obstruction to vehicle access shall be permitted in the required front yard set back. Security fencing shall not include electrically charged, barbed wire or razor wire, and shall not be placed in a required front yard setback area.
- c. No door opening for any storage unit shall be constructed facing any residential use.
- d. Door openings for storage units shall face the interior of the site unless impracticable.
- e. An on-site office for a manager may be approved by the Planning Board as part of the business.
- f. The roof shape and materials shall be pitched and compatible with the design and materials of neighboring buildings and shall meet all design and siting requirements as set forth in Appendix A. Accommodations for resident managers are permitted provided all design standards of Appendix A are met.

- g. Views of the storage facility from public rights-of-way shall be fully buffered and screened.
- h. All parking shall be to the rear of the building or to the side, and if on the side, must be adequately screened.
- i. Storage units shall not be used for: the servicing or repair of motor vehicles, boats, recreational vehicles, motorcycles, trailers, lawn mowers and other similar equipment; or for office, retail, manufacturing or other similar uses. However, the owner shall have the ability to have a sale for foreclosure purposes.
- j. No activities such as miscellaneous garage sales or auctions shall be conducted on the premises.
- k. All storage uses shall be inside an enclosed building.
- l. Spacing between structures shall be a minimum of twenty (20) feet and emergency access shall be provided to at least three (3) sides of all structures. Access drives shall be designed to handle automobiles, vans, light trucks, and other two-axle vehicles.
- m. All outdoor dumpsters shall be screened.

## **12. Car Wash**

- a. The roof shape and materials of car washes shall be constructed so that they are similar to design styles of building in the area. False windows and facade treatments shall be used so that the car wash is in character with surrounding uses. Pitched roofs are encouraged.
- b. The orientation of the drive-in bays shall be parallel to the public right-of-way, unless it is impracticable to do so or results in bays that face adjacent residential uses. In such cases, additional landscaping, screening, or an alternative orientation of the bays should be considered as appropriate for the subject site and surroundings.
- c. Parking shall be located behind the front line of the principal building.
- d. The Planning Board shall review the hours of operation, and has the authority to limit the hours of operation to prevent noise and light glare from becoming a nuisance upon any adjacent residential use.
- e. Noise Abatement. All accessory structures such as vacuum islands shall be sited as far from adjacent residential uses as possible. To minimize negative impacts related to the noise associated with the car wash, the Planning Board may require noise abatement such as screening, fencing or other sound-proofing methods.
- f. All lighting shall use full-cut off fixtures to eliminate glare (See Appendix A).

- g. The Planning Board may require additional setbacks or lot depth in order to minimize aesthetic, noise, and lighting impacts.
- h. All outdoor dumpsters shall be screened.

### **13. Public Utility**

- a. In order to grant a special use permit for a public utility structure or use, the Planning Board shall determine that the structure or use (together with conditions and safeguards required by the Planning Board) is necessary for the public convenience and welfare, and that the proposed location is appropriate. Public utility structures shall conform to the setbacks of the zone in which they are located except that minimum lot size requirements shall not apply. Public utility installations shall require a special use permit and, in addition to the foregoing, shall comply with the following:
  - 1. Such facility shall be surrounded by a fence approved by the Planning Board. The height of the fence and the aesthetic elements (e.g., materials, color, etc.) shall be determined by the Planning Board.
  - 2. The facility shall be landscaped in a manner approved by the Planning Board.
  - 3. To the extent practicable, all structures, equipment and vehicles shall be stored so as not to be visible from surrounding properties. The Planning Board may require landscaping, vegetative screening, an earth berm or similar methods to reduce the visual impact on neighboring properties.
  - 4. Any other requirements, as determined by the Planning Board in its sole discretion, as shall be necessary to preserve the health, safety and welfare of the surrounding community.

### **14. Campground**

- a. The minimum lot area shall be twenty five (25) acres, plus three thousand (3,000) square feet per person based on the maximum occupancy to be established in conjunction with the special use permit.
- b. No building, tent, activity, parking area, or recreation facility shall be located closer than one hundred (100) feet from any lot line and said activities shall be effectively screened as required by the Planning Board to minimize noise and visual impact to the greatest extent practicable on adjacent properties. No two buildings intended for use as sleeping quarters shall be closer than thirty (30) feet from each other. Tents shall maintain a separation distance to other tents of no less than ten (10) feet.
- c. Noise. All requirements of Local Law #4 (Site Plan) Section VI (F) shall be met. Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the

activity and the time and day of the proposed activity. Public address systems are prohibited.

- d. Sanitary and wastewater disposal systems shall be approved by the New York State Department of Health. Flush toilets shall be provided.
- e. Centralized solid waste receptacles shall be provided. Waste in these receptacles shall be collected regularly to avoid odor, health hazards and litter.
- f. Adequate emergency access shall be provided throughout the camp site. The Planning Board, in consultation with the applicable fire district, shall ensure that suitable surfaces are provided for internal driveways to ensure emergency equipment can access all occupied areas of the site.
- g. No permanent dwellings shall be permitted except for two (2) dwellings to be used by the owner or resident manager of the camp.
- h. Accessory structures including, but not limited to, laundry rooms, recreation rooms, restaurant, and a general grocery store serving only on-site guest amenities that are ancillary to the operation of the campground are permitted.
- i. There shall be no discharge of firearms on-site.
- j. Notwithstanding the provisions of subparagraphs (a) and (b) herein, any legally existing campground in use at the time of the adoption of this local law shall only be required to comply with the size/bulk requirements found in the regulations promulgated by the NYSDOH in relation thereto.

## **15. Seasonal Camp**

- a. The minimum lot area shall be twenty five (25) acres.
- b. Multiple buildings for sleeping quarters and tents may be permitted on the lot. No building or structure shall be closer than one hundred (100) feet from any lot line and all activities shall be effectively screened as required by the Planning Board from adjacent lots.
- c. Amplifier systems shall be designed so as not to be audible beyond the property lines.
- d. Sanitary and wastewater disposal systems shall be approved by the New York State Department of Health.
- e. Adequate emergency access shall be provided throughout the camp site.
- f. No permanent dwellings shall be permitted except for one dwelling to be used by the owner or resident manager of the camp.

## 16. Outdoor Recreational Business

- a. No portion of any outdoor commercial recreation facility area shall be located closer than one hundred (100) feet to any property line, except the front yard setback shall be a minimum of fifty (50) feet. Parking shall not be permitted in the front yard unless the

Planning Board shall determine that negative visual impacts can be mitigated by requiring landscaping or screening.

- b. Consideration shall be given to locating outdoor facilities away from residential property lines. The Planning Board may require that these facilities be screened through use of vegetation, fencing or a combination thereof from adjoining residential properties.
- c. Hours of operation. The hours of operation may be limited to minimize impacts associated with noise, lighting, traffic and similar potential effects which may be disruptive to adjoining uses.
- d. Site lighting. A site lighting plan shall be provided pursuant to Local Law #4 of 2008 as may be amended from time to time, and designed so as not to affect adjoining residential properties. The Planning Board may approve a light fixture that exceeds the height set forth in Appendix A for an outdoor recreation use provided it finds that there will be no detrimental impact on adjoining uses.
- e. Noise. All requirements of Local Law #4 of 2008 as may be amended from time to time (Site Plan) Section VI (F) shall be met. Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the activity and the time and day of the proposed activity.
- f. Waste. The Site Plan shall demonstrate that wastes, including runoff containing fertilizer, pesticides, as well as solid waste will be contained, treated and disposed of in accordance with applicable local, county, state and federal regulations. The Planning Board shall approve the location of any portable toilet device or other temporary waste disposal system that may be allowed in conjunction with an outdoor recreation facility.
- g. Special considerations. Because the range of recreational activities allowed as components of commercial recreation establishments are broad and the characteristics and intensity of use may vary, the Planning Board may impose such additional requirements as may be necessary to provide adequate protection to adjoining and nearby properties, considering the proposed activity, the proposed location and the nature of the adjoining community. If the Planning Board determines that such additional requirements cannot appropriately provide adequate protection to such properties, the Planning Board is specifically authorized to deny the application based upon this consideration alone.



## **17. Hotel/Motel/Country Inn**

### **a. Hotel/Motel**

1. The minimum lot area shall be two (2) acres. One or more principal buildings may be located on a lot. A principal building shall be separated from another principal building a distance of no less than twenty-five (25) feet.
2. Guest sleeping rooms shall not contain full kitchen facilities and shall not be used as apartments for non-transient tenants.
3. The following accessory uses shall be permitted:
  - a. One (1) apartment, with or without kitchen facilities, for the use of the hotel or motel manager or caretaker and his family within the lodging facility.
  - b. A coffee shop/dining room. Such facilities shall be located within the principal building.

### **b. Country Inns**

1. Country Inns may be owner – operated or professionally managed.
2. The Country Inn may be an accessory use of an owner occupied residence located on the same parcel.
3. The Town promotes adaptive reuse of buildings, and encourages the preservation of any historical structures.
4. No more than twenty five (25) guest rooms rated for double occupancy are permitted in a structure.

### **c. General Standards for all Hotel/Motel/Country Inns**

1. The lot shall be of adequate size and shape to provide one (1) parking spot for each guest room, employee and property owner, located to the rear of the residence where possible.
2. The Planning Board may require fencing, earth berms, evergreen vegetation or other buffers to reduce visual conflicts with neighbors.
3. No guest, employee or owner parking shall be located on the street.
4. No more than one (1) free standing sign to identify the property, in compliance with Section XI of this Zoning Law is permitted.

5. Meals offered to the general public shall be allowed as an accessory use. When meals are also offered to the general public all parking shall be in accordance with Section IX of these regulations.
6. Recreational facilities for the sole use of guests are permitted as accessory uses including pool, playground, tennis or other game courts, game or recreation rooms, office and lobby.

### **18. Manufacturing and Research Laboratory**

- a. The minimum lot area shall be five (5) acres and the lot shall have no less than fifty (50) feet of frontage on a county or state road. The manufacturing building shall be set back no less than one hundred (100) feet from any lot line.
- b. No sales to the general public shall be permitted.
- c. All uses, processes and storage shall be within a fully enclosed structure, and no tanks or other apparatus incidental to the processing or manufacturing shall be visible outside of a manufacturing building. The façade of buildings and structures shall be compatible with the rural character and adjacent development.
- d. The applicant shall submit a list of any other permits that may be required for the operation as well as a list of the goods and materials to be stored and manufactured.
- e. Parking shall not be permitted in the front yard.
- f. The location and hours of operation of all on-site lighting shall be approved by the Planning Board in accordance with the standards set forth in Appendix A hereof.
- g. The Planning Board may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. Said buffer shall be no less than ten (10) feet in width and height.

### **19. Wind Towers**

Only wind towers erected for individual property owner use shall be allowed. Commercial wind towers for the generation of power for use off-site are prohibited.

- a. Wind towers located on a non-agricultural parcel: Only one (1) wind tower per legal non-agricultural parcel shall be allowed.
- b. Wind towers located on an agricultural parcel in a New York State certified Agricultural District: All wind towers proposed to be located in a New York State certified agricultural district shall be a permitted use subject to Site Plan review. While a special use permit is not required for Wind Towers on agricultural parcels in Ag Districts, the Planning Board shall expressly consider both the Zoning Law special use requirements in §XV(f)(20) and the New York State Department of Agriculture and Markets guidelines

for small wind energy facilities as guidelines in formulating the conditions of a site plan approval.

- c. Wind Tower Height: Shall be limited to one hundred twenty five (125) ft.
- d. Set-back: The distance between a wind tower and the property line shall be at least the wind tower height plus the length of the blade.
- e. Noise: Wind towers shall not exceed 60 dBA, as measured at the closest property line. The Planning Board shall review the noise rating of the Wind tower for low, moderate and high wind speeds.
- f. Compliance with Building Code of New York State: A Building Permit shall be required prior to construction. An engineering analysis of the tower showing compliance with the manufacturer's installation instructions or certified by a licensed professional engineer shall be submitted as part of the Building Permit application.
- g. Compliance with Other Applicable Regulations: Wind towers must comply with all applicable regulations, including any necessary approvals for installations, as needed from State, County, or other regulatory agencies (for example, the FAA when the tower is proposed close to airports). Compliance with the State Environmental Quality Review Act is also required.
- h. Abandonment of use and escrow: A wind tower which is not in use for twelve (12) successive months is deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. The applicant shall deposit with the Town an amount in escrow a sum of money sufficient to remove the wind tower and associated facilities. Such amount shall be arrived at based upon the recommendation of the Town's engineer and other appropriate professionals, including the owner/operator's engineer. Said funds shall be deposited in a separate, interest bearing account and shall not be utilized for any purpose except as stated herein. The interest earned on said funds may, upon the written request of the applicant, be returned to applicant on an annual basis. The Town shall not utilize the escrow funds herein to remove the wind tower and facility unless same has been abandoned as defined herein and the owner/operator or its successor in interest has failed to remove the facility after more than 30 (thirty) days following a written demand by the Town to do so. The owner/operator and/or its affiliate shall be liable for all applicable penalties and fines independent of any amount remaining in escrow and relating to any obligation(s) which arise regarding the issuance of any town permits.
- i. Visual Disruption: The systems' tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible, and incorporates non-reflective surfaces to minimize any visual disruption. Siting should be so as to minimize negative impacts on the viewshed. The Planning Board may require a viewshed analysis to be completed as per Appendix C.

## **20. Bar/Tavern**

- a. No bar or tavern shall be located within five hundred (500) feet of any other bar or tavern and shall meet all requirements of the New York State Alcohol and Beverage Liquor Law.
- b. No such establishment shall be located within five hundred (500) feet of a church or school.
- c. Where abutting a residential property, the Planning Board may require screening, and other measures to minimize the impact of the bar or tavern.

## **21. Cell Tower**

- a. No cell tower except those approved prior to the effective date of these regulations, shall be used, located, constructed or maintained on any lot, structure, or land area unless in conformity with these regulations. A special use permit and Site Plan approval shall be required pursuant to Section XV of this Zoning Law. All requirements of Local Law #1 of 2001 (Telecommunication Towers) shall also be met.
- b. Cell Towers in MT, C-32S, C-23, C-23E, I and C- MU Districts.
  1. In addition to any required information pursuant to Section XV of this Zoning Law, Local Law #1 of 2001 (Telecommunication Towers) and Local Law #4 of 2008 as may be amended from time to time, cell tower applications shall also include details of the facility including but not limited to the number, type and design of antennae; the make, model and manufacturer of antennae; a description of the proposed antenna(s) and all related fixtures, structures, appurtenances including height above grade, materials, color, grounding and lighting; the frequency, modulation and class of service of radio equipment; transmission and maximum effective radiated power of the antenna(s); certification that the proposed antenna(s) will not cause interference with existing communication devices; elevation drawings depicting the front, side and rear of the property; propagation maps showing coverage with and without the proposed facility; documentation that the height of the tower is the minimum height necessary to provide licensed services to locations within the town that is not currently served with existing or planned facilities; and an inter-municipal notification to all legislative bodies of each municipality that borders the Town.
  2. The Planning Board shall also require a visual impact assessment pursuant to Appendix C.
- c. Cell Towers in the Main Street Downtown District (MS). All cell towers located within the Main Street Downtown District (MS) shall be co-located (shared) within an existing structure. The cell tower application shall include all items from Section XV (F) (22)(b)(1). In addition to any requirements set forth in this Zoning Law, a cell tower in the MS district shall also have:
  1. Consent from the owner of the existing facility to allow shared use.

2. The Site Plan shall illustrate all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking and landscaping. Any methods used to conceal the modification to the existing facility shall be indicated on the Site Plan.
  3. An engineer's report certifying that the proposed shared use will have no impact on the structural integrity and safety of the existing structure. Any modifications to the existing structure shall be detailed in said report.
  4. A copy of the applicant's Federal Communications Commission (FCC) license.
  5. A visual simulation of the tower pre- and post-collocation (See Appendix C).
  6. The Planning Board may require any other documentation, reports or evidence that it deems necessary to ensure that the health, safety and welfare of the community is adequately addressed.
- d. The Planning Board may retain a radio frequency engineer as one of its consultants to assist in the review of any cell tower application.

## **22. Restaurant**

- a. Parking is not permitted in the front yard setback unless the parking area is adequately screened to mitigate negative visual impacts.
- b. An applicant shall clearly demonstrate that the use will be compatible with the adjoining uses, particularly with regard to traffic circulation, parking, and appearance. No more than two (2) curb cuts per lot frontage shall be allowed.
- c. Sufficient screening shall be provided to buffer the site and limit noise and lighting impacts on adjacent residences.
- d. Where a residential building which contributes to the historic or unique character of the surrounding neighborhood, is proposed to be converted to a restaurant, exterior alterations shall be made in a manner that preserves the essential residential character of the building.

## **23. Car Sales**

- a. The rear yard shall be fenced. Electrically charged, barbed wire or razor wire fencing is not permitted.
- b. Where a car sales establishment adjoins a residential use, a minimum ten (10)-foot high landscape screen shall be provided adjacent to the shared property line.
- c. All motor vehicle storage other than the display area and customer parking shall be fully screened.

- d. All other accessory uses, including servicing of vehicles, shall be conducted within fully enclosed structures.
- e. Gasoline service, if provided, shall be located within the rear yard. Oil and fuel storage shall be solely in tanks and subject to approval by the NYS DEC or other appropriate governmental regulatory agency. Gasoline service for retail sale to the general public who are not customers shall be prohibited.
- f. Sufficient off-street parking is to be provided for all vehicles brought for repair. Vehicles shall be stored overnight in an enclosed rear yard, fenced from adjoining parcels. No more than eight vehicles shall be stored at any one time and must be repaired within a reasonable time period.
- g. Property shall be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.
- h. All requirements for signs (Section XI) shall be met, including prohibition of the use of streamers.

#### **24. Warehouse**

- a. The warehouse building shall be set back no less than one hundred (100) feet from any lot line and shall be buffered from view from any public highway.
- b. No security fencing, security gate, or other obstruction shall be situated in such a manner as to obstruct sight distances.
- c. Electrically charged, barbed wire or razor wire fencing is not permitted.
- d. Outdoor storage and display shall not be permitted in connection with a warehouse.
- e. Retail sales to the general public may be permitted. However, such retail area shall not exceed one-thousand (1,000) square feet.
- f. One business identification sign shall be permitted.
- g. The applicant shall submit a list of the goods and materials to be warehoused on the property. The Planning Board shall consider the nature of the materials (e.g., materials which are hazardous, flammable, noxious, odoriferous, etc.), and may impose restrictions on the storage of those materials, or prohibit their storage at the property.
- h. Parking shall not be permitted in the front yard unless the parking area is adequately screened to mitigate negative visual impacts.

- i. A lighting plan shall be submitted for review and approval by the Planning Board. The location and hours of operation of all on-site lighting shall be approved by the Planning Board. Public address systems are prohibited.
- j. The Planning Board may require a wall, fence, landscaping or other buffer be installed where a property adjoins a residential use. When landscaping buffers are used, such buffer shall be no less than ten (10) feet in width.

## **25. Mortuary/Funeral Parlor**

- a. The applicant shall demonstrate that there is adequate off-street parking and stacking room for cars lined up for funeral processions.

## **26. Adult Uses**

- a. All requirements of Local Law #3 of 2006 shall be required.

## **27. Senior Citizen Housing**

- a. All new construction shall be designed to be consistent with the surrounding community and construction styles.
- b. See also all requirements from Section XV.F.2. above.

## **28. Mass Gatherings**

- a. An assemblage of five hundred (500) people or more at any one time in a single location, except:
  1. Functions sponsored by a School District located within the Town related to an educational activity;
  2. Functions sponsored by the Town or County;
- b. No person shall hold or promote, by advertising or otherwise, a mass gathering unless a permit has been issued for the gathering by the permit-issuing official. No person shall use, allow, let or permit to be used property for a mass gathering as defined herein unless and until the written permit authorizing such use and assembly has been issued by the ZEO.
- c. Application for such permit shall be by verified application on forms to be furnished by the Town, addressed to and shall be filed with the ZEO. In no event shall the Town accept an application greater than one year prior to the proposed mass gathering.
- d. Separate permits shall be required for each mass gathering. A separate permit is required for any mass gathering which is separated by more than 48 hours from a previous mass gathering for which a permit had been granted. However, applications may be made for more than one permit within a twelve (12) month period when the applicant is prepared to provide the necessary information for each event.
- e. Any permit may be revoked by the ZEO if he determines that the mass gathering for which the permit was issued is maintained, operated or occupied in violation of this law or the Sanitary

Code of the State of New York. A permit may be revoked upon request of the permittee or upon abandonment of operation.

f. A permit issued for the operation of a mass gathering shall be kept on file and made available by the operator on request.

g. All applicants for a permit to conduct a mass gathering shall include the following information. Upon the receipt of the each of the below items, which shall be completed to the satisfaction of the ZEO, the ZEO shall issue a mass gathering permit:

h. The name, residence, mailing address and telephone number and state drivers' license number of the applicant; a statement of the applicant's legal status, such as individual, partnership, corporation, etc.; and whether the applicant has ever been convicted of a felony or misdemeanor. If the applicant is a partnership, state the name, residence, mailing address, telephone number of each partner and the partnership EIN (Employer Identification Number); and if a corporation, the names and addresses of all corporate officers and directors, together with a certified copy of the articles of incorporation, a list of the names and addresses of all persons directly in charge of the activity and the corporate.

i. The location and best available description of the property where the activity is proposed, including all lands to be used directly, indirectly or incidental to the proposed activity or any part thereof.

j. The date or dates and the hours during which the activity is to be conducted and the total time period of such activity.

k. The program and plans of the activity in its entirety, with particular emphasis on the following:

1. Detailed plans for parking facilities off public roadways able to serve all reasonably anticipated requirements at a rate of up to 100 passenger cars per acre or 30 buses per acre.

m. Detailed plans for transportation arrangements from noncontiguous parking facilities to the site to fully serve all reasonably anticipated requirements; including a statement from the New York State Police, and the Greene County Sheriff certifying that the traffic control plan within the county is satisfactory.

n. An outline map of the area to be used, to an appropriate scale, showing the location of all areas of assemblage, including separate overnight camping areas for sleeping and emergency access and egress roads.

o. The total number of persons permitted at the event, including performers, staff members and audience, which shall be determined by providing a net assembly area of at least 50 square feet per person in addition to providing at least 50 square feet per person in a separate camping area for 50 percent of the population. Parking areas which are contiguous to the site may be included in such square footage calculation.



- p. A plan for controlling unauthorized admittance, including methods of entering the area, number and location of ticket booths and entrances, and provisions for keeping non-ticket holders out of the area.
- q. A detailed plan for use of signs to locate all facilities and roadways.
- r. A statement from local fire authorities having jurisdiction over the area verifying that the facilities available to such mass gathering are suitable to provide adequate fire safety, that they are aware of the event and are willing to cooperate if needed.
- s. A detailed plan for emergency situations, including:
1. medical supplies, facilities and personnel;
  2. an evacuation plan;
  3. emergency access roads.
- t. A statement from the Greene County Director of Emergency Preparedness indicating that he/she has been advised of the event and has approved the plan from an emergency preparedness standpoint.
- u. A command post to be used by on-site security personnel, local, County and State Police, Department of Health personnel or the permit-issuing official and his/her lawful representatives, or both, consisting of at a minimum, a specific location equipped with a communication system satisfactory to the permit-issuing official.
- v. Detailed plans for security enforcement, including prevention of the unlawful use of alcohol, narcotics and dangerous drugs at the site, methods for limiting the use of the proposed function to the number of participants for which the facilities are designed, and external as well as internal crowd control, including sufficient guards for crowd control and security enforcement.
- w. Detailed plans for internal storage and collection of refuse, including provisions for disposal and cleaning the property and surrounding properties within 72 hours after the event.
- x. Detailed plans for emergency first aid to include a minimum of two (2) qualified EMTs, to serve fully all reasonably anticipated requirements. Such plans shall state the arrangements made with hospitals and ambulances in the area, including names and locations.
- y. Detailed plans for amplifying equipment designed to control the noise level at the perimeter of the site to no more than 75 decibels on the A scale of a sound-level meter, which meets the specifications of the American National Standards Institute, between the hours of 11:00 pm and 8:00 am.
- z. Detailed plans for lighting designed to illuminate the public areas of the site as reasonably required and demonstrating that the lighting will not reflect on any area beyond the boundary of said site, when the event is planned to occur after daylight hours.

aa. A plan showing that the proposed activity is adequately buffered by fencing or other crowd control device, from all neighboring properties within 500 feet of the perimeter of the site.

bb. No permit shall be issued unless the applicant shall furnish the Town with a comprehensive liability insurance policy insuring the Town against liability for damage to person or property with limits of not less than \$1,000,000/\$2,000,000 for bodily injury or death and limits of not less an \$1,000,000 for property damage, to save the Town harmless from any and all liability or cause of action which might arise by reason of the granting of the permit, which policy shall not be cancelable without ten (10) days' prior written notice to the Town and which shall be in effect during the entire period of the mass gathering, to include set up and take down. Failure to keep such policy in effect will result in automatic revocation of the permit.

## **Section XVI. Administration and Enforcement**

This Article provides for the administration and enforcement of this Zoning Law and the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the New York State Energy Conservation Construction Code (the Energy Code). This Article is adopted pursuant to Section 10 of the Municipal Home Rule Law. Unless otherwise provided in the Uniform Code, other state laws or other sections of this Zoning Law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions in this Article. No person shall undertake any land use or development for which a project permit is required except pursuant to a valid project permit issued by the Zoning Enforcement Officer. A project permit will be issued only when the Zoning Enforcement Officer has determined that all requirements of this Zoning Law and of all other applicable local and state laws and regulations are satisfied.

### **A. Zoning Enforcement Officer**

1. Creation and Powers and Duties. The position of Zoning Enforcement Officer is hereby created. The Zoning Enforcement Officer (ZEO) shall administer and enforce all provisions of this Zoning Law, the Site Plan Review (Local Law #4 of 2008), Subdivision (Local Law 1990), Local Law #3 of 2006 (Adult Uses) as any may be amended from time to time and any other local law so designated by the Town Board. The Zoning Enforcement Officer shall have the following powers and duties:

- a. To receive and review all applications for a special use permit, Site Plan review and subdivision review pursuant to the provisions of this Zoning Law. In the event that the Zoning Enforcement Officer determines that the application meets all of the requirements of the Zoning Law, the application shall be forwarded by the ZEO to the Planning Board for further review in accordance with the provisions of the Zoning Law and/or Site Plan and/or Subdivision Regulations. In the event the ZEO finds that the application does not comply with the provisions of the respective and applicable law the application shall be denied by the ZEO. Applicants may appeal the ZEO's determination to the Zoning Board of Appeals in accordance with the provisions of Section XVII of this Zoning Law.
- b. To issue a zoning permit following Planning Board approval of any application for a special use permit, Site Plan, or subdivision, which verifies that the use complies with the

provisions of the Zoning Law, and the requirements and conditions imposed by the Planning Board as part of any approval. The Town of Cairo Code Enforcement Officer shall issue a building permit subsequent to the issuance of the zoning permit, where applicable.

- c. To conduct inspections prior to the issuance of a zoning permit and inspections incidental to the investigation of complaints and all other inspections required or permitted under any provision of this Zoning Law. The Zoning Enforcement Officer's power to enter upon and inspect private properties in the absence of an administrative search warrant shall be subject to applicable constitutional limitations.
  - d. To issue Stop Work Orders, Notices of Violations and/or Compliance Orders.
  - e. To review and investigate complaints.
  - f. To issue orders pursuant to Section XVI (C) (Complaints and Enforcement Steps).
  - g. To establish and maintain complete and proper records in all matters coming before him/her.
  - h. To collect fees set by the Town Board.
  - i. To enforce the provisions of this Zoning Law and to pursue administrative, civil and criminal enforcement actions. Where necessary, the Zoning Enforcement Officer shall consult with, and seek the assistance of, the Town Attorney or Attorney for the Town in taking enforcement action, especially in the case of criminal enforcement actions.
  - j. To exercise all other powers and fulfill all other duties conferred upon the Zoning Enforcement Officer by this Zoning Law.
2. Appointment and qualifications. The Zoning Enforcement Officer shall be appointed by the Town Board. The Zoning Enforcement Officer shall possess background and experience relating to the enforcement, interpretation, application and enforcement of Zoning Law. In addition, the Zoning Enforcement Officer shall, within the time period(s) prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York and/or the Town shall require for Zoning Enforcement personnel.
  3. Acting Zoning Enforcement Officer. In the event the ZEO is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Zoning Enforcement Officer. The Acting Zoning Enforcement Officer shall have the same qualifications as the ZEO. The Acting Zoning Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the ZEO by this Zoning Law.
  4. Compensation. Compensation of the Zoning Enforcement Officer shall be fixed from time to time by the Town Board.

5. Denial of Permits. Any time that the Zoning Enforcement Officer finds that an application does not comply with the provisions of this Zoning Law, the ZEO shall notify the applicant of such in writing and shall include the reason(s) for the determination of non-compliance and a citation to the applicable section(s) of the law or regulations under which compliance is deficient. The zoning permit shall be deemed denied. The applicant may submit a new or amended application correcting the deficiencies in the rejected application.
6. Complete Application. The Zoning Enforcement Officer shall determine within fifteen (15) business days of receipt of an application for a zoning permit whether all materials, documents, fees, etc. required under this Zoning Law have been received. The date of receipt is the date that the application is filed with the Zoning Enforcement Officer. In the event that one or more of the items required in this Zoning Law, the Zoning Enforcement Officer shall so notify the applicant and provide the applicant with a statement that clearly identifies what additional information is required. The ZEO shall forward all fully compliant applications to the Planning Board so that it may begin its review pursuant to this Zoning Law. Failure by the ZEO to provide a the insufficient statement as required above or to forward an application to the Planning Board within fifteen (15) days shall be deemed a denial.
7. Revocation. The Zoning Enforcement Officer shall revoke a building permit and issue a stop work order if, after the issuance of a building permit by the Code Enforcement Officer, any of the following conditions shall apply: that the application or accompanying plot plan is in any material respect false or misleading; that work is being done in violation of the Town of Cairo Zoning Law, the New York State Uniform Fire Prevention and Building Code, or any approval issued there under; that work is being done in an unsafe or dangerous manner; or that the permit was issued in error and should not have been issued. Notice of the stop work order shall be made by personal service on the permit holder or by sending the stop work order to the permit holder by certified mail, return receipt requested and by posting the stop work order on the premises. Upon receipt of a stop work order, the person holding the building permit shall surrender the building permit to the Zoning Enforcement Officer
8. Certificate of Compliance or Occupancy. No structure hereafter erected or altered shall be used until the Code Enforcement Officer has issued a Certificate of Compliance or Occupancy. The Certificate of Compliance or Occupancy shall not be issued unless the Code Enforcement Officer finds that the structure authorized by the building permit has been fully completed in accordance with its requirements. A Certificate of Compliance or Occupancy shall be issued within ten (10) business days of the day that the Code Enforcement Officer has certified the structure as complying with the building permit. Certificates shall be filed in the Office of the Town Clerk. Only upon issuance of a Certificate of Compliance or Occupancy will an occupancy permit be issued.

## **B. Application and Approval for Building Permit.**

All land use or development activities listed in Section IV shall also require a building permit by the Code Enforcement Officer. Prior to issuance of a building permit, an application shall initially be made to the Zoning Enforcement Officer, and reviewed and approved for

conformance with this and other local laws. Such application will be on a form prescribed by the Town and available from the Office of the Town Clerk. Should the Zoning Enforcement Officer determine that a subdivision, Site Plan review or Special Use Permit approval is needed, he/she shall refer the application to the Planning Board of the Town of Cairo. No permit application shall be approved and a zoning permit issued unless the Zoning Enforcement Officer finds all of the following:

1. All required reviews and actions have been performed and approvals obtained, including Site Plan review, special use approval, or variances, or a determination made that the application does not require such reviews and approvals.
2. The proposal described in the application complies with the use, density, and area requirements of this law, the requirements of applicable overlay areas, and the terms and conditions of any approvals required under the Town of Cairo Zoning law.
3. All proposed structures will be constructed on land suitable for building purposes as defined in this law.

### **C. Complaints and Enforcement Steps**

The Zoning Enforcement Officer (ZEO) shall follow the following steps in order:

1. Report of Violation/Complaints. Violations may be reported by the Zoning Enforcement Officer, a municipal official, or local resident. The process for reporting and responding to a complaint shall include the following:
  - a. All complaints shall be filed in writing with the ZEO. A copy of all complaints shall also be filed with the Town Board.
  - b. Any alleged violation noted by the ZEO shall also be recorded in writing.
2. Investigation. Once a possible violation has been observed or reported, the ZEO shall investigate the matter and make a preliminary determination as to whether it constitutes a violation as follows:
  - a. The ZEO shall investigate the conditions and/or activities alleged to be in violation, and shall make a written record describing the investigation and any evidence found. The Zoning Enforcement Officer's power to enter upon and inspect private properties in the absence of an administrative search warrant shall be subject to applicable constitutional limitations. Such investigation shall be commenced within fifteen (15) business days of the ZEO's receipt of a complaint.
  - b. A determination as to whether a violation has occurred shall be made and recorded.
  - c. The ZEO shall log such investigation on an Enforcement Inspection Report regardless of the results of such investigation. The Enforcement Inspection Report shall contain a written record describing the investigation, any evidence found and the conclusion drawn as a result of the investigation and evidence.

3. Notification to Remedy Violations. If the ZEO determines that a violation exists, the ZEO shall act as follows:

- a. The ZEO shall provide the owner of the affected property with notice of the violation and be given an opportunity to abate, correct or cure the violation within fifteen (15) days of determining a violation exists.
- b. The ZEO shall provide this notice by sending a Notice of Apparent Violation to the property owner requesting voluntary compliance. All notices shall be sent by certified mail, return receipt requested.
- c. All informal discussions about the apparent violation between the landowner and the ZEO shall be documented in writing by the ZEO.
- d. If corrective action is not taken by the property owner after receipt of the Notice of Apparent Violation, the ZEO shall send a Notice of Violation – Order to Remedy to the property owner. The Notice shall set forth the alleged violation in reasonable detail and cite to the applicable part of the Zoning Law. The Notice shall also state the corrective action sought and the time by which the corrective action must happen. A reasonable period shall be provided to correct a violation, which period shall be determined by the circumstances of the violation and the degree to which the violation constitutes a danger to public health, safety and welfare.
- e. Inspection of, and Report on, Corrected Violations. If a violation which was found to exist is abated or corrected, the ZEO shall perform an inspection to ensure that the violation has been abated or corrected, prepare a final written report reflecting such abatement or correction, and file such report with the complaint within thirty (30) days.
- f. The ZEO shall inform the Town Board of all zoning violations. The ZEO shall also record any administrative actions that are carried out.

4. Administrative Actions. In order to remedy a violation, the ZEO is authorized to take one or more of the following administrative actions:

- a. Revoke or suspend zoning or building permits.
- b. Deny new municipal permits including site plan as per Local Law #4 (Site Plan) related to the same work for construction, occupation, or other activities from the date on which the violation was first determined to exist until such violation is removed or the matter resolved.
- c. Issue a Stop Work Order.
- d. Issue a Cease and Desist Order.

## **D. Criminal and Civil Penalties**

1. If the alleged violator(s) fail to correct the violation within the reasonable time of the period provided for correction of the violation, the Zoning Enforcement Officer shall then commence a proceeding in the local Justice Court as per this section. Prior to implementing a criminal or civil penalty, the ZEO shall inform the Town Board to determine which procedure to pursue.
2. Criminal Proceedings. The Zoning Enforcement Officer shall commence the proceeding by causing an appearance ticket to be served on the alleged violator(s) in accordance with the requirements of State law for issuance of appearance tickets. An appearance ticket issued under authority of this Zoning Law shall be served personally. The Zoning Enforcement Officer shall also prepare a supporting deposition or affidavit setting forth the details of the violation. The deposition shall:
  - a. be in writing;
  - b. be dated, signed by the Officer, and notarized;
  - c. specify the condition or activity that violates this Zoning Law;
  - d. specify the provision or provisions of this Zoning Law which is/are violated by the specified condition or activity;
3. The Zoning Enforcement Officer may also, where an appearance ticket fails to secure the court attendance of the alleged violator(s), request that the Justice Court issue a criminal summons for service on the alleged violator(s). The Town Attorney or Attorney for the Town shall represent the Zoning Enforcement Officer in the Justice Court upon the approval of the Town Board. Notwithstanding the foregoing, the Zoning Enforcement Officer may simultaneously or in addition to the remedy provided in this Zoning Law refer the alleged violation to the Town Board and Town Attorney for an injunction and the collection of civil fines as provided for in sub-sections 4 and 5, below.
4. As per New York State Town Law Section 268, any violation of this Zoning Law is hereby declared to be an offense punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; upon conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than \$350.00, nor more than \$700.00, or imprisonment for a period not to exceed six (6) months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than \$700.00, nor more than \$1,000.00, or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon the Courts and judicial officers generally, violations of the Zoning Law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. A

violator must be served a new deposition and criminal summons for any week(s) that a fine is sought, subsequent to the initial filing of the original deposition and criminal summons.

5. Civil penalties. In addition to those penalties proscribed by State law, any person who violates any provision of this Zoning Law, or any term or condition of any zoning permit, stop work order, operating permit or other notice or order issued by the Zoning Enforcement Officer pursuant to any provision of this Zoning Law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in the context of the criminal proceedings described in paragraphs D.3 and 4 of this Section.
6. Injunctive relief. An action or proceeding may be instituted by the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Zoning Law, or any term or condition of any stop work order, operating permit, compliance order, or other notice or order issued by the Zoning Enforcement Officer pursuant to any provision of this Zoning Law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of this Zoning Law, or any Stop Work Order, or Compliance Order, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this Article shall be commenced without the appropriate authorization from the Town Board.
7. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in any other section of this Zoning Law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section, in any other section of this Zoning Law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of Section 381 of the New York State Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of Section 381 of the New York State Executive Law.

## **E. Appeals**

Any person aggrieved by a decision of the Zoning Enforcement Officer made in conjunction with this zoning law may seek an appeal from the Zoning Board of Appeals pursuant to Section XVII.



## **Section XVII. Zoning Board of Appeals**

### **A. Establishment.**

1. A Zoning Board of Appeals is hereby established in accordance with Article 16, Section 267 of the New York State (NYS) Town Law. It shall consist of seven (7) members, each to serve for a term of seven (7) years. The term of office of the members of the Board of Appeals and the manner of their appointment shall be in accordance with the provisions of Article 16, Section 267 of the NYS Town Law. A member of the Board of Appeals shall not at the same time be a member of the Town Board, an elected or appointed official or an employee of the Town. Vacancies occurring on the ZBA shall be filled for such unexpired period only.
2. The Town Board shall designate its chairperson and shall provide for such expenses as may be necessary and proper. In the absence of a chairperson, the Zoning Board of Appeals members may designate a member to serve as acting chairperson.
3. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after a legally noticed hearing. Among other things, the following shall be prima facie proof of cause for removal by the Town Board: (A) conviction of a felony; (B) conviction of a crime involving a violation of the oath of office; or (C) more than three (3) unexcused absences from a regular or special Board of Appeals meeting in any twelve month period. For the purposes of this paragraph, unexcused absences are any absence for which there is no genuine medical excuse or family or personal emergency.
4. This zoning law is also specifically enacted to provide a process for appointing “alternate” members to its Board of Appeals. These individuals would serve when members are absent or unable to participate on an application or matter before the ZBA. Alternate members may be appointed by the Town Board for a term of 1 (one) years. All provisions of state law relating to ZBA member’s eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/local ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

### **B. Powers**

1. The Zoning Board of Appeals shall have the duties, rights, powers and functions conferred upon it by Section 267 of Article 16 of the NYS Town Law, any other provisions of the Town Law, and any other provisions of law applicable to appeals to review any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of this Zoning Law.
2. Hearing appeals. The jurisdiction of the Board of Appeals shall be appellate and shall include hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Enforcement Officer. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town.

### **C. Conduct of Business**

1. The Zoning Board of Appeals may employ such clerical or other staff as may be necessary, provided that it shall not incur expenses beyond the amount of appropriations made available by the Town Board for such purposes. Any such employment must be approved by the Town Board in advance.
2. Meetings, minutes, records. Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article Seven of the New York State Public Officer's Law (the Open Meetings Law). The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. All meetings of the Zoning Board of Appeals shall be held in accordance with the resolution of the Town Board at the annual organizational meeting and at the call of the chairperson and at such other times as the ZBA may determine. All meetings of the Zoning Board of Appeals shall be open to the public.
3. Filing requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk in accordance with the NYS Town Law and shall be a public record.
4. Assistance to Zoning Board of Appeals. The Board shall have the authority to call upon any professional to assist in its review of the application which shall provide the Board with necessary technical information required for the Board to carry out its duties following Town Board authorization of same. All such costs shall be borne by the applicant.
5. Time of appeal. An appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Enforcement Officer, by filing with such officer and with the Board of Appeals, a notice of appeal, specifying the grounds thereof and the relief sought on forms prescribed by the Zoning Board of Appeals. Such application shall refer to the specific provision of this Zoning Law involved and shall specify the grounds for the variance requested, the interpretation claimed, or for the reversal of an order, requirement, decision or determination of an administrative official. The Zoning Enforcement Officer shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
6. If an agricultural data statement has been submitted, the Clerk of the Zoning Board of Appeals shall, upon receipt of the variance application, mail written notice of the application to the owners of land as identified by the appellant in the agricultural data statement. Such notice shall include a description of the proposed variance and its location. The cost of mailing the notice shall be borne by the appellant.
7. Stay upon appeal. An appeal shall stay all proceedings in accordance with the NYS Town Law.

8. Hearing on appeal. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it after receipt of a complete application. The Zoning Board of Appeals shall give public notice of such hearing by publication in a paper of general circulation in the town at least ten (10) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney. In addition to the public notice of a hearing, notice shall be given in writing by certified, return receipt requested mail to all property owners of the land included in such proposed change, and the land immediately adjacent extending five hundred (500) feet there from, and the land directly opposite thereto extending five hundred (500) feet from the street or highway frontage of such opposite land, as said property owners and addresses appear on the latest completed assessment roll of the town. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken.
9. Notice to County Planning Board. At least fifteen (15) days before such hearing, the Board of Appeals shall mail notices thereof to the parties to the County Planning Board as required by Section 239-m of the New York State (NYS) General Municipal Law. This notice shall be accompanied by a full statement of the proposed action, as defined in subdivision one of section 239-m of the NYS General Municipal Law. No action shall be taken on variances referred to the County Planning Board until its recommendation has been received, or thirty (30) days have elapsed after its receipt of the full statement of the proposed variance, unless the County and Town agree to an extension beyond the thirty (30) day requirements for the County Planning Board's review. A majority-plus-one vote shall be required to approve any variance which receives a recommendation of disapproval from the County Planning Board, along with a resolution setting forth the reasons for such contrary action.
10. Time of decision on appeal. The ZBA shall decide upon the appeal within sixty-two (62) days after the closing of the public hearing. The time within which the ZBA must render its decision may be extended by mutual consent of the applicant and the board. Failure by the ZBA to make a determination within sixty two (62) shall not be deemed an approval.
11. Voting requirements.
12. Decision of the board. Every motion or resolution of a ZBA shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency the voting provisions of Section 239-m of the NYS General Municipal Law shall apply.
13. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required

for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

#### **D. Permitted action by Board of Appeals.**

##### 1. Use variances.

- a. The ZBA, on appeal from the decision or determination of the administrative official charged with the enforcement of the Zoning Law, shall have the power to grant use variances, as defined in this Zoning Law.
- b. No use variance shall be granted by a ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The applicant shall have the burden of proving unnecessary hardship to the satisfaction of the Zoning Board of Appeals. The Zoning Board of Appeals shall not determine that an applicant has successfully proved unnecessary hardship unless it determines that the applicant has demonstrated that, for each and every permitted use under the zoning regulations for the particular district where the property is located, the following four criteria have been met for each such permitted use:
  1. that the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  4. that the alleged hardship has not been self-created.
- c. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

##### 2. Area variances.

- a. The ZBA shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this Zoning Law, to grant area variances as defined in this Zoning Law.

- b. In making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
    1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
    2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    3. whether the requested area variance is substantial;
    4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
    5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.
  - c. The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
3. Imposition of conditions. The ZBA shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

## **Section XVIII. Amendments**

### **A. Authority**

The Town Board, may, on their own motion, on petition by any official or member of the public or on recommendation of the Planning Board, amend, supplement, modify, or repeal the provisions of this Zoning Law after public notice and hearing as set forth below and in accordance with State law.

### **B. Referral to Town Planning Board**

Every proposed amendment or change initiated by the Town Board, or by petition (but not initiated by the Planning Board), shall be referred to the Planning Board for its recommendation prior to public hearing.

### **C. Public Hearing and Notice**

No proposed amendment shall become effective until after a public hearing thereon at which the public shall have an opportunity to be heard. The Town Board, shall set, by resolution at a duly called meeting, the time and place for a public hearing on proposed amendments, and shall cause the public notice to be given as required by the laws of New York State and specified below.

### **D. Publication of Notice in Newspaper**

Notice of the time and place of the public hearing shall be published at least ten (10) days in advance of such hearing in the official newspaper and on the Town website, if same is available. This notice shall specify the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.

### **E. Adoption**

The Town Board may adopt amendments to this Zoning Law by a majority vote of its membership, except in the case of local protest or disapproval by the County Planning Board in accordance with New York State law.

## **Section XIX. Severability and Effective Date.**

If any section or specific part or provision or standard of this Zoning Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent. If any zoning district boundary that may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of this zoning law not affected by the decision of the court shall remain in full force and effect.

This local law shall become effective on December 1, 2015, following the filing of same with the NYS Secretary of State in accordance with the Municipal Home Rule Law.

## **Section XX. Definitions**

### **A. General.**

Except as defined in this Zoning Law, all words used in this chapter shall carry their everyday dictionary definitions.

### **B. Word usage.**

1. Words used in the present tense include the future tense.

2. Words used in the singular include the plural, and words used in the plural include the singular.
3. The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
4. The word "lot" includes the word "plot" or "parcel" or "tract."
5. The word "shall" is always mandatory and not merely directory.
6. The word "structure" shall include the word "building."
7. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

### **C. Terms defined.**

When used in this chapter, unless otherwise expressly stated, the following definitions shall apply:

**Access:** The availability or means of ingress or egress, for persons or vehicles, to a property or lot from a public highway or private roadway.

**Access Drive:** See "Driveway"

**Accessory Apartment:** A dwelling unit that has been added onto, or created within, a single-family house and which is clearly subordinate to the primary use as a single-family house. An accessory apartment created within a single-family house is not a two-family house.

**Accessory Structure or Use:** A secondary structure or use on the same lot in the same ownership which is associated with and which is incidental and subordinate to the principal use or structure. An accessory structure is a detached subordinate building on a lot, the use of which is customarily incidental to that of the main or principal building.

**Active Agricultural Land:** Land under agricultural management.

**Alteration, Structural:** To change or rearrange the walls, roofs, ceilings, floors, supporting beams, columns or other structural parts; interior plan or layout, the exterior architectural features; the exit facilities of a structure; or the relocation of a building.

**Agricultural Data Statement:** an identification of farm operations located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board is proposed, as provided in section three hundred five-a of Article 25-AA of the New York State Agriculture and Markets law.

**Agricultural Structure:** A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation but used in the raising, growing, processing, or storage of agricultural products by a farmer engaged in a farming operation including but not limited to barns, sheds, greenhouses, poultry houses and other buildings and equipment on the premises used directly

and solely for agricultural purposes, except for habitation by individuals actively engaged in the agricultural use of the structure.

**Agriculture:** The production, keeping, processing, or maintenance, for sale, lease or personal use, of plants and animals including but not limited to forages, grains and seed crops, dairy animals, poultry, livestock including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals, bees and apiary products, fur animals, fruits, vegetables, nursery, or flowers.

**Agricultural Use, Crops:** The employment of land for commercial raising, harvesting, processing, and selling crops, irrigating crops, horticulture, and floriculture.

**Agricultural Use, Livestock:** The employment of land for raising, harvesting, selling or feeding, including but not limited to, grazing and watering livestock, breeding, managing, processing, selling or producing livestock, poultry, using land for growing agricultural products, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, aquaculture, silviculture, animal husbandry, or by a combination thereof. It also includes the employment of land for stabling or training equines, including but not limited to providing riding lessons, training clinics and schooling shows, including other on-farm niche marketing promotions. It shall not include the operation of a dude ranch or similar operation.

**Agritourism:** Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-tourism activity may be secondary to the primary farm use on a property located in the RR-1, RR-2 and MT Districts. Agri-tourism activities may be conducted in an accessory building or structure. Agri-tourism activities include, but are not limited to on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches.

**Applicant:** The persons, corporation, agency, or other legal entity responsible for submitting site applications for review by the Planning Board.

**Aquifer:** An underground geologic formation that contains and transmits significant quantities of groundwater.

**Area, Building:** The total area on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps.

**Area, Lot:** The total area contained within the property lines of an individual parcel of land.

**Average Lot Size:** The average size of all lots to be subdivided from a parcel. Use of an average lot size instead of a minimum lot size in the rural residential districts allows for easier protection of open spaces. Parcels subdivided using an average lot size reduce individual lot areas and bulk requirements but the number of lots remains the same as permitted without lot averaging.

**Average Daily Traffic:** The average number of vehicles per day that enter and leave the premises or travel over a specific section of road.



**Bar/Tavern:** Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

**Base Floodplain:** See “Floodplain, 100 year” and “Floodplain”.

**Bed and Breakfast Inn:** A major home occupation involving the rental of bedrooms as transient accommodations, with breakfast served to guests but with no full-service restaurant facilities.

**Beekeeping:** The maintenance and/or cultivation of bee colonies, commonly in hives, in order to collect honey and other products of the hive (including beeswax, propolis, pollen, and royal jelly), to pollinate crops, or to produce bees for sale to other beekeepers. A location where bees are kept is called an apiary or "bee yard".

**Billboard:** A commercial sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**Bioswale:** An extended rain garden that sometimes runs the length of a block, structure, road, or other feature.

**Buffer Area:** An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the negative environmental effects of a land use activity (e.g. noise, dust, visibility, glare, etc) on adjacent properties.

**Buildable Area:** The space remaining on a lot after the minimum open space requirements (coverage, yards, setbacks) have been met.

**Building:** A structure designed to be used as a place of occupancy, business, storage, or shelter. As used herein, the term “building” shall also include any tower used for the receiving and/or transmitting of commercial radio, television, cellular or other utility communication towers, manufactured homes, and modular homes.

**Building, Detached:** A building surrounded by open space on the same lot as another structure.

**Building Envelope:** The space within which a structure and its supporting infrastructure is permitted to be built on a lot and that includes the building, driveway, and any lands disturbed for well and septic systems.

**Building Height:** The vertical distance measured from the mean elevation of the proposed finished grade at the front entrance of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the median height between eaves and ridge for gable, hip and gambrel roofs.

**Building Inspector:** The individual designated by the Town Board to enforce the provisions of the building code in accordance with any job description or other policy adopted by the Town Board or the Greene County Civil Service Department.

**Building Principal:** The building on a lot that houses the primary use on a parcel of land.

**Buffer:** A vegetated area, including trees, shrubs, and herbaceous vegetation, that exists or is established to protect a stream system, lake, reservoir, or other critical environmental location or minimize the negative environmental effects of a land use activity on adjacent properties.

**Camp, Seasonal:** A location where campers spend all or part of a season living in tents, barracks, or dormitories, participating in organized activities, sports, and arts and crafts, and usually eating together in a central dining facility.

**Campground:** A parcel of land upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes, but shall not include uses limited solely to the personal use of the owner.

**Camping Unit:** Any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

**Campsite:** Any plot of ground within a campground intended for exclusive occupancy by a camping unit or units.

**Car Sales:** A building, structure and/or area arranged, intended or designed to be used for the rental, lease, sale and/or resale of motor vehicles, new or used.

**Car Repair:** A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles, their mechanical systems and their body structure, including painting.

**Car Wash:** Any building or premises or portions thereof used for washing automobiles. This may include automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

**Cell Tower (Also known as Telecommunication Tower):** Any structure or facility which supports one or more antennas capable of receiving and/or transmitting radio, television, cellular, paging, personal communication services, or microwave communications, but excluding those used

exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizens band, amateur radio and other similar communications that do not exceed height limitations addressed in the Town Zoning Law. It includes free standing towers, guyed towers, mono-poles. See also definitions of Local Law # 1 of 2001.

**Change of Use:** The change of use or occupancy of land, [or] buildings, structures, or other improvements on land, from either residential, commercial or industrial to one of the other uses, or change in the nature, substance or intensity of the same use including, but not limited to, changes in use which require the issuance of a Certification of Occupancy pursuant to the New York State Building and Fire Code. Any use that substantially differs from the previous use of a building or land. Chapter 3 (Use and Occupancy Classification) of the Building Code of New York State shall be used to define uses that are not specifically defined in this local law. Change of tenancy or change of ownership shall not be construed as a change of use.

**Code Enforcement Officer:** The officer appointed enforce the New York State and local building code in accordance with any job description or other policy adopted by the Town Board or the Greene County Civil Service Department. The Code Enforcement Officer may also be the Zoning Enforcement Officer and the Building Inspector.

**Commercial Use:** Any activity involving the sale of goods or services carried out for profit; and other economic activities including mining, construction, light manufacturing, manufacturing, transportation, communication, electric, gas, and sanitary services, wholesale trade, warehousing and accessory warehousing, and any activity involving an office for conducting the affairs of a business, profession, service, industry or government; any use occurring on any commercial property, and shall include such efforts above carried out by not-for-profit corporations or similar organizations.

**Community Benefit:** A natural or created feature that enhances the aesthetic quality, visual appeal, recreational value, level of environmental protection to a particular property, place or area, or provides a desired type of development such as senior citizen housing, or cultural or historic facilities.

**Complete Application:** An application shall not be deemed complete until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.

**Comprehensive Plan:** A document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community's problems and assets by applying a general policy to obtain a uniform result.

**Conservation Easement:** A grant of a property right stipulating that the described land will remain in its natural or agricultural state and precluding future or additional development. Conservation easements are usually used for the preservation of open space, environmentally sensitive areas, scenic views, wetland buffers, or agricultural lands.

**Conservation Subdivision:** A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner, where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to

promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

**Condominium:** A mode of ownership where each dwelling unit may be owned in fee simple individually and separately from all others, but where all such owners have an indivisible interest in the common areas. Thus, they share ownership and attendant responsibilities for the provision, maintenance and/or repair of common internal facilities, utilities, services, exterior building surfaces, land, landscaping and other outdoor facilities.

**Construction:** any activity necessary or incidental to the erection, demolition, assembling, altering, installing or equipping of buildings, public or private highways, roads, premises, parks, utility lanes or other property, including but not limited to related activities such as land clearing, grading, earthmoving, excavating, blasting, filling and landscaping, but not including agriculture.

**Contamination:** The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.

**Convenience Store:** A one-story retail store that is designed and stocked primarily to sell retail items, food, beverages and household supplies to customers who typically purchase a relatively few items. Such establishments may include the retail sale of gasoline, oil and other automotive fluids, although no repairs or servicing of vehicles is permitted.

**Conversion:** A change in use or occupancy of a dwelling by alteration or by other reorganization as to increase the number of families or dwelling units in a structure.

**Country Inn:** A building or group of buildings for no more than 25 sleeping units, whether detached or in connected units, used as individual sleeping units designed primarily for transient travelers and providing for accessory off-street parking facilities and may provide kitchen services. The term includes other such uses termed as motel, tourist courts, motor lodges, auto courts and similar appellations.

**Critical Environmental Area:** A specific geographic area designed by the Town of Cairo pursuant to 6 NYCRR Part 617, having exceptional or unique characteristics that make the area environmentally important.

**Cul-de-sac:** A designated turn-around area for vehicles at the end of a street or road.

**Curb-cut:** A defined opening to provide vehicular access from a public highway to a lot or property.

**Customary:** Used as “commonly associated with”.

**Cut and Fill:** A portion of land surface or area from which earth has been removed or will be removed by excavation and then the earth is moved and deposited to fill in another location.

Day care: Daytime care or instruction of three or more individuals away from their own homes for more than 3 but less than 24 hours per day on a regular basis by an individual, association, corporation, institution or agency, whether or not for compensation.

Deicing Compounds: Any bulk quantities of chloride compounds and/or other deicing compounds (e.g., urea or calcium magnesium acetate) intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over eight percent of the mixture. Bulk quantity of deicing compounds means any quantity, but does not include any chloride compounds in a solid form which are packaged in waterproof bags or containers which do not exceed one hundred pounds each.

Density: The ratio of lot area per family or dwelling unit on a lot.

Disposal: The abandonment, discharge, deposit, injection, dumping, spilling, leaking, or placing by any other means of any solid waste, petroleum, radioactive material, hazardous substance, hazardous waste, or aqueous carried waste into or onto land or a surface water body.

Drainage: A system of swales, ditches, and culverts, catch-basins, and piping to convey storm-water runoff to retention areas and stabilized discharge points.

Drive in Use: An establishment which, by design, physical facilities, service or by packaging procedures, encourages and permits customers to receive services and obtain goods while remaining in their motor vehicles.

Driveway: A privately owned and maintained means of ingress and egress from a public or private roadway or right-of-way to one lot or parcel of land.

Dude Ranch: A resort patterned after a Western ranch, featuring camping, horseback riding, and other outdoor activities.

Dumpster: A brand name of large metal garbage bin for refuse designed to be hoisted onto a specially equipped truck for emptying or hauling away.

Dwelling: A complete self-contained residential unit for permanent or seasonal habitation by one family only, and containing one or more rooms and facilities for living including cooking, sleeping, and sanitary needs.

Dwelling, Multiple Family: A building, portion of a building, or group of buildings, detached or attached, on one lot each containing three (3) or more dwelling units and designed or used for

occupancy by three (3) or more families living independently of each other. Senior citizen housing and townhouses shall be considered a multiple family dwelling.

Dwelling, Single - Family Detached: A residential dwelling unit designed for occupancy by one family and having no party wall in common with another building. Where two or more single-

family detached dwellings occupy one parcel, they shall be considered a multi-family development.

Dwelling, Townhouse: A multiple-family dwelling containing at least three individual one-family units in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

Dwelling, Two-Family: A building on a single lot designed for two dwelling units each of which is totally separated from the other by a wall, ceiling, or floor, except for a common stairwell and occupied exclusively as a home or residence for two (2) families where the principal use is as a two-family structure. Two-family dwelling units shall not be considered townhouses or multiple family dwellings.

Easement: The right to use the land of another, obtained through the purchase or other acquisition of use rights from a landowner, for a special purpose consistent with the property's current use.

Educational/Training Facility: A building or part thereof which is designed, constructed, or used for instruction or education including, but is not limited to elementary, parochial, private, secondary or vocational schools. It shall also mean a business organized to operate for a profit, or an organization that operates not-for-profit offering instruction and training in a trade, service or art.

Egress: A one-way access from a property leading onto a public highway or private road.

Enclosed Storage Yard: The keeping, in an enclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

Environmental Assessment Form (EAF): A form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental features and the project's magnitude, either a short or full SEQRA Environmental Assessment Form will be completed.

Environmental Impact Statement (EIS): A document prepared pursuant to SEQRA, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

Environmental Constraints: An area with one or more of the following environmental characteristics: 1) steep slopes > 20%; 2) flood plain; 3) exposed bedrock or areas of land incapable of meeting percolation requirements; 4) aquifer recharge or discharge areas; 5) habitats of endangered species; and 6) wetlands.

Equipment Storage: Any location or structure used for the storage of equipment (machinery and related hardware, etc.)

Erosion: The wearing away of surface soils by action of wind or water.

Erosion Control: Use of re-seeding, re-vegetation, placement of mulch or artificial matting or rip rap or other methods to prevent soil erosion.

Family: Two or more persons living together as a single housekeeping unit with common use and access to all living and eating and living areas and maintaining a common household.

Farm: The land and on-site buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial, for profit enterprise, including a commercial horse boarding operation as defined in this Zoning Law and including a timbering operation, compost, mulch or other biomass crops as defined in the NYS Agricultural and Markets Law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

Farm Market: A permanent retail shop or store featuring fresh foods, fruits, vegetables, meats, prepared foods and beverages and other farm related goods sold directly by farmers to consumers.

Farm Stand: A small scale structure for the purpose of the sale of farm produce and agricultural products. A non-permanent structure for the display and sale of farm products including, but not limited to wagons, stands, and tents.

Fascia: The front facing surface of trim on a building above the soffit but below the roofline.

Fire Lane: Access for emergency and/or fire-fighting vehicles.

Flag Lot: A building lot not meeting the required road frontage and characterized by a narrow strip of property by which access is gained.

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

Floodplain or Flood Prone Area: A land area adjoining a river, stream, watercourse, or lake, which is likely to be flooded.

Flood Hazard, Area of: Land within a community subject to a one percent (1%) or greater chance of flooding in any given year as shown on the Flood Insurance Rate Maps developed by the Federal Emergency Management Agency. Also commonly referred to as base floodplain or 100 year floodplain.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency.

**Footprint:** The amount of space, measured in square feet, taken up on the ground by a structure. A structure's footprint measurement does not include the square footage of multiple floors of a structure.

**Formula-Based Architecture:** An architectural style that repeats building design, roofline, colors, façade treatment, and other features at all locations regardless of where that specific business may be located. Typically, franchise businesses use formula-based architecture and buildings in different locations which will look the same.

**Frontage:** That part of a property bounded by either a public or private road.

**Fuel Storage or Distribution Facility:** A facility designed for the bulk keeping, and distribution in above-ground containers of any fuel material in liquid, gaseous, powder or pellet form, including but not limited to gasoline, propane, diesel, kerosene, fuel oil, or natural gas. A gas station for fueling direct to cars or trucks shall not be considered a fuel storage or distribution facility.

**Gasoline Station:** An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating, washing, (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.

**Glare:** The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Grading:** The changing of land elevation for site development purposes including construction of roads, building construction, drainage areas and parking.

**Groundwater:** Water below the land surface in a saturated zone of soil or rock. This includes perched water separated from the main body of groundwater by an unsaturated zone.

**Habitat:** The place occupied by an organism, population, or community. It is the physical part of the environment in which an organism finds its home, and includes the sum total of all the environmental conditions present in the specific place occupied by an organism.

**Hamlet:** A well-known populated sections of towns that are not incorporated as a town.

**Hazardous Substance:** Any substance listed as a hazardous substance in 6 NYCRR Part 597, Hazardous Substance List, or a mixture thereof. In general, a hazardous substance means any substance which: (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed; (2) poses a present or potential hazard to the environment when improperly treated, stored, transported, disposed of, or otherwise managed; (3) because of its toxicity or concentration within biological chains, presents a demonstrated threat to biological life cycles when released into the environment.



**Hazardous Waste:** A waste, or combination of wastes, which are identified or listed as hazardous pursuant to 6 NYCRR Part 371, Identification and Listing of Hazardous Wastes. Hazardous wastes include but are not limited to petroleum products, organic chemical solvents, heavy metal sludges, acids with a pH less than or equal to 2.0, alkalies with a pH greater than or equal to 12.5, radioactive substances, pathological or infectious wastes, or any material exhibiting the characteristics of ignitability, corrosivity, reactivity, or fails the Toxicity Characteristic Leaching Procedure (TCLP).

**Height:** The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure, not including roof ornaments such as cupolas.

**Home Occupation, Minor:** Any nonresidential use that is secondary and clearly subordinate to an existing residential use, conducted within a dwelling unit or an accessory structure by a permanent resident of that dwelling unit, which does not change the residential character of the dwelling unit or vicinity and where no non-resident employees, customers or clients enter the premises and where no signage, or exterior storage of products or equipment are required.

**Home Occupation, Major:** An occupation or business activity resulting in a product or service for financial gain, conducted wholly or partly in a dwelling unit or accessory structure which is clearly subordinate to an existing residential use, conducted within a dwelling unit or an accessory structure by a permanent resident of that dwelling unit that does not change the residential character of the dwelling unit or vicinity or have any exterior evidence of such secondary use other than a sign, and where customers, clients or sales representatives enter the premises and in which not more than three nonresidents are employed. A day care operation that meets the other portions of this definition may also be a major home occupation.

**Homeowner's Association:** An organization of homeowners residing within a particular development whose major purpose is to preserve, maintain, and provide community areas, facilities and services for the common enjoyment of the residents.

**Horse Boarding:** An operation where horses are stabled regardless of ownership.

**Hotel:** Commercial overnight sleeping accommodations, consisting of a building or group of buildings for more than 25 sleeping rooms. Additional accessory services may be included such as restaurants, meeting rooms, entertainment and recreational facilities.

**Impervious Surface:** Any man-made material, such as pavement used in parking lots or driveways or any building or other structure on a lot, that does not allow precipitation and melted snow to penetrate into the soil.

**Incentive:** The granting of an additional development capacity by the Town in exchange for the developer's provision of a public benefit or amenity.

**Industrial Property:** Property used for industrial purposes. Types of industrial property include, but are not limited to, factory-office multi-use property; factory-warehouse multi-use property;

heavy manufacturing buildings; industrial parks; light manufacturing buildings; and research and development parks. Traditional industrial uses include, but are not limited to, processing or manufacturing of materials; marine terminal and transportation areas and facilities; fabrication, assembly, treatment, or distribution of manufactured products or storage of bulk materials.

**Infill Development:** The development of new houses or other uses on scattered vacant sites in a build-up area.

**Infiltration:** the process of percolating stormwater into the subsoil.

**Ingress:** A one-way access from a public highway or private road leading into a lot or property.

**Junk:** Any abandoned, wrecked, discarded, dismantled or partly dismantled material including but not limited to junk appliance, junk furniture, junk vehicle, or garbage, rubbish, clutter, and debris.

**Junk Motor Vehicle:** Any motor vehicle, or used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles, which is:

- (1) unlicensed or unregistered; or
- (2) abandoned, wrecked, stored outside a fully enclosed building, discarded, dismantled, or partly dismantled; or
- (3) not in condition for legal use upon the public highways.

The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in condition for legal use upon the highways. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle is not in condition to be moved under its own power shall be presumptive evidence that such motor vehicle is a junk motor vehicle unless refuted by verifiable and credible proof.

**Junk Yard or Salvage Yard:** The use of any land for the temporary or permanent storage of garbage, rubbish, clutter, litter, debris, junk appliances, junk furniture, junk material, or more than two junk vehicles regardless of the intended future use of materials. Junk yard shall also mean those activities defined in Cairo Local Law #6 of 1985 or any of its subsequent amendments entitled "Salvage and Junk Yards" and as set forth in this zoning law at Section III.J.

**Kennel:** Any place where any number of mammals, birds, reptiles, amphibians or other animals are kept for the purpose of wholesale, boarding, care, or breeding, whether or not a fee is charged or paid. This shall not include boarding or care facilities on the premises of a veterinary hospital for animals undergoing medical care, except that it shall include any such animals offered for sale or adoption at such a facility. A retail pet store, as that term is commonly understood, is not a kennel for purposes of this law.

**Kitchen Facility:** Any structure or room that includes space dedicated to cooking including oven, stove, dishwasher, sink, cabinets, microwave oven, and refrigerator. Hotel or motels that provide only microwave ovens or small refrigerators in rooms are not considered kitchen facilities.

**Landowner** -the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**Lodging:** See Hotel, motel and country inn.

**Lot:** A parcel of land whose boundaries are established by some legal instrument, such as recorded deed or map, and which is recognized as a separate, legal entity for the purposes of transfer of title.

**Lot, Corner:** A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

**Lot Coverage:** The percentage of the lot area covered by the combined area of all buildings, structures, parking areas, or other impervious pavement surfaces on the lot.

**Lot Depth:** The average distance of a lot measured from the front lot line to the rear lot line.

**Maintenance Agreement** -a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices and road and other types of maintenance.

**Manufactured Home, double-wide:** A permanent dwelling unit, transportable in two sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is a minimum of 700 or more square feet, and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. A recreational vehicle is not included in this definition. Manufactured homes differ from modular or industrialized housing. Other factory built homes such as modular and industrial homes are certified as meeting the state or local building code and have no HUD seal and are therefore, not considered manufactured homes under this Zoning Law. For purposes of building code approval, modular housing is equivalent to stick-built housing and manufactured homes are not. A manufactured house is a house built in conformity with the provisions of the federal HUD Code. Mobile homes are those built prior to the adoption of the HUD Code.

**Manufactured Home, single-wide:** A permanent dwelling unit, transportable in one section, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is 700 or more of square feet, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. A recreational vehicle is not included in this definition. Other factory built homes such as modular

and industrial homes are certified as meeting the state or local building code and have no HUD seal and are therefore, not considered manufactured homes under this Zoning Law. For purposes of building code approval, modular housing is equivalent to stick-built housing and manufactured homes are not. A manufactured house is a house built in conformity with the provisions of the federal HUD Code. Mobile homes are those built prior to the adoption of the HUD Code. See also definition of mobile home pursuant to Local Law #4 of 2008 as may be amended from time to time.

**Manufactured Home, single-wide farm worker housing:** See Manufactured Home, single wide and which Home is used exclusively for housing of workers employed by a farm, farm stand, farm market, agricultural use or agritourism use.

**Manufactured Home Park:** A residential use in which three (3) or more manufactured homes are located on a single property. It is a site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured homes and may include services and facilities for residents. To the extent that the requirements or definitions of this zoning law are inconsistent with those of the Town of Cairo Mobile Home Park Ordinance of 1971, this zoning law shall control. All other provisions of said Mobile Home Park Ordinance shall remain in full force and effect unless otherwise modified by subsequent ordinance or local law.

**Manufacturing:** Any commercial or large scale process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled or packaged in bulk quantity primarily for shipping or use off-site.

**Manufacturing, Light:** A small scale process whereby the nature, size or shape of articles or raw materials are changed, or where articles are assembled or packaged, primarily for or in connection with an on-site or local use.

**Mass Gathering:** An assemblage of people in one location which is likely to attract 500 people or more at any one time.

**Massing:** The three dimensions of height, width and depth of a structure.

**Membership Club:** A structure used primarily by an organization with pre-established formal membership requirements, bylaws, and with the objective of promoting the interests of its members.

**Mining:** The excavation or extraction of earth, sand, gravel, stone, quarry material, clay, loam, overburden, humus, top soil or other earth material from a lot and removal thereof from that lot; or any temporary storage of such materials by stock piling, if permitted; or any processing of excavated or stock piled materials, if permitted; or any of the related land use activities engaged in during the above activities such as construction of buildings, barriers and other structures, clearing of property., removal or placement of trees, vegetation and earth material. The re-grading or movement of earth material within the boundaries of a single lot or subdivision, provided that no earth material is removed from the lot or subdivision, and no stockpiling

(beyond any permitted period) or processing of earth material takes place shall be permitted provided that any such activity meets all applicable regulations set forth in this Zoning Law.

**Mine, Large:** Any excavation from which more than 1,000 tons or 750 cubic yards, whichever is less of ore, sand, gravel, clay, stone, loam, overburden, humus or topsoil within a period of twelve (12) successive calendar months produced for sale or exchange or for commercial, industrial or municipal use or for use other than on the property from which the material is extracted. (Soil mining shall also include any activity requiring a permit from DEC pursuant to Article 23 of the Environmental Conservation Law.)

**Mine, Small:** Any excavation from which between 500 cubic yards and 749 cubic yards, of ore, sand, gravel, clay, stone, loam, overburden, humus or topsoil within a period of twelve (12) successive calendar months produced for sale or exchange or for commercial, industrial or municipal use or for use other than on the property from which the material is extracted.

**Mineral:** Any naturally formed, usually inorganic, solid material located on or below the surface of the earth including but not limited to architectural stone, gem stones, limestone, granite, ore, bluestone, clay, gravel and sand. Peat and topsoil are also considered to be minerals.

**Mobile Home:** See manufactured home.

**Motel:** See Country Inn.

**Multi-family dwelling:** See Dwelling, Multiple Family.

**Municipal Use:** A use related to municipal functions including but not limited to the equipment fuel and material storage associated with municipal highway uses, office and meeting spaces associated with municipal use, renewable energy production including wind turbine as defined in this local law and solar arrays, and telecommunication towers.

**Noise:** Sound or a sound that is unpleasant or undesired.

**Noise, Nuisance:** Any noise prohibited by the provisions of Local Law #4 of 2008 as may be amended from time to time.

**Non-conforming Use:** A use or activity that was lawful prior to the adoption of this Zoning Law but that fails by reason of such adoption to conform to the present requirements of the zoning district.

**Nonpoint Source Pollution:** Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, forestry, mining, construction, subsurface disposal and urban runoff sources.

**Nursery School:** A school designed to provide daytime care or instruction for two or more children from two to five years of age, inclusive, and operated on a regular basis.

**Off Premise Sign:** A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**Off Street Parking:** Area provided for parking not in any public highway or private road.

**Office:** Premises available for the transaction of general business but excluding retail and manufacturing uses. It is a place or establishment used for the organizational or administrative aspects of a trade or used in the conduct of a business and not involving the manufacture, storage, display or direct retail sale of goods.

**Open Space:** Land left in a natural state for conservation and agricultural purposes or for scenic purposes, devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure except agricultural buildings.

**Over-built:** When the development exceeds the maximum coverage or dimensions allowed by this Local Law.

**Overburden:** All of the earth, vegetation and other materials which lie above or alongside a mineral deposit.

**Overlay District:** A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone. Overlay zones deal with special situations that are not appropriate to a specific zoning district or apply to several districts.

**Parking Space:** An area reserved for the parking of a motor vehicle.

**Peak Hours of Operation:** The busiest hours of operation in an average 24-hour period of a non-residential use, which may represent the time of heaviest production or of customer or employee traffic, depending on the nature of the use.

**Permitted Use:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district for which no review by the Planning Board is required.

**Permitted Use By Right:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district and for which no review by the Planning Board is required.

**Person:** Any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

**Pesticide:** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other form of plant or animal life or viruses, except viruses on or in living man/or other animal; and any substance or mixture of substances

intended for use as a plant regulator, defoliant, or desiccant. These substances include but are not limited to: herbicides, fungicides, insecticides, and rodenticides.

**Petroleum:** Any petroleum-based oil of any kind which is liquid at 20 degrees Celsius under atmospheric pressure and has been refined, re-refined, or otherwise processed for the purpose of: 1) being burned to produce heat or energy; 2) as a motor fuel or lubricant; or 3) in the operation of hydraulic equipment.

**Pet Grooming Facility:** Any place where the grooming of animals takes place, including kennels, veterinary hospitals and retail pet stores. Grooming includes the washing, drying, nail clipping, and other non-medical procedures commonly used to enhance an animal's physical appearance.

**Pet Store, Retail:** Any place, including any non-profit organization, where any number of live mammals, birds, reptiles, amphibians, insects, or other animals are offered for sale or adoption to the general public.

**Phasing Plan:** A written document and/or Site Plan or plat showing development that is to be undertaken in a logical time and geographical sequence.

**Planning Board:** The board created by the Town of Cairo Town Board in accordance with NYS Town Law §271

**Plat:** A map representing a tract of land showing the boundaries and location of individual properties and streets.

**Preliminary Plat:** An initial map or plan, with supporting documentation, showing the proposed layout of a subdivision or Site Plan that is submitted for preliminary approval by the Planning Board.

**Primary Conservation Area:** The area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to streams, floodplains, wetlands, critical habitats, steep slopes, areas with rocky outcrops, and groundwater recharge areas.

**Principal Building or Structure:** A building in which is conducted the principal use of the lot on which it is located.

**Principal Use:** The main use of a lot or structure.

**Propane Storage and Distribution:** See Fuel Storage or Distribution Facility.

**Property Line:** the imaginary line, including its vertical extension, that separates one parcel of real property from another; or the vertical and horizontal boundaries of a dwelling unit that is one in a multiple or multi-dwelling unit building or structure.

**Public Assembly:** Any area where large numbers of individuals collect to participate or to observe programs of participation. The most common include, but are not limited to auditoriums, stadia, gymnasiums, field houses, theater, banquet rooms, or comparable facilities.

**Public Right-of-Way:** Any street, avenue, road, highway, sidewalk, or alley used for pedestrian, bicycle or vehicular traffic, that is leased, owned or controlled by a governmental entity, no matter how designated.

**Public Utility:** A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary to the public health, safety, and welfare including all uses deemed to be a public utility by New York State. Other uses may be a public utility if it provides a service that is essential to the public health, safety and general welfare, is regulated by a government agency, is granted an exclusive or near exclusive franchise for a specific geographic area, and is required to provide service to all who apply within their franchised area.

**Radioactive Material:** Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials which are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or the United States Nuclear Regulatory Commission.

**Rain Garden:** A sunken garden using native plants and sometimes trees and designed to capture rainwater.

**Recharge:** the replenishment of underground water reserves.

**Recreational Business:** A place designed and equipped for the conduct of sports and leisure time activities for profit.

**Indoor:** The conduct of sporting uses undertaken entirely within a building, including team or individual sports and related health and exercise facilities. Video parlors, computer gaming facilities, movie theaters and bars do not constitute indoor recreation businesses. However, an indoor recreation business use may be accompanied by customary accessory uses, which may include food service facilities, meeting room or banquet facilities, serving of alcoholic beverages, video or computer game facilities, video theater facilities, sales or sport or exercise-related equipment or clothing and other customary accessory uses. An indoor recreational business includes a spa.

**Outdoor:** Includes but is not limited to golf, skiing, ball playing on ball fields, swimming, bike trails, hiking and similar outdoor activities on a commercial or fee basis.

**Recreational Vehicle/Boat Storage:** An assembly buildings for the storage of unoccupied recreational vehicles or boats stored unoccupied and wholly within enclosed structures.

**Recycling Yard:** See Scrap Yard.



**Religious Use:** A building, area of land, or portion thereof, used for religious public assembly including a church, synagogue, or other place of religious worship. Accessory uses associated with the religious institution such as religious schools, parish houses, convent, recreational facilities, accessory parking areas and day care facilities shall also be considered a religious use.

**Research Laboratory:** A building, part of a building, or other place equipped to conduct scientific experiments, tests or investigations.

**Resort:** See Tourist Resort/Spa.

**Restaurant:** Any structure having as a principal use the preparation and dispensing of foods and beverages for consumption on the premises, whether food is served upon order or taken by self-service and where there are no facilities for drive-through service.

**Retail Business:** Traditional establishments that sell goods or merchandise to the general public for personal or household consumption.

**Reverse Curve:** A street constructed with two curves bending in opposite directions. Also known as an “s” curve

**Ridgeline:** The long, narrow crest or horizontal line of hills, usually at the highest elevation.

**Riding Stable or Academy:** An operation that offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding.

**Road, Private:** An access drive or roadway, privately owned and maintained, and not meant for use by the general public and that accesses two or more principal uses.

**Road:** A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal, means of access to abutting property.

**Road, Right-of-Way:** An area defined by a boundary which provides for road construction, maintenance, improvement, and/or widening.

**Roof Line:** The highest portion of the outside top covering of a building or structure. Flat roofs also have a roof line even when there is no pitch and the surface of the roof is generally parallel to the ground.

**Runoff:** Surface water that flows onto, within, and/or off of the site area.

**Sandwich Sign:** A temporary self-standing sign or advertising display made of plywood or other solid material and designed or intended to be displayed only for the period of time the business is open or event taking place.

**Sawmill, Portable:** An operation using a portable or small mill for the private and on-site use of wooden boards or other lumber products from raw uncut timber.

**Scrap Yard:** A facility or area for storing, selling, dismantling, shredding, compressing, or salvaging scrap ferrous metal materials. A scrap yard does not include the storing, dismantling, compressing or salvaging of any junk motor vehicle.

**Screening:** Vegetation, fencing, or earthen materials used to block visibility year-round or to mitigate negative noise visual or other impacts or uses. Screening may also be used to lessen noise impacts from a particular site or from adjacent land uses and to add greenery to the environment.

**Secondary Conservation Area:** The area delineated in a conservation subdivision to have secondary resource areas to be conserved including, but not limited to healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetation features representing the site's rural past, historic structures or sites, and visually prominent features such as knolls, or hilltops.

**Sediment:** Soils or other surficial materials transported by surface water as a product of erosion.

**Sediment Control:** Measures that prevent eroded sediment from leaving the site.

**Self-Storage:** See Warehouse, Self-Storage.

**Senior Citizen Housing:** Multifamily housing designed for older people. This includes, but is not limited to adult retirement community, assisted living facility, continuing care retirement community, and retirement community and as defined in the requirements, rules, regulations and statutes of the State of New York governing such uses including but not limited to the Public Health Law Articles 46, 46-A, and 46-B and NYCRR Titles 10 and 18.

**Separation Distance:** Distance between the two closest points of reference between two facilities, structures, uses or properties (e.g. the distance between an on-site septic system absorption field and a well).

**Septage:** The contents of a septic tank, cesspool, or other individual wastewater treatment work which receives domestic sewage wastes.

**Septic System:** An onsite sewage disposal system, which consists of a septic tank and septic field, in which waste material is distributed through a network of tile fields following a process in the septic tank where solids are settled out of the waste.

**Service Business:** An establishment primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises including but not limited to personal services such as beauty salons, repair, health, legal, engineering and other professional services, and educational services.

**Service Structure:** A building or structure housing water, sewer, septic electrical gas or other utilities necessary for a Planned Resort District.

**Setback:** A minimum horizontal distance from a given point or line of reference, such as from a road edge or right-of-way, within which development is restricted. The specific point or line of reference for each district are set forth in Table 2, Section V., herein.

**Sewage:** The combination of human and household waste with water which is discharged to the home plumbing system.

**Sewer:** Any pipe or conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants. A sewer system collects, treats, and disposes of sewage of multiple dwellings and may be privately or publicly operated.

**Sight Distance:** The length of an unobstructed view from a particular access point to the farther visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

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

**Sign, Freestanding:** A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.

**Sign, Height of:** The distance from the ground level, measured from the mid-point of the base of the sign, to the top of the sign.

**Sign, Internally Illuminated:** Any sign lighted by artificial lighting located within the sign.

**Sign, Externally Illuminated:** Any sign lighted by artificial lighting located on or directed toward the sign from above or below.

**Sign, Portable:** Any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.

**Sign, Temporary:** A sign that advertises or gives direction to a business or activity that will terminate in seven (7) days.

**Siltation Control:** Placement of siltation barriers such as sod, matting, hay bale barriers, or silt fencing or other methods to prevent pollution and blockage of watercourses and water-bodies by silt and other sediment.

Single-Loaded Street: A street having lots and structures on one side only.

Site Plan: A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in Local Law #4 of 2008 as may be amended from time to time, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for the initial review. May be used by the applicant as the basis for preparing the Site Plans for Planning Board review pursuant to Local Law #4 of 2008 as may be amended from time to time.

Sketch Plan Conference: Initial Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the Site Plan submission requirements will be prior to submitting the Site Plan pursuant to Local Law #4 of 2008 as may be amended from time to time.

Sludge: The solid, semi-solid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.

Soil Mining: See mining.

Solid Waste: Material as defined in 6 NYCRR Part 360, including any garbage, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but not including solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit. Discarded materials that are being beneficially used pursuant to 6 NYCRR Part 360-1.15 are not considered solid waste.

Special Use Permit: A land use which is deemed permissible within a given zoning district or districts, but which may have the potential to exhibit characteristics or create impacts incompatible with the purposes of such district. The special use shall, therefore, be subject to approval by the Planning Board in accordance with conditions set forth for such use, as well as other applicable provisions of this chapter. Both general and specific conditions have been established for special uses to ensure that such use is in harmony with the Town Zoning Law and Town of Cairo Comprehensive Plan and will not adversely affect the neighborhood if the requirements are met.

Stabilization: The use of practices that prevent exposed soil from eroding.

Stacking Lanes: Off- street temporary parking space specifically provided for vehicles to park behind one another while waiting for drive-up customer assistance. This type of parking is required for bank window tellers, fast food restaurants, car wash bays, etc.

**Start of Construction:** The initiation of any physical alteration of the property, excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling, installation of roads, excavation for a basement, footings, foundations, or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

**Stop Work Order:** Issued by the Code Enforcement Officer or the Zoning Enforcement Officer for nonconformance of this Zoning Law or the New York State Building Code.

**Storage:** The holding or safekeeping of goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

**Stormwater:** Rainwater, surface runoff, snowmelt and drainage.

**Stormwater Management:** The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**Stormwater Management Facility:** One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**Stormwater Pollution Prevention Plan (SWPPP):** a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**Stormwater Runoff:** flow on the surface of the ground, resulting from precipitation.

**Stream:** Any perennial and intermittent water courses identified through site inspection and US Geological Survey maps. Perennial streams are those depicted on a USGS map with a solid blue line. Intermittent streams are those depicted on a USGS map with a dotted blue line. Streams identified by NYS DEC as a Class C(t) or higher are included in the Stream Overlay District. (Class C streams pursuant to Title 6, Chapter X, Part 701.8 of the New York State Codes, Rules and Regulations are those whose best usage is considered to be fishing and fish propagation and survival. The water quality shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes. A stream also designated as (t) are also suitable for trout.)

**Street Tree:** A tree growing or planted along a road.

**Structure:** Anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground, including, but without limitation, swimming pools, covered patios, towers, poles, sheds, signs, tanks, etc., excepting outdoor areas such as paved areas and walkways.

**Subdivision, Minor:** All subdivisions or resubdivisions containing two (2), three (3) or four (4) lots fronting on an existing street, not including any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the

remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, or Town of Cairo Zoning Law.

**Subdivision, Major:** All subdivisions or resubdivisions not classified as minor subdivisions, including but not limited to subdivisions of more than four (4) lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

**Substantial Construction (or Substantively Commenced):** Any land use activity in which the lot has been cleared, graded, and the buildings foundation and structure initiated.

**Swimming Pool:** A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used, and maintained for swimming and bathing.

**Temporary Living Quarters:** A structure, camping unit, or campground used for a limited period of time.

**Temporary Roadside Stand:** See Farm Stand.

**Terminal Vista:** a point, surface, building or structure terminating a vista or view, often at the end of a straight street or coinciding with a bend.

**Timbering:** The felling of trees for personal or commercial lumber or firewood production. All timbering must occur in accordance with the DEC Best Management Practices.

**Tourist Resort/Spa:** A group of buildings, including either separate structures or a row of structures which are self-contained and attempt to provide for all or most of a vacationer's wants while remaining on the premises, such as food, drink, lodging, sports, entertainment, and shopping.

**Traditional Neighborhood Design:** A development pattern that reflects the characteristics of small, older communities of the late 19th and early 20th centuries. Traditional communities are characterized by mixed land uses, grid street patterns, pedestrian circulation, intensively-used open spaces, architectural character, and a sense of community.

**Transient Tenant:** A tenant staying or being lodged for a period of twenty-one (21) days or less.

**Use, Accessory:** A use or structure which is incidental but associated with the principal use such as a separate garage or shed, fencing, and recreational facilities (e.g. pool, tennis court, etc.).

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

**Variance, Area:** A variance from the area and bulk requirements or supplementary regulations of a related character (such as amount, size, location of design or access, off-street parking,

landscaping, signs) to authorize on a specific lot a permitted use in accordance with NYS Town Law §267-a.

Variance, Use: A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district in accordance with NYS Town Law §267-a.

Vernal Pool: A temporary wetland pool. They are usually devoid of fish, and thus allow the safe development of natal amphibian and insect species. Most pools are dry for at least part of the year and fill with the winter rains or snow melt. Some pools may remain at least partially filled with water over the course of a year or more, but all vernal pools dry up periodically.

Veterinary Hospital: A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

Waiver: Permission to depart from the requirements of this Local Law with respect to the submission of required documents or applications.

Warehouse: A building or part of a building for storing of goods, wares and merchandise, whether for the owner or for others, and whether it is a public or private warehouse.

Warehouse, Accessory: A building or part of a building for storing of goods, wares and merchandise, whether for the owner or for others, and whether it is a public or private warehouse and which is not the primary use of the parcel and is accessory to the commercial, retail or similar primary use of the parcel.

Warehouse, Self-Storage: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business or household goods.

Water-body: Any natural or man-made body of water, such as a pond, lake, wetland, or wet area which does not necessarily flow in a definite direction or course.

Watercourse: a permanent or intermittent channel or stream or other body of water, either natural or man-made, which gathers or carries surface water.

Water, Ground: Water that infiltrates into the ground, accumulating and saturating the spaces in earth material.

Watershed: The area which is a drainage basin for a particular freshwater body.

Water, Surface: Water contained in streams, rivers, ponds, wet areas, lakes, and other water-bodies and watercourses, or that drains across land.

Waterway: a channel that directs surface runoff to a watercourse or to the public storm drain.

Wetlands: Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation. Lands considered freshwater wetlands as that

term is defined in Section 24-0107 of Title 1 of Article 24 of the New York State Conservation Law, entitled Freshwater Wetlands, as may be amended from time to time, and wetlands as that term is defined in section 404 of the Army Corps of Engineers wetlands permit program, as may be amended from time to time, shall be considered wetlands herein.

Wind Turbine (Tower): Any mechanism designed for the purpose of converting the kinetic energy of wind into electrical or mechanical energy that includes a system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 50 kW and which is intended only to reduce on-site consumption of utility power and are not used to generate utility scale electrical energy to be supplied to the local utility electrical grid.

Wind Tower Height: The height from original grade of the land to the highest point of any part of the wind tower including the top of the blade when it is in the vertical position.

Workforce Housing: See Moderately-Priced Housing.

Zoning Enforcement Officer: The administrative officer designated to administer the Zoning Law and issue zoning related permits.

## Appendix A. Supplemental Design Standards



**A. General.** These design standards are intended to provide a basis for property owners, applicants, and the Planning Board to address various concerns related to the physical design of development in the Town of Cairo. The standards provide design criteria and approaches which will help the Town and applicant consider issues of site layout, architecture, landscaping, design, and pedestrian circulation.

**B. Purposes.** The intent of the following design standards is to ensure that the Town can accommodate new development without having its essential character altered. These standards are in addition to all requirements of the New York State Uniform Fire Prevention and Building Code. It is not the intent of this section to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of specific districts of the Town and to ensure the compatibility of new structures. The standards established in this section are for the purpose of:

1. Ensuring consistency with the adopted Town of Cairo Comprehensive Plan, which establishes the goal of protecting the Town's historic, small town and rural character.
2. Promoting quality development that maintains the Town's distinctive quality and that is attractive, convenient and compatible with surrounding uses and historic buildings in the Town. It is the intent of these standards to assist in preserving the important elements of



Cairo's existing historic, small town and rural character not only for aesthetic reasons, but also to preserve property values and the commercial viability of the hamlets. The adopted Town of Cairo Comprehensive Plan recognizes the importance of community character to future economic viability and establishes use of design standards as a method to maintain the uniqueness of Cairo in the future.

3. Ensuring that new buildings along Main Street are compatible and visually consistent with pre-1950 buildings found within the Main Street (MS) Downtown district so that historic character of that area can be protected.
4. During project development and review, attention should be given to the compatibility of adjoining developments when reviewing project proposals.

**C. Applicability.** These design standards shall be required for all development in the Town of Cairo that requires Site Plan review with the exception of agricultural uses and home occupations.

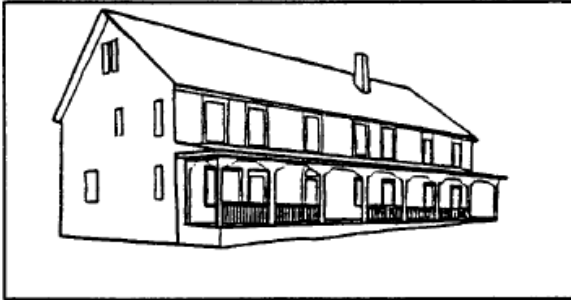


#### **D. Design Standards for Non-Residential Uses in All Districts.**

##### **1. Sidewalks and Street Trees**

- a. Sidewalks shall be required in the MS district as well as along the Main Street portion (route 23B) of the MS-COM District. The Planning Board may require sidewalks in other locations for commercial development. Sidewalks shall be provided for and shall be separated from street edges or curbs by a planting strip three (3) to five (5) feet wide and planted with shade trees. Where no sidewalks exist, new uses shall construct five (5) foot wide sidewalks located with a minimum of three (3) foot green space between the road and the sidewalk edge, where feasible, and shall transition to existing walkways.
- b. Existing street trees should be preserved whenever possible. In major subdivisions or other type of development where there are no existing trees, the Planning Board may require the developer to show trees at their planted size on the Site Plan as well as normal rendering sizes to indicate the visual character of the development prior to maturation of trees.
- c. Shade trees shall be provided along each side of all streets, public or private, existing or proposed, and at the expense of the applicant of the development. When a new street has





*Big House Type*

### Big House Type

This type is similar to a large house in size and scale. It can accommodate multiple apartments or offices above Retail/Office/Civic uses. In addition to the above, it can accommodate a hotel or an institution.

a sidewalk on only one side, the shade tree shall be planted at the same distance from the street edge or curb on both sides of the street.

- d. Street trees shall be maintained for a minimum of two (2) years after installation. Any tree that dies within (2) two years of planting, or any tree that is removed, shall be replaced with a tree of the same species and size.



## 2. Buildings

- a. Blank walls. Buildings shall be designed so that entrance doors and windows, rather than blank walls, garages, or storages areas, face the street.
- b. Front Façade Orientation. The front façade of the building shall be parallel to the street on which the building fronts.
- c. Scale and Mass. The scale and mass of buildings shall be compatible with that of adjacent and nearby buildings, particularly as viewed from the public street. To minimize the apparent scale of large buildings greater than eighty (80) feet in width, facades facing the main street shall be broken by periodic setbacks, rooflines fitted with offsets or changes in pitch. Other design features shall include, but shall not be not limited to, features such as porches or cupolas, window bays, separate entrances, material or color change, and entry treatments. The use of sections that may project or be recessed may also be used to provide façade breaks.
- d. Utilities. All roof, wall or ground mounted mechanical equipment including, but not limited to, heating and air conditioning units, exhaust fans, etc., shall be completely screened or located inside the principal building. If visible from the public street, an adjoining property, or a public parking lot, exterior utilities shall be screened by use of a fence, earth berm, or hedge of sufficient height and density. Satellite dishes shall be screened from view to the maximum extent practical.
- e. When more than one building is proposed per parcel, monotony and similarity shall be minimized through use of changes in façade planes, use of porches, varying roof orientation, roof styles and articulation, building orientation, and trim detailing.

- f. Design. New buildings should relate to the surrounding context to form a unified sense of landscape in each district. Repetition of design in multiple building projects should be avoided.

1. Formula-based architectural styles. All businesses, including commercial franchise or formula-based businesses shall meet all design standards of this Zoning Law. Formula-based architectural styles including, but not limited to uniform color schemes, facades, or signage shall be allowed provided it is of a style consistent with the design standards of this Local Law, including Appendix A. In order to protect the public health, safety and welfare of Cairo, this provision is intended to preserve Cairo's unique neighborhood and community character and to contribute to the establishment of a diverse economy and revitalized Main Street as established as critical goals in the Town of Cairo Comprehensive Plan. .
2. The appearance of flat roofs shall be mitigated. Sloped roof designs or alternative roof treatments, such as but not limited to false roof fronts that give the appearance of a sloped roof shall be required for commercial development in the C- MU, RR-1, RR-2, MT, C-23E and C-23 districts. Mansard and flat roofs are prohibited except in the Industrial and C-32S districts or where the front façade of the building is gabled or supplemented with architectural elements to avoid any horizontal roof line over one-hundred (100) feet in length. Chalet-style roofs are acceptable in the MT district. Log-style construction is also acceptable.
3. Color, materials, and façade treatment should not adversely contrast with the predominant style of adjacent buildings.
4. The architectural theme for the C-MU, the C-23 and the C-23E districts shall be consistent with farm style, colonial styles illustrated in this Appendix.



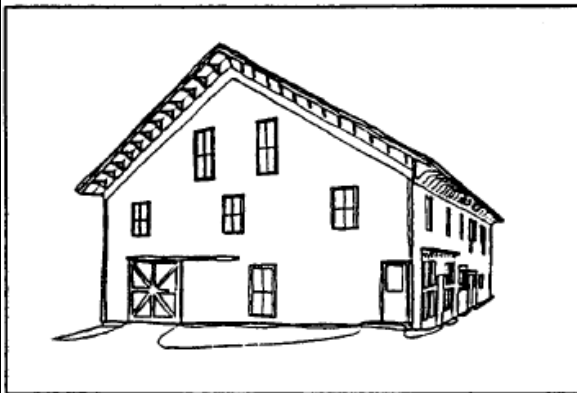


*Extended Farm House*

**Extended Farm House**

This type must present a dominant mass to the street based on a single-family residence type with smaller additions to the rear or side as additional apartments.

It can be used to provide up to 5 dwelling units. Parking must be screened from the street.



*Big Barn Type*

**Big Barn Type**

This type is similar to a barn structure in size and scale. It can accommodate all of the above mixed uses as well as light industrial uses.

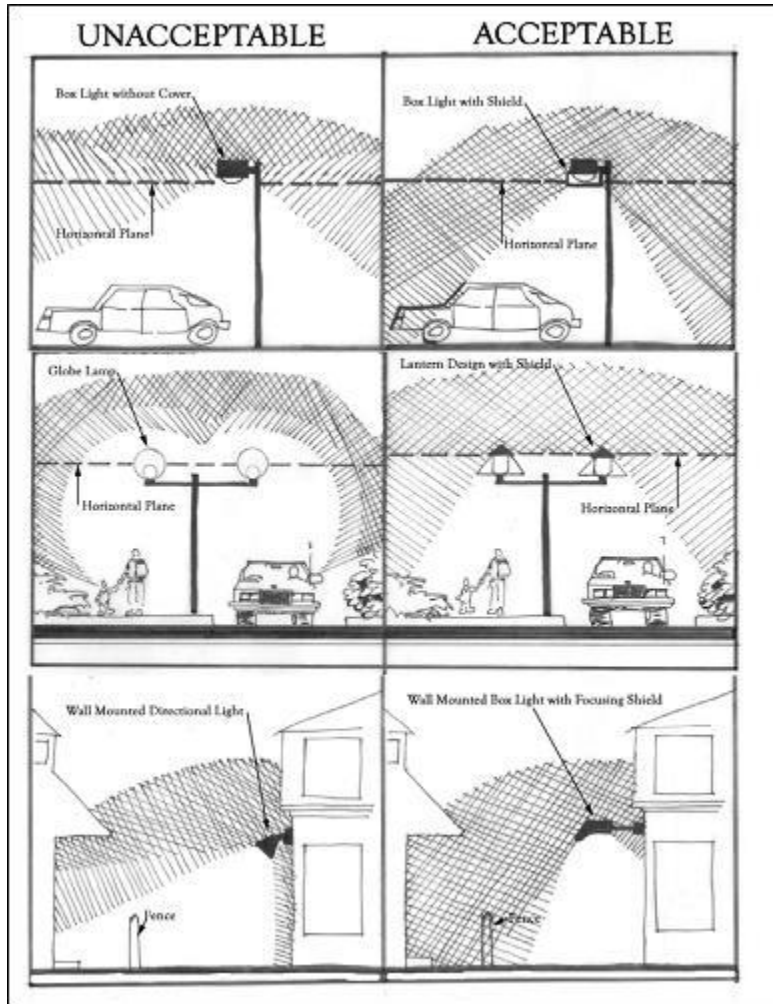




### 3. Lighting and Streetlights.

- a. Where a new lighting district is to be created, or an existing district expanded, the applicant shall petition the Town Board to create the district or expansion before final approval.
- b. Streetlights shall be located in accordance with generally accepted engineering standards with the primary considerations being public safety, uniformity in distance from the curb or edge of pavement and aesthetics based upon the particular site conditions.
- c. The Planning Board shall take into consideration the need to minimize nighttime lighting to protect dark skies. Unless waived by the Planning Board in its discretion, adequate lighting shall be provided on a site to ensure the safe movement of people and vehicles and for security purposes. A lighting plan may be required as part of the Site Plan review application materials and shall include a layout of proposed fixture locations, foot candle

data that demonstrate conforming intensities, and a description of the equipment, glare control devices, lamps, mounting heights, hours of operations and maintenance methods proposed. The Planning Board may require illumination intensities to be plotted on a ten (10) foot by ten (10) foot grid. Lighting shall conform to the following standards:



1. All lighting, including sign lighting, shall be designed and arranged so as to minimize glare and reflection upward and on adjacent properties.
2. The style of the light and light standard should be consistent with architectural style of the building and surrounding area. Poles and fixtures shall compliment the architectural character of the development and surrounding area.
3. The maximum height of freestanding lights should not exceed twenty-five (25) feet provided that a fully shielded fixture is used to prevent glare and that the ratio of spacing to height does not exceed 4:1.

4. The source of the lights shall be fully shielded with full ninety degree (90°) cut-off luminaries or located such that it shall not be visible outside the boundaries of the parcel being developed unless the Planning Board determined in certain situations that this requirement is unfeasible.
5. Hours of lighting may be limited by the Planning Board in order to accomplish the goals of these standards and the Town Comprehensive Plan.
6. At the property line of the proposed property, illumination from light fixtures shall not exceed 0.1 foot-candles on adjacent residential property, or 0.5 foot-candles on adjacent business property.
7. The Planning Board may require that lighting be controlled by automatic timing devices to extinguish offending sources during specified periods to mitigate glare and light pollution.
8. Glare control shall be accomplished primarily through the proper selection, application, and regulation of hours of lighting equipment. Only after those means have been exhausted shall vegetation, fences and similar screening methods be considered acceptable for reducing glare.
9. Mercury Vapor lights greater than forty 40 watts and Quartz lamps of any size are prohibited light sources.
10. Luminance and uniformity. Light levels shall be designed not to exceed the latest recommended levels for outdoor lighting set by the Illuminating Engineering Society of North America (IES) for the type of activity/area being lighted. Where no standard is available from the IES, the applicable standard shall be determined taking into account the levels for the closest IES activity.



- d. The Planning Board may choose not to require streetlights in the Hamlet (H) District if sufficient street lighting is already available on Main Street.

#### 4. Landscaping

- a. General. All portions of properties that are subject to Site Plan review and that are not intended for development shall remain in their natural state or be suitably landscaped with planting of trees and shrubbery. Landscaping shall minimize erosion and stormwater runoff,



provide necessary buffering and generally work to blend the proposed use with the character of the Town.

- b. Landscaping Standards. The following landscaping standards shall be met for all properties that are subject to Site Plan review or special use permit (See also Appendix A for other landscaping standards.)
  1. All landscaping plans shall be prepared by a landscape architect, architect, engineer or other qualified professional, and approved by the Planning Board.
  2. A Landscape Plan shall include plant selection suitable for the specific site. Native species of both deciduous and coniferous plants shall be included in the plan whenever possible.
  3. Healthy trees with diameters of twelve (12) inches or greater measured at breast height shall be marked on the plan and preserved to the extent possible.
  4. Pedestrian pathways shall be covered with crushed stone, bark, gravel, brick, stone, or paved as appropriate, to allow drainage and prevent erosion.
  5. Construction practice and planting specifications should follow ANSI Z60.1 American Standards for Nursery Stock.
  6. Maintenance – All planting shown on an approved landscape or site landscape or development plan shall be maintained throughout the duration of the use, and plants not so maintained shall be replaced in accordance with the plan’s specifications.
  7. Blank end walls that are visible from the road or adjacent residences shall be landscaped.

### **E. Supplementary Design Regulations for the Main Street Downtown (MS) and the Main Street Commercial (MS-COM) Districts**

In addition to the design standards required for all districts in Cairo (Section D of this subsection), the following standards shall apply to all new construction in the Main Street (MS) and Main Street Commercial (MS-COM) district:

1. Accessory Equipment: All roof or ground mounted mechanical equipment such as heating and air conditioning units, exhaust fans, etc. shall be located within the principal structure or within an area enclosed by a well, screen, fence, berm or hedge of sufficient height and density to screen the equipment year round from view from adjacent streets, properties and parking lots. All dumpsters or other trash containers shall be equipped with covers and shall be screened from public view by a fence or appropriate landscaping. Unless granted an area variance by the ZBA, no dumpster or portable toilet shall be located in front of a building either temporarily or permanently.



In MS-COM and MS Downtown in the hamlet of Cairo, lighting posts and fixtures shall be consistent with the architectural style found on Main Street and shall complement the predominant architectural theme of the subdivision.

2. Design.

a. Formula-based architectural styles. All businesses, including commercial franchise or formula-based businesses shall meet all design standards of this Zoning Law. Formula-based architectural styles in the Main Street Downtown District (MS) including, but not limited to uniform color schemes, facades, or signage are prohibited.



b. In the Main Street (MS) district only, new development is required to sit up close to the front lot line to be consistent with the traditional streetscape of Main Street. Buildings should be aligned with each other along the street.



c. Continuous sidewalks shall be provided along the full width of the property line in accordance with the standards set forth above at Appendix A. d.1.a .

d. Drive-thru facilities, fuel pumps, and canopies should be placed on the side and/or the rear to be buffered from view.

e. The general architectural style shall reinforce the traditional historic style found along Main Street. Because Main Street has a mix of flat and sloped roofs, roof lines could be sloped if one story or flat topped if two or more stories provided they are consistent with the rooflines found along Main Street.



f. Building materials commonly found in the adjacent structures should be incorporated into the new design. Small scale materials such as brick and wood simulated wood clapboard should be used on the street front and other pedestrian areas. Normal concrete block is not allowed.

g. The proportion of design elements, such as windows and bays should be in keeping with the proportions of adjacent structures.

h. At street level pedestrian areas, buildings are encouraged to be open and with large display windows. Window awnings can be used to create building articulation and interest.

3. Multiple uses within one structure are permitted. Buildings can be designed for multiple uses, with offices and/or residential units on upper stories. However, residential uses on first floors of mixed use buildings shall be allowed only where they are behind those with non-residential street frontage.



## **F. Supplementary Design Regulations for the C-32S and I Districts**

1. All non-residential development in the C-32S and I districts shall be buffered from view from the road. Maintenance of existing trees along the right of way is preferred. If no trees are present, the Planning Board shall require landscaping to provide buffering from the public road.

## **G. Supplementary Design Regulations for the RR and MT Districts**

1. Siting of all structures shall, avoid placement on lands within the parcel that have been identified as having steep slopes greater than twenty five percent ( $> 25\%$ ). Additionally, structures shall, to the maximum extent practicable, avoid being placed on lands defined by the Greene County Soil Survey as being Prime Farmlands, or Soils of Statewide Importance.
2. Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways.
3. Preserve stone walls and hedgerows. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
4. Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields, however.
5. Use existing vegetation and topography to buffer new buildings if possible. Group buildings in clusters or tuck them behind tree lines or knolls rather than spreading them out across the landscape in a "sprawl" pattern.
6. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.

7. Site buildings a minimum of ten (10) feet below the ridgeline so that they do not protrude above treetops and crest lines of hills as seen from public places and roads. Place the structure so that the roofline does not protrude above the ridgeline. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees. Existing vegetation within ridgeline areas shall be preserved to the maximum extent practical. Structures should blend in with natural surroundings through preferred use of natural or earth-tone colors. All outdoor light sources mounted on poles or buildings or trees to illuminate driveways, sidewalks, walkways, parking lots, or other outdoor areas shall use fully shielded light fixtures. Where geology and hydrology permit, all new electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring within easements of dedicated public rights-of-way, installed in accordance with the prevailing standards and practices of the utility or other companies providing such services. Cut and fills shall be minimized, and where practical, driveways screened from public view.
8. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.
9. Place utility lines and driveways on less productive land. Site driveways on the edge of farm fields rather than through the middle. Use shared driveways to limit the number of roadways that bisect farm fields.
10. Locate new development so that the flow of water to farm properties is not impeded and in ways that is compatible with existing field drainage patterns.



## **Appendix B. Backyard Poultry and Livestock Rearing Acreage Requirements<sup>11</sup>**

### **A. Small Backyard Animal**

1. Rabbits – No minimum acreage requirements as rabbits are kept in hutches.
2. Poultry, outdoor: ½ acre for 12 birds or less, one acre per 13.

### **B. Large Animals**

1. It is recommended livestock should be stocked at one Animal Unit per acre unless, in the case of particular animals, a different stocking level is provided for below.
2. Sheep, Goats – Up to 5 adult animals per acre.
3. Alpacas and Llamas – Up to 3 llamas, and 3 to 4 adult camalids per acre.
4. Pigs – Finishing/market hogs (235 to 270 lbs.) - 3 to 4 head per acre. Adult pigs (300-500 lbs) – 2 to 3 head per acre. One or two sows with litter per acre.
5. Cattle – 1 adult animal per two (2) acres.
6. Horses – 1 adult animal per two (2) acres.
7. Miniature equine – up 4 adult animals per two (2) acres.
8. Mink, Raccoons – 10 animals/two acres not to exceed 10% of the lot area.

The purpose of the above recommendations is to provide the Planning Board with guidance in these types of applications. The Planning Board shall have the and authority to depart from these recommendations in the exercise of its discretion in a case-by-case rational basis, based upon the particular conditions on the site such as topography, soils and other relevant factors.

## **Appendix C: Visual Assessment Process**

A visual impact assessment includes the following:

1. Identification of the viewshed analysis study area. The Planning Board shall determine this area. For cell towers outside the Main Street Downtown District (MS), this area shall be within a five-mile radius of the proposed location of the telecommunication facility.

AG

---

<sup>11</sup> Standards for livestock agriculture within H-C, MS, and MS\_COM.

2. An identification of visually sensitive resources such as scenic roads or byways, scenic overlooks or vistas, state parks, designated historic sites, forests, wildlife management areas, historic and scenic resources identified in any County Plan or Town Comprehensive Plan, and other visually sensitive locations shall be identified within the study area.
3. A viewshed map of the study area using a USGS digital elevation model and (DEM) data (7.5-minute series) and a computer program such as MicroDem. The viewshed map is to be based on a maximum structure height above an identified base elevation in feet above sea level. The viewshed map shall define the maximum area from which the tallest element of the completed facility could potentially be seen within the study area (ignoring the screening effects of existing vegetation).
4. Field verification. Assess the nature and extent of the structure's actual visibility from each identified sample area. Visibility during off-leaf conditions shall be assessed. The purpose of the field verification is to document potential project visibility based on actual field conditions, and provide a scale reference for subsequent computer-generated visual simulations. A balloon test, using a brightly colored balloon may be required by the Planning Board. The visibility of the balloon from sensitive vantage points shall be documented. Photos shall be taken using a lens setting at 50 mm to simulate normal human eyesight. The time, date, and location of each photo shall be logged and the visibility from each site noted. The date and time of the balloon test shall be announced to the public in advance, and the Planning Board shall observe the balloon test or other method of field verification approved by the Planning Board.
5. Photosimulations. Viewpoints showing representative views of the proposed project will be selected for photosimulation. Existing conditions (which will have the balloon in the photo) shall be compared to computer assisted visual simulations of the same view following completion of the proposed project.
6. Assessment. The visual impact of the facility on the landscape shall be assessed, taking into consideration the viewpoint that will be affected. Where a significant visual impact is identified by the Planning Board, the applicant shall describe methods to mitigate those impacts.