



# **TOWN OF CAIRO**

## **Zoning Law**

**June 5, 2017**

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

<b>SECTION I. TITLE, SCOPE, APPLICABILITY AND PURPOSE .....</b>	<b>5</b>
A. TITLE AND SCOPE. ....	5
B. APPLICABILITY OF ZONING.....	5
C. ENACTING LEGISLATION AND PURPOSE.....	5
<b>SECTION II. ESTABLISHMENT OF ZONING DISTRICTS. ....</b>	<b>5</b>
A. DESIGNATION AND PURPOSE OF ZONING DISTRICTS.....	5
1. <i>Rural Residential (RR):</i> .....	5
2. <i>Mountain Top Residential (MT):</i> .....	5
3. <i>Main Street - Downtown (MS):</i> .....	5
4. <i>Main Street - Commercial (MS-COM):</i> .....	6
5. <i>Hamlet Cairo (HC):</i> .....	6
6. <i>Commercial - Mixed Use (C-MU):</i> .....	6
7. <i>Commercial/Industrial (C-I):</i> .....	6
8. <i>Municipal (M)</i> .....	6
9. <i>Adult Use District (AU):</i> .....	6
B. INTERPRETATION OF DISTRICT BOUNDARIES. ....	6
C. ZONING MAP. ....	7
<b>SECTION III. EXISTING, NONCONFORMING BUILDINGS, LOTS AND USES. ....</b>	<b>7</b>
A. CONTINUATION OF EXISTING, NONCONFORMING BUILDINGS AND USES.....	7
B. EXPANSION OF NONCONFORMING USE OR STRUCTURE. ....	7
C. MAINTENANCE.....	8
D. EXISTING LOTS OF RECORD. ....	8
E. PENDING PLANNING BOARD APPLICATIONS.....	8
F. PENDING BUILDING PERMITS AND BUILDINGS UNDER CONSTRUCTION.....	8
G. CHANGES IN DISTRICT BOUNDARIES.....	8
H. MANUFACTURED HOMES.....	9
<b>SECTION IV. USE REGULATIONS.....</b>	<b>9</b>
A. ALLOWABLE USES.....	9
B. PROHIBITED USES.....	9
C. ACCESSORY USES.....	9
D. CHANGES OF USE. ....	9
E. MULTIPLE USES.....	9
1. <i>Conforming Uses:</i> .....	9
2. <i>Non-Conforming Uses:</i> .....	9
F. MULTIPLE OCCUPANCY BUILDINGS. ....	10
G. SCHEDULE OF USES - DEFINITIONS.....	10
H. TABLE "A" - SCHEDULE OF USES: SEE APPENDIX "A." .....	11
<b>SECTION V. LOT SIZE - FRONT, REAR AND SIDE SETBACKS.....</b>	<b>11</b>
A. MINIMUM LOT SIZES .....	11
B. MAXIMUM LOT COVERAGE.....	11
C. FRONT, REAR AND SIDE SETBACK REQUIREMENTS. ....	11
D. LOT FRONTAGE REQUIREMENTS. ....	12
<b>SECTION VI. GENERAL REGULATIONS FOR ALL DISTRICTS.....</b>	<b>12</b>
A. GENERAL REVIEW STANDARDS.....	12
1. <i>Compliance with Site Plan Law Review Criteria:</i> .....	12
2. <i>Compliance with Special Use Permit Requirements:</i> .....	12
3. <i>Compliance with Supplementary Regulations for Specific Districts:</i> .....	12

4. Building Access: .....	12
5. Accessory Buildings and Uses:.....	13
6. Stormwater, Drainage, Grading, Erosion and Siltation Control:.....	13
7. Flood Plains: .....	13
B. STREAM CORRIDOR PROTECTIONS .....	13
1. Applicability and Purpose:.....	13
2. All Class “C” Stream Protection Regulations:.....	13
3. Shinglekill Creek Protection Regulations: .....	14
C. AGRICULTURE PROTECTIONS.....	14
1. Agricultural Buffers.....	15
2. Agricultural Data Statement .....	15
D. RETENTION OF CONSULTANTS.....	15
<b>SECTION VII. SUPPLEMENTAL REGULATIONS FOR SPECIFIC DISTRICTS .....</b>	<b>15</b>
A. MAIN ST. COMMERCIAL (MS-COM):.....	15
B. MAIN ST. DOWNTOWN (MS): .....	16
C. COMMERCIAL MIXED USE (C-MU):.....	16
D. COMMERCIAL (COM): .....	16
<b>SECTION VIII. PARKING, ACCESS AND LOADING .....</b>	<b>16</b>
A. OFF STREET PARKING.....	16
B. PARKING LOT DESIGN. ....	16
C. OFF-STREET LOADING REQUIREMENTS.....	17
<b>SECTION IX. SIGNS .....</b>	<b>17</b>
A. GENERAL GUIDELINES .....	17
B. GUIDELINES FOR FREESTANDING SIGNS .....	18
C. GUIDELINES FOR SIGNS ATTACHED TO BUILDINGS.....	18
D. PROHIBITED SIGNS.....	19
E. EXEMPT SIGNS.....	19
<b>SECTION X. UTILITIES .....</b>	<b>19</b>
A. SOLAR ENERGY GENERATION ARRAYS.....	20
1. Guidelines for Private Solar Arrays. ....	20
2. Guidelines for Commercial Solar Arrays .....	21
B. WIND TOWERS.....	25
1. Guidelines for Private Wind Towers.....	25
<b>SECTION XI. SPECIAL USE PERMITS .....</b>	<b>26</b>
A. STATEMENT OF PURPOSE .....	26
B. AUTHORIZATION TO GRANT OR DENY SPECIAL USES .....	26
C. SPECIAL USE PERMIT APPLICATION PROCESS .....	26
D. SPECIAL USE PERMIT REVIEW .....	26
1. Application Process.....	27
2. Review Process .....	27
3. General Review Criteria. ....	28
4. Decisions on SUP Applications.....	29
5. Miscellaneous Provisions Regarding Special Use Permits. ....	30
<b>SECTION XII. ADMINISTRATION AND ENFORCEMENT .....</b>	<b>30</b>
A. ZONING ENFORCEMENT OFFICER. ....	30
1. Receipt of Initial Applications.....	30
2. Actions on Initial Determinations. ....	31

3. <i>Interpretation of Terms and Definitions</i> .....	32
4. <i>Appeals of Determinations</i> .....	32
5. <i>Miscellaneous Powers and Duties</i> .....	32
<b>SECTION XIII. ZONING BOARD OF APPEALS</b> .....	<b>32</b>
A. ESTABLISHMENT AND JURISDICTION.....	32
1. <i>Zoning Board of Appeals</i> .....	32
2. <i>Jurisdiction</i> .....	32
3. <i>Chairperson</i> .....	33
4. <i>Alternates</i> .....	33
5. <i>Support Staff</i> .....	33
6. <i>Removal from Office</i> .....	33
B. APPELLATE PROCEDURE AND CONDUCT OF BUSINESS .....	33
1. <i>Time of appeal - Perfection of Appeal</i> .....	34
2. <i>Method of Appeal</i> .....	34
3. <i>Stay upon appeal</i> .....	34
4. <i>Hearing on appeal</i> .....	34
C. PERMITTED ZBA ACTIONS.....	36
1. <i>Actions in General</i> .....	36
2. <i>Use Variances</i> .....	36
3. <i>Area Variances</i> .....	36
4. <i>Imposition of Conditions</i> .....	37
<b>SECTION XIV. AMENDMENTS</b> .....	<b>37</b>
A. AUTHORITY .....	37
B. REFERRAL TO TOWN PLANNING BOARD .....	37
C. PUBLIC HEARING AND NOTICE .....	37
1. <i>Public Hearing Required</i> .....	37
2. <i>Publication Required</i> .....	37
D. ADOPTION .....	38
<b>SECTION XV. SEVERABILITY AND EFFECTIVE DATE</b> .....	<b>38</b>
A. SEVERABILITY: .....	38
B. EFFECTIVE DATE: .....	38
<b>SECTION XVI. DEFINITIONS</b> .....	<b>38</b>
A. GENERAL .....	38
B. WORD USAGE.....	38
C. TERMS DEFINED .....	39

## **SECTION I. TITLE, SCOPE, APPLICABILITY AND PURPOSE**

### **A. Title and Scope.**

This law shall be known as the “Town of Cairo Zoning Law” and is a law that regulates the density of development, location and use of structures and land in the Town of Cairo.

### **B. Applicability of Zoning.**

1. This law shall apply to all residential, commercial and industrial uses and structures within the Town of Cairo.
2. Unless otherwise permitted by this zoning law, no more than one principal building or use shall be permitted on any individual lot .
3. 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 the regulations and requirements specified in this law for the zoning district in which such building or land is located.

### **C. Enacting Legislation and Purpose.**

This zoning law is enacted pursuant to New York State Municipal Home Rule Law, Article 2, § 10, *et seq.* to protect and promote the public health, safety and general welfare of the town’s residents and to implement the goals as established in the Town of Cairo’s Comprehensive Plan as adopted in 2004, and as may be updated from time to time.

## **SECTION II. ESTABLISHMENT OF ZONING DISTRICTS.**

### **A. Designation and Purpose of Zoning Districts.**

The following districts are hereby established for the following purposes:

#### **1. Rural Residential (RR):**

To promote a scope of residential development that is consistent with the existing, historical use and scope of residential development in the district.

#### **2. Mountain Top Residential (MT):**

To promote a scope of residential development that is consistent with the existing, historical use and scope of the district, and to promote commercial development in a manner that is consistent with the established resort and tourism character of the district.

#### **3. Main Street - Downtown (MS):**

This district is established to preserve the historic character and traditional role of a community’s “Main Street.” The desired mix is ground-floor retail, service, and office establishments that are pedestrian oriented and that is consistent with the district’s historic architecture, uses and scale with residential or non-residential uses situated on the second floor or above.

**4. Main Street - Commercial (MS-COM):**

This district allows for uses larger in scale than can be accommodated in the MS district and are compatible and consistent with the MS theme and pedestrian atmosphere.

**5. Hamlet Cairo (HC):**

This district recognizes the area's "village" character and strives to promote a mix of residential and commercial uses that have a building scale, dimension, density and design that is pedestrian oriented and commensurate with the area's character.

**6. Commercial - Mixed Use (C-MU):**

This district allows for a mix of commercial and residential uses. This district recognizes the predominate residential character of the district, yet allows for commercial uses that are unlikely to have a significant negative impact on that character.

**7. Commercial/Industrial (C-I):**

This district allows for the development of large or small-scale commercial and industrial uses. This district recognizes that although residential development is allowable, the predominate nature of the district consists of commercial and industrial uses.

**8. Municipal (M)**

This district is established to limit residential and commercial uses on town-owned lands and to allow for customary uses associated with governmental administration and uses that promote the general welfare of the community

**9. Adult Use District (AU):**

This district was established pursuant to Local Law # 3 of 2006 and is incorporated herein for the purposes originally stated.

**B. Interpretation of District Boundaries.**

District boundaries are shown on the official zoning map. Where boundary uncertainty exists, the following rules shall apply:

1. Boundaries shown following the centerlines 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 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. 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.

**C. Zoning Map.**

The location and boundaries described herein are shown on a map that shall be referred to as the “Zoning Map.” The map is declared to be a part of this law as adopted by the Cairo Town Board. The copy of the map as certified by the town clerk shall be known as the “Official Zoning Map.”

### **SECTION III. EXISTING, NONCONFORMING BUILDINGS, LOTS AND USES.**

**A. Continuation of Existing, Nonconforming Buildings and Uses.**

Any existing use, accessory use, or 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. Unless a use variance is granted, an existing, non-conforming use may not be changed to another non-conforming use, nor may a non-conforming use be added to an existing, non-conforming use.
3. The discontinuance of any non-conforming use or accessory use for a period of three or more years shall terminate the non-conforming use status of that property. A non-conforming use or accessory use so terminated shall thereafter only be replaced by a conforming, permitted use.
4. A non-conforming use may be changed to a conforming use at any time, but shall not thereafter be changed back to a non-conforming use.
5. No lot shall be reduced in area so that it results in non-conformity with either the bulk or use provisions in this law.

**B. Expansion of Nonconforming Use or Structure.**

In all zoning districts a non-conforming use may be expanded within an existing structure or building, or by an addition to an existing structure or building, or on an existing lot. The expansion shall be allowed to maximize the use of the parcel provided all minimum setbacks can be met and the expansion does not exceed the

maximum lot coverage provided for in Section V, below. Any such expansion shall require Site Plan Review pursuant to the Town of Cairo Site Plan Review Law.

**C. Maintenance.**

Nothing in this zoning law shall prevent the renovation, repair or maintenance of a nonconforming building or structure necessitated by ordinary wear and tear.

**D. Existing Lots of Record.**

1. All existing lots of record at the time this zoning law is adopted that do not meet the lot size requirements are allowed to have one principal structure provided that all laws, statutes, rules and regulations pertaining to potable water and sewage disposal can be satisfied.
2. All existing lots of record at the time this zoning law is adopted shall adhere to the maximum lot coverage, set-back requirements and lot frontage requirements set forth below in Sections V.B, C, and D, except as follows:
  - a. An existing lot of record that does not meet the minimum lot size as set forth in section V.A shall have the side and rear setback requirement of twenty-five (25) feet as set forth in section V.C.b[2] reduced to fifteen (15) feet.
  - b. The provisions of paragraph 2.a, above, shall not apply to:
    - [1] Any existing lot of record that meets the minimum lot size set forth in section V.A, or;
    - [2] Any lot of any size created after the adoption of this zoning law.

**E. Pending Planning Board Applications.**

Any site plan or subdivision application that has not received final approval prior to the effective date of this local law must be amended, if necessary, to fully comply with the requirements of this zoning law. The applicant of any prior approved but expired site plan application not otherwise eligible for an extension under the Site Plan Law must file a new application that conforms with the provisions of this zoning law.

**F. Pending Building Permits and Buildings Under Construction.**

1. All building permit applications pending on the effective date of this law shall continue to be processed according to the guidelines in place as of the permit application date.
2. Construction of any building or structure that was a part of any site plan approved prior to the effective date of this law will conform to the construction time frame guidelines provided for in the Town of Cairo Site Plan Law.

**G. Changes in District Boundaries.**

Whenever district boundaries are changed so that a conforming use becomes a nonconforming use, all the provisions of this law shall apply to such nonconforming use.



**H. Manufactured Homes.**

The use of manufactured homes as single-family dwellings shall conform to the provisions of Article 21-B, Title 2, of the NYS Executive Law. This provision shall apply to any new construction or replacement manufactured home currently existing in the Town of Cairo.

**SECTION IV. USE REGULATIONS**

**A. Allowable Uses.**

Any use listed in “Appendix A, Schedule of Uses” (hereinafter: “Use Table”) is an allowable use. Although each use listed in the table is considered an allowable use, not all allowable uses are permitted in every zoning district. An allowable use with an “X” in any given zoning district means that use is not permitted within that district unless a use variance is obtained.

**B. Prohibited Uses.**

Any use not listed in the Use Table is prohibited. Any applicant who wishes to initiate a use not listed in the Use Table may petition the town board to amend this Zoning Law to add the proposed use.

**C. 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.

**D. Changes of Use.**

A change of any existing use to one that requires site plan approval or a special use permit, or both, must undergo such review and obtain the requisite approvals prior to instituting such proposed change. A change of use may also require a building permit.

**E. Multiple Uses.**

**1. Conforming Uses:**

In any district, any combination of multiple, conforming, residential and commercial or industrial uses are allowable in a building or portion of a building on a single lot provided that each individual use conforms with all the regulations applicable thereto and obtains all necessary approvals under the provisions of this zoning law and/or the Town of Cairo Site Plan Law.

**2. Non-Conforming Uses:**

No parcel or lot upon which a pre-existing, non-conforming use exists may add any other non-conforming use or accessory use that would be non-conforming unless granted a use variance. However, any such lot may add

any number or combination of conforming uses as provided for in subparagraph 1, above.

**F. Multiple Occupancy Buildings.**

When the planning board approves a Multiple Occupancy Building use on any individual parcel of land, it is not necessary for each individual occupant of the building to obtain site plan or special use permit approval. The site plan approval or special use permit issued for the Multiple Occupancy Building covers all permitted uses therein, except that no prohibited use, and no use not permitted in the Use Tables for the district in which the multiple occupancy building is located may be instituted without a use variance, or in the case of prohibited uses, without the use being added to the Use Tables by amendment of this law by the Town Board as provided for in paragraph “B” above.

**G. Schedule of Uses - Definitions.**

- B. Denotes a residential use that requires a building permit. These uses do not need to undergo site plan review or obtain a special use permit but they must comply with all other aspects of the zoning law. These uses consist of:
  - (1) Single Family Residences;
  - (2) Two Family Residences;
  - (3) An Accessory Apartment on single-family residential lot;
  - (4) A Guest Cottage on a single-family residential lot.
- P: Denotes a permitted use. A permitted use is one where no special use permit is required but a site plan review under the Town of Cairo Site Plan Review Law may be required.
- SU: Denotes a use that requires a Special Use Permit. The Planning Board grants Special Use Permits according to the review terms set forth in this Zoning Law. Any use requiring a Special Use Permit shall also require site plan review by the Planning Board pursuant to the Town of Cairo Site Plan Law.
- X: Denotes a use not permitted in the district. An applicant who wishes to initiate a use not permitted in the district must apply to the Zoning Board of Appeals for a use variance.

**H. Table "A" - Schedule of Uses: See Appendix "A."**

**Section V. Lot Size - Front, Rear and Side Setbacks**

**A. Minimum Lot Sizes**

1. For areas serviced by municipal water and sewer services, minimum lot sizes shall be  $\frac{1}{4}$  acre when serviced by both or  $\frac{1}{2}$  acre where only water or sewer, but not both are available.
2. For areas not serviced by either municipal water or sewer services, the minimum lot size shall be two (2) acres.

**B. Maximum Lot Coverage**

1. For areas serviced by either municipal water or sewer services, the maximum lot coverage area shall be 80%.
2. For areas not serviced by either municipal water or sewer services, the maximum lot coverage area for all uses shall be 60% in all districts except for the RR district and 40% in the RR district.

**C. Front, Rear and Side Setback Requirements.**

1. No structure that is in any way attached to the ground that renders the structure immovable shall be placed within the required set-back distances set forth below, except as follows:
  - a. Fences
  - b. Retaining walls
  - c. Mailboxes and newspaper delivery boxes;
  - d. Decorative, landscaping structures.
  - e. Utilities.
  - f. Septic systems.
  - g. Storm water control measures.
  - h. Wells
  - i. Driveways, walkways, paved surfaces, and any other structure that has a placement on the ground where the structure's normal height does not protrude more than 3 inches above the adjacent ground level.
  - j. Any other structure required by statute.
2. Minimum set-back distances shall be as follows:
  - a. For the Hamlet-Cairo (HC), Main Street Downtown (MS) and Main Street Commercial (MS-COM) districts, the front, rear and side yard setback requirements shall be as follows:
    - [1] Front Setback: consistent with existing, surrounding structures.
    - [2] Side and Rear Setback: 15 feet minimum as measured from the property line
  - b. For all other districts:

- [1] Front Setback: 65 feet minimum as measured from the center of the roadway or right-of-way.
- [2] Side and Rear Setbacks: 25 feet minimum as measured from the property line.
- c. Setback distances for lots with frontage on two or more public or private roadways or right-of-ways shall be 65 feet as measured from the center line of each such roadway or right-of-way.

#### **D. Lot Frontage Requirements.**

- 1. All lots shall be required to have a minimum amount of frontage on an existing public or private road as follows:
  - a. Main Street - Downtown (MS): 25 feet.
  - b. Hamlet Cairo (HC) and Main Street-Commercial (MS-COM): 50 feet.
  - c. All other districts: 150 feet.
- 2. **Exceptions:** The required minimum frontage on Flag Lots shall be 50 feet. Lots with frontage along a cul-de-sac shall be a minimum of 50 feet as measured along the arc of such cul-de-sac.

### **SECTION VI. GENERAL REGULATIONS FOR ALL DISTRICTS**

#### **A. General Review Standards**

No use shall be allowed unless it complies with the standards set forth in this section. Continued conformance with such standards shall be a requirement for the continuation of any certificate of occupancy.

- 1. **Compliance with Site Plan Law Review Criteria:**  
For all proposed uses requiring Site Plan review, the Planning Board shall apply the review criteria contained in the Town of Cairo Site Plan Law.
- 2. **Compliance with Special Use Permit Requirements:**  
For all proposed uses requiring a special use permit, the Planning Board shall apply the review criteria contained in Section XI of this law.
- 3. **Compliance with Supplementary Regulations for Specific Districts:**  
The Planning Board shall apply the appropriate supplementary regulations contained in Section VII of this law to each proposed use in each district as applicable thereto.
- 4. **Building Access:**  
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 the sole means of access, a road maintenance agreement shall be submitted to the Town Attorney or Attorney for the Town for approval and shall be filed with the County Clerk's Office following such

approval.

**5. Accessory Buildings and Uses:**

Accessory uses are subject to the following requirements:

- (a) Accessory uses shall not be established prior to the establishment of a principal use.
- (b) No accessory building or structure hereafter constructed, erected, placed, structurally altered or enlarged shall be permitted within the required set back as set forth in Section V.C.2 of this law.

**6. Stormwater, Drainage, Grading, Erosion and Siltation Control:**

To insure as completely as possible that post-development storm water runoff rates do not exceed pre-development rates, the Planning Board shall ensure that all land disturbances shall conform to the substantive requirements of the most current NYS Department of Environmental Conservation (NYS DEC) State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities and that Erosion and storm water control management practices shall be designed and constructed in accordance with the most current NYS DEC SPDES Design Manual.

**7. 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.

**B. Stream Corridor Protections.**

**1. Applicability and Purpose:**

- a. These protective regulations shall apply to all land uses, disturbances, buildings and structures within the distances specified below of the mean high water level of any stream classified by the NYS Department of Environmental Conservation (DEC) as class “C” or higher. Additional regulations are specifically applicable to uses, disturbances, buildings and structures within the distances specified below of the Shinglekill Creek.
- b. The purpose of these stream corridor protections is twofold, With respect to the Shinglekill Creek; it is the Town of Cairo’s intent to protect the health, safety and general welfare of the community by preventing groundwater contamination to the Town’s public water supply system. With respect to other class “C” streams or higher, the purpose is to promote and preserve the stream’s environmental health.

**2. All Class “C” Stream Protection Regulations:**

- a. No structure shall be placed within 50 feet of the mean high water level of any any Class C or higher stream
- b. Clear-cutting and removal of vegetation within 20 feet of the mean high water level of any class C or higher stream is prohibited. Selective cutting of individual trees within 20 feet of the mean high water level of any class C or higher stream in order to create “view corridors” or for forestry operations is allowable upon review and approval by the planning board.

### **3. Shinglekill Creek Protection Regulations:**

- a. In addition to those class “C” or higher stream protections provided for in Section VI.B.2, the following uses and activities are prohibited within 100 feet of the mean high water level of the Shinglekill Creek.
  - (1) 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).
  - (2) 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.
  - (3) Disposal of snow or sand containing salt or deicing compounds that has been transported from off-site areas.
  - (4) Non-residential stockpiling or storage of coal, bulk chemicals, deicing compounds, hazardous substances, or hazardous waste.
  - (5) Stockpiling or storage of fertilizers except in containers or structures designed to prevent contact with precipitation.
  - (6) Storage of manure, except in conjunction with agricultural operations.
  - (7) Construction of sewage treatment facilities with disposal of primary or secondary effluent.
  - (8) 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).
  - (9) Drilling of wells used for obtaining oil, obtaining natural gas, gas storage, solution mining, or brine disposal.
- b. Notwithstanding the provision of any other law to the contrary, the Planning Board shall not waive site plan review of any project upon any lot that borders or is within 100 feet of the mean high water level of the Shinglekill Creek. When conducting its review, the Planning Board shall ensure that the applicant’s proposal provides for all the protections listed in paragraph a., above.

### **C. Agriculture Protections.**

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:

**1. 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 activities 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. The width of any such buffer shall depend 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 will be the responsibility of the non-farm applicant to provide an effective buffer that will reasonably protect the farm from the adjacent non-farm use.

**2. Agricultural Data Statement.**

Any application for a special use permit, site plan approval, use variance, or subdivision approval must comply with the provisions of the NYS Agriculture and Markets Law, Article 25-AA, §305-a regarding submission and review of an agricultural data statement.

**D. Retention of Consultants.**

Zoning Board of Appeals and the Planning Board are 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 VII. Supplemental Regulations for Specific Districts**

The following supplemental regulations shall apply to all multi-family, commercial and industrial uses and buildings in the districts as indicated:

**A. Main St. Commercial (MS-COM):**

1. No single non-residential building shall have a building footprint exceeding 45,000 square feet unless the building façade is designed to give the appearance of multiple buildings.
2. To minimize the apparent scale of a large building, any building with a street-facing façade of 80 feet or more shall be broken by periodic setbacks, and rooflines fitted with offsets and changes in pitch.
3. Sidewalks shall be required along the County Route 23B portion of this district and shall be constructed in accordance with the design standards set forth in the Town of Cairo Sidewalk Report.

**B. Main St. Downtown (MS):**

1. 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 district. Exceptions may be made only if the facades of larger buildings are articulated to appear as multiple buildings.
2. Sidewalks shall be required in this district and shall be constructed in accordance with the design standards set forth in the Town of Cairo Sidewalk Report.

**C. Commercial Mixed Use (C-MU):**

A permanent, year-round buffer, designed to reduce noise or other negative environmental impacts and provide a visual screen shall be provided for whenever a commercial use is adjacent to a residential use.

**D. Commercial (COM):**

1. To the extent practicable existing tree and forested vegetation located along state highways shall be permanently maintained to act as a visual buffer and landscape element.
2. To the extent practicable, a permanent, year-round buffer, designed to reduce noise and provide a visual screen shall be provided for whenever a commercial or industrial use is adjacent to a residential use.
3. With respect to industrial uses, to the greatest extent practicable, the planning board shall ensure that the industrial use, buildings and structures are screened from public view by a permanent, year-round buffer designed to reduce noise and provide visual screening.

## **Section VIII. Parking, Access and Loading**

**A. Off Street Parking**

The town finds that large highly visible parking areas may damage the town's character, harm the natural environment and the community's visual character. Inadequate or poorly designed parking can diminish quality of life by creating traffic congestion, safety hazards, inconvenience and interfere with snow removal, drainage and customer service. Off street parking should be designed to assure safety and convenience while seeking to minimize the aesthetic harm caused by excessively large parking lots.

**B. Parking Lot Design.**

1. Since businesses vary widely in their need for off-street parking, the planning board will establish appropriate parking requirements based upon the specific needs of a particular, proposed use. The planning board can consider the following factors:
  - a. Maximum number of persons present during peak usage. The general rule of thumb is that there should be sufficient parking spaces to accommodate 85% of the anticipated peak demand.
  - b. Site geography;
  - c. Available on street parking;



- d. Availability of privately shared off-street parking or publicly available off street parking within a reasonable walking distance;
  - e. Guidelines and standards published in traffic engineering and planning manuals.
  - f. Adequate handicapped parking spaces will be provided as per current state and federal guidelines.
  - g. Adequate areas for winter snow storage should be considered.
2. Off-street parking should be located on the site in such a way as to minimize its visual impact on the character of the surrounding area.
  3. Parking should be located to the rear or side of the structure, when practicable, and landscaping should be used to minimize the parking lot's visual impact and provide visual continuity with the surrounding area.
  4. Landscaped islands shall be integrated into parking areas to provide shade and a visual break in large parking expanses. In general, 15% of the gross parking area should be set aside for landscaping, including sidewalks where they are required.
  5. Lighting: Parking lots should have the minimal amount of lighting necessary to assure safety. The planning board may use the "Lighting for Parking Facilities" by the Illuminating Engineering Society of America, or similar publication, as a guide for determining parking lot lighting requirements.

### **C. Off-Street Loading Requirements**

1. The need for off-street loading and unloading facilities shall be evaluated by the planning board for all commercial or industrial buildings or uses.
2. Loading docks shall be placed outside of public view to the greatest extent possible, generally to the rear of the building with sufficient space to allow the largest permitted delivery vehicle to maneuver into the loading dock without obstructing traffic or taking up parking spaces while parked at the dock.

## **Section IX. Signs**

### **A. General Guidelines**

1. Sign design should be consistent with the character of the community.
2. No sign shall be situated so that it is a hazard to vehicular or pedestrian traffic.
3. Signs on buildings shall not be mounted so as to project above the roofline or parapet wall if mounted thereon.
4. Externally lit signs shall use only shielded light fixtures.

5. Any new or replacement sign, whether associated with an existing use, business or otherwise, shall require site plan approval by the planning board.
  - (a) Signs that are part of an overall site plan application should be presented and reviewed as part of that process.
  - (b) The planning board may require a scaled drawing, dimensions, advertising content, construction materials, type and style of illumination, method of structural support, colors, location on site and in relation to other buildings, roadways, driveways and sidewalks, and any other information the board may find helpful in making its determination.

## **B. Guidelines for Freestanding Signs**

1. Only one double or single-faced, freestanding sign shall be permitted per lot or parcel unless the property is a corner lot and is accessed from two different streets. In such a case, one freestanding sign is permitted on each separate street frontage with access.
2. When a lot contains a multiple-occupancy building, or there are multiple businesses on a single lot, only one freestanding sign shall be allowed regardless of the number of businesses located on the property. The single freestanding sign may be designed so as to list all businesses on the single sign.
  - (a) If multiple businesses or stores are located on a corner lot and the property is accessed from two different streets, then one freestanding sign capable of listing all businesses on the property can be located at each separate street frontage access point.
2. All freestanding signs shall be a maximum of 20 feet high and shall be set back a minimum of 15 feet from any public or private roadway right-of-way. In no event shall any sign be placed so as to create a traffic hazard or visually impair a driver's line of sight.
3. The maximum size of any freestanding sign shall be:
  - (a) 12 square feet in the RR district.
  - (b) 32 square feet in all other districts.
4. All freestanding signs should have landscaped bases. The planning board may consider other landscaping options.

## **C. Guidelines for Signs Attached to Buildings**

1. The square footage of sign area on the face of any building should be in proportion to the building size. In no event shall any sign or combination of signs attached to any building exceed 30% of the building's face area on the side where the sign or signs are to be attached.
2. Each individual storefront in a building with multiple stores or businesses may have one sign not exceeding 6 square feet hung from a roof overhang

perpendicular to each storefront, or situated on the building above or adjacent to the business's front entranceway.

#### **D. Prohibited Signs**

The following signs are prohibited unless exempted after review by the planning board:

1. Signs that contain flashing and/or moving lights.
2. Advertising billboards.
3. Externally mounted neon signs.
4. Signs with mercury vapor, low or high-pressure sodium, or metal halide lighting.
5. Signs placed on utility poles or trees.
6. Temporary, moveable signs, or signs with or that consist of pennants, ribbons, streamers, spinners or other moving, fluttering or revolving parts except when used for:
  - (a) Holiday Season decorations;
  - (b) Grand opening celebrations;
  - (c) Other temporary event announcement;However, in no event shall such a sign be allowed for a period of more than 30 days from the first display date.

#### **E. Exempt Signs**

The following signs are exempt from the requirements of this section:

1. Memorial or historical markers.
2. The names of buildings and dates of erections whether cut or cast into any masonry, or plaque made of bronze, stainless steel or other similar, permanent material.
3. Legal or emergency notices.
4. "For Sale" or "For Rent" Real Estate signs that do not exceed 6 square feet.
5. Signs or bulletin boards that do not exceed 15 square feet used to display temporary, public information notices, like those customarily present at places of worship, libraries and museums.
6. Temporary, off premises, non-illuminated, directorial signs for the convenience of the general public that do not exceed 6 square feet - commonly known as "garage sale" or "yard sale" signs.
7. Signs commonly found on active construction sites that identify the contractor, architect, engineer, etc., or that announce anticipated occupancy, and that do not in the aggregate exceed 32 square feet.
8. Any sign placed or required to be displayed by the provision of any statute, law or ordinance.
9. Traffic control signs.

## **Section X. Utilities**

The town board recognizes that solar and wind energy are renewable energy sources that may reduce fossil fuel emissions and energy generated from renewable systems can be

used to offset energy demand on the grid. The board further recognizes that these systems may have a potential impact on neighbors. The purpose of these regulations is to balance the rights of property owners to install renewable energy systems against their potential negative impact on neighbors

## **A. Solar Energy Generation Arrays.**

### **1. Guidelines for Private Solar Arrays.**

- (a) **General Requirements:** The requirements herein shall apply to all private solar arrays modified, expanded or installed after the effective date of this section.
  - (1) **Estoppel:** Private solar array installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, except in accordance with Paragraph 3(d), Safety, herein.
  - (2) **Code Compliance:** All private solar arrays shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the International Building Code as adopted by New York State.
  - (3) **Conflicts of Law:** In any instances where specific permitted uses, area, or height standards, development guidelines and/or review procedures specifically set forth in this section conflict with any other general provision or requirement of this Zoning Law, the particular provisions set forth in this Section shall control.
- (b) **Rooftop and flush-mounted solar arrays:** are permitted in all zoning districts subject to the following conditions:
  - (1) Building permits shall be required for installation of all rooftop and flush-mounted solar arrays.
  - (2) Rooftop and flush-mounted solar arrays are permitted on the following structures:
    - [A] All principal structures.
    - [B] All accessory structures that meet the principal structure setbacks as required in each zoning district.
  - (3) Rooftop units must be three feet from any chimney and shall not be permitted on any roof overhangs.
  - (4) Any private solar array attached to a pitched roof shall not extend more than three feet from the surface of the angle of the roof.
- (c) **Ground-mounted racks and freestanding private solar arrays:** are prohibited in the MS (Main Street) and H-C (Hamlet-Cairo) districts. They are permitted as an accessory structure in all other zoning districts subject to the following conditions:
  - (1) Building permits shall be required for installation of all ground-mounted and freestanding private solar arrays.

- (2) A special use permit from the Planning Board is required for all ground-mounted racks and freestanding arrays greater than 10 feet in height or greater than 200 square feet in the aggregate in all residential zoning districts. Ground-mounted racks and freestanding arrays shall follow the standard building permit process.
  - (3) All ground-mounted racks and freestanding arrays shall have a maximum height of 20 feet from ground elevation.
  - (4) All ground-mounted racks and freestanding arrays installed in the side or rear yards shall comply with the setback requirements for a principal structure found in §V.C.2
  - (5) Arrays may be installed in any front yard but shall not be less than 75 feet from the front property line and shall require a special use permit.
  - (6) Arrays shall be located in a manner that reasonably minimizes shading of adjacent property while still providing adequate solar access for arrays.
- (d) **Safety.**
- (1) **Batteries:** If solar storage batteries are included, they must be placed in a secure container or enclosure that meets or exceeds all applicable building and fire codes, rules and regulations. Disposal of solar storage batteries shall comply with all applicable building, fire and environmental codes, rules and regulations.
  - (2) **Glare and heat:** Solar array panels shall be mounted or oriented so that no unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

## 2. **Guidelines for Commercial Solar Arrays**

- (a) **Purpose and intent:** The purpose of these regulations is to provide for commercial solar arrays through performance criteria that balance the unique characteristics of each site.
- (b) **General Requirements:** The requirements herein shall apply to all commercial solar arrays modified, expanded or installed after the effective date of this section.
  - (1) **Permitted Districts:** Commercial solar arrays are only allowed in the Rural Residential (RR), Mountain Top (MT), Commercial (Com) and Commercial/mixed use (C-MU) districts.
  - (2) **Conflicts of Law:** In any instances where specific permitted uses, area, or height standards, development guidelines and/or review procedures specifically set forth in this section conflict with any other general provision or requirement of this Zoning Law, the particular provisions set forth in this Section shall control.
- (c) **Bulk and Area Requirements.**

- (1) **Height.**
    - [A] All commercial solar arrays shall have a maximum height of 20 feet from ground elevation.
    - [B] All buildings and accessory structures associated with the commercial solar arrays shall have a maximum height of 35 feet, excluding the solar array.
  - (2) **Setback.** All commercial solar arrays and associated buildings, accessory structures and equipment shall have a minimum front yard setback from the centerline of the road of 100 feet and a side and rear yard setback of 75 feet.
  - (3) **Lot coverage.**
    - [A] Maximum lot coverage for any commercial solar array is limited to 50% of the total lot area.
    - [B] Maximum impervious service area for any commercial solar array is limited to a maximum of 25% of the total lot area. Impervious service area shall include any associated buildings, accessory structures and equipment.
    - [C] The Planning Board shall have the discretion to reduce the percentages stated in sub-paragraphs A and B above based upon the topographic and/or geographic conditions found on the proposed site.
- (d) **Special Use Permit:** All commercial solar arrays shall require a Special Use Permit in accordance with the provisions of this Zoning law. In addition to any general review criteria, the Planning Board shall review all commercial solar array applications under the following specific design and review criteria:
- (1) **Signage:** All signage shall be provided as part of special use permit/ site plan review process and shall comply with the signage provisions of this zoning law.
  - (2) **Visual Impact:** Commercial solar arrays shall be sited in a manner to have the least possible practical visual effect on the environment. A visual environmental assessment form (Visual EAF), landscaping plan and visual assessment report, including appropriate modeling and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines, surrounding topography, and proposed elevations shall be required.
  - (3) **Landscaping and Screening:**
    - [A] Screening and/or earth berms shall be provided to minimize the potential visual impacts associated with the commercial solar arrays and its accessory buildings, structures and/or equipment. Additional landscaping, screening and/or earth berms may be required by the Town Board and/or the Planning Board to mitigate visual and aesthetic impacts.

- [B] Any associated structure shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility.
- (4) **Lighting:** A lighting plan shall be required. No commercial solar arrays shall be artificially lighted unless otherwise required by a federal, state or local authority. Exterior lighting may be provided for associated accessory structures and access entrances as may be determined appropriate for security purposes only.
  - (5) **Utilities:** The applicant shall provide written confirmation that the electric grid has the capacity to support the energy generated from the commercial solar arrays. Electrical and land-based telephone utilities extended to serve the site shall be underground.
  - (6) **Access.** The applicant shall indicate on a site plan all existing and proposed access points to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board through site plan review.
  - (7) **Glare and Heat.** Solar array panels shall be mounted or oriented so that no unreasonable glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
  - (8) **Ownership.** In the case of an application for a commercial solar array to be located on private lands owned by a party other than the applicant or the Town, a copy of the lease agreement with the property owner shall be filed with the Building Department.
  - (9) **Proof of Insurance.** The applicant, owner or lessee of the property where the commercial solar array is to be located shall file with the Building Department proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.
  - (10) **Security Provisions.** The applicant shall provide the Planning Board with a security plan to prevent unauthorized access and vandalism to the commercial solar arrays for the board to review, modify if necessary, and approve during the review process.
  - (11) **Noise.** Noise-producing equipment shall be sited and/or insulated to comply with the noise provisions of this zoning law, and the Town of Cairo Site Plan Review Law.
  - (12) **Proof of Ongoing Activity:** Documentation from the utility company, verifying that the commercial solar array is active, shall be provided by the site's owner, lessee or applicant annually, prior to March 31, to the Town Zoning Enforcement Officer. Failure to provide such notice shall be prima facie evidence that the solar array has been abandoned and shall be grounds for revocation of

the special use permit and/or certificate of compliance and removal of the solar array and all associated buildings and infrastructure.

- (e) **Sureties** The following sureties for construction, maintenance and removal of commercial solar arrays shall be required:
- (1) **Construction and Maintenance.** Prior to the issuance of a building permit for the commercial solar arrays and any associated accessory structures, the applicant, owner or lessee shall post a surety in an amount and form acceptable to the Town for the purposes of construction and maintenance. The amount shall be up to 20% of the construction value. Acceptable forms shall include, in order of preference: cash; letter of credit; or a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee compliance with the conditions of the approval for the commercial solar array. If the applicant, owner or lessee of the site fails to comply with any conditions of the approval during construction or as part of the long-term maintenance of the site, all costs the Town incurs to comply with conditions of the approval shall be paid using the surety provided by the applicant, owner or lessee. Failure to comply with the conditions of the approval or to maintain an acceptable level of surety will result in revocation of any or all, special use permits, building permits, certificates of occupancy or certificates of compliance.
  - (2) **Removal of Abandoned Arrays:** The solar panels, including any accessory structures, buildings and/or equipment of any abandoned commercial solar array shall be dismantled and removed from the site. As a condition of the special use permit or certificate of compliance, the applicant, owner or lessee shall post a surety in an amount and form acceptable to the Town for the purposes of removal. The amount shall be up to 20% of the construction cost. Acceptable forms shall include, in order of preference: cash; letter of credit; a bond that cannot expire; or a combination thereof. Such surety will be used to guarantee removal of the commercial solar array should the system be abandoned. When it appears a commercial solar array has been abandoned, the Town's Zoning Enforcement Officer shall provide written notice to the owner, applicant or lessee that posted the bond to remove the commercial solar array, and the person or entity so notified shall have 90 days from the date of notification to commence removal of the array. The owner, applicant or lessee shall have one year from the date removal is commenced to remove the array and all associated structures and restore the site to a condition approved by the Planning Board. If the owner, applicant or lessee fails to remove any solar array panels, buildings, associated structures or equipment, or fails to restore the site to the condition approved by the Planning Board, all costs the Town incurs in order to do so



shall be paid using the surety provided by the owner, applicant or lessee.

## **B. Wind Towers**

### **1. Guidelines for Private Wind Towers**

- (a) **General Requirements:** The requirements herein shall apply to all private Wind Towers modified, expanded or installed after the effective date of this law.
  - (1) Building permits shall be required for installation of wind towers. The building department may require an engineering analysis of the tower, as certified by a NYS Licensed Professional Engineer, establishing compliance with the manufacturer's installation instructions as part of the permit application process.
  - (2) Private Wind Tower installations for which a valid building permit has been properly issued, or for which installation has commenced before the effective date of this section, shall not be required to meet the requirements of this section, except in accordance with Paragraph 2(b), Safety.
  - (3) Only one wind tower per lot shall be allowed.
  - (4) All private wind tower installations shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the International Building Code as adopted by New York State.
- (b) **Safety.**
  - (1) **Height:** No wind tower shall exceed eighty (80) feet in height.
  - (2) **Lot Size:** No wind tower shall be allowed on any lot unless that lot is of sufficient size to allow a safety zone around the tower so that if the tower should fall over, it would not damage any structure on the lot, or fall on any adjoining lot whether or not the lot is under the same ownership as the lot where the tower is sited.
  - (3) **Set Back:** The tower's set back from any adjoining parcel must be at least two-hundred fifty (250) feet from any adjoining property line, including other lands under common ownership.
  - (4) **Noise:** The sound created by any wind tower shall not exceed 60 dBA as measured at the closest adjoining property line.
  - (5) **Structures within the Safety Zone:** Except for mechanical and/or electrical structures necessary for the operation of the wind tower itself, no structure shall be allowed within the safety zone, nor shall any wind tower be erected in any location where any existing structure would remain within the tower's safety zone.
- (c) **Removal of Abandoned Wind Towers:** Any abandoned wind tower shall be dismantled and removed from the site. When it appears a private wind tower has been abandoned, the Town's Zoning Enforcement Officer shall provide written notice to the owner, applicant

or lessee to remove the tower, and the person or entity so notified shall have 90 days from the date of notification to commence removal of the tower. The owner, applicant or lessee shall have one year from the date removal is commenced to remove the array and all associated structures. If the owner, applicant or lessee fails to remove the tower and any associated structures or equipment, the town shall be authorized to effect the removal and the cost of such removal shall be chargeable against the property.

## **Section XI. Special Use Permits**

### **A. Statement of Purpose**

Special uses are considered permitted uses that are allowed in the various districts but only upon the issuance of a “special use permit,” subject to conditions imposed by the planning board that are designed to protect surrounding properties and the neighborhood from the potential negative impacts of the permitted use.

### **B. Authorization to Grant or Deny Special Uses**

The planning board is authorized to grant or deny special uses in accordance with the review criteria 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. Special Use Permit Application Process**

Special Use Permit Applications are available from the zoning or code enforcement officers, the planning board chairman, the town clerk, or may be downloaded from the town’s website.

1. A written application for a special use permit must be given to the Zoning Enforcement Officer (ZEO) at least 15 days before the date of the next, regularly scheduled planning board meeting.
2. Within 10 days of receipt of the written application, the ZEO will review the application to determine whether the proposed use is an allowable special use in the zoning district and will take one or more of the following actions:
  - (a) Approve and forward the application to the planning board for its review;
  - (b) Disapprove the application. If the application is disapproved the ZEO will provide the applicant with a written explanation within 5 days of the disapproval.
    - (1) The applicant may appeal the ZEO’s determination to the Zoning Board of Appeals (ZBA) as provided for in §XIII.
  - (c) Return the application as incomplete with instructions regarding how to correct the deficiency.

### **D. Special Use Permit Review**

The planning board will conduct its special use permit (SUP) application review utilizing the procedures and considering the factors set forth below.

## **1. Application Process**

- (a) Before the review process can begin, the planning board must receive a “complete application.” A “complete application” is defined as one that contains all the material necessary for the board to make a reasoned determination of the application. The components of a “complete application” will vary depending upon the complexity of the project, but in all cases, no application will be deemed complete unless the following materials have been provided:
- (1) **An Environmental Assessment Form (EAF)** and all supporting documentation necessary to comply with the NY State Environmental Quality Review Act. (SEQRA) No application will be considered complete until the lead agency makes a Determination of No Significance or until it accepts a Draft Environmental Impact Statement (DEIS) as satisfactory with respect to scope, content and adequacy.
  - (2) **A complete site plan application.** The planning board shall have complete discretion under the site plan law to determine when it is receipt of a complete site plan application. No SUP application will be considered complete until the applicant has provided a complete site plan application.
  - (3) **Application Fees.** Application fees for the SUP and Site Plan must be paid before the application can be considered complete. Application fees are separate from any required escrow fees.
  - (4) **Escrow.** The planning board has the authority to engage the outside services of professional planners, engineers, architects, attorneys, or other professionals to assist with its review of the application, including the SEQRA review process. The planning board may make a reasonable estimate of the cost associated with its review and require that the applicant deposit sufficient funds in an escrow account to cover the costs associated with the review. The town will provide a written escrow agreement. The applicant shall provide the town clerk with the required funds for deposit in an escrow account prior to the commencement of any review. If at any time the planning board believes additional funds are necessary to cover the costs of the review, that additional amount must be deposited into escrow or the planning board, in its discretion, may suspend its review of the application until such amounts are paid, or the board may deny the application. No SUP, or SUP renewal or expansion application may be approved until all review costs are paid in full.

## **2. Review Process**

Once the planning board receives a complete application, it can begin the SUP review process and make a decision on the SUP application. The decision is based upon the application of certain review factors and an evaluation of

comments received at a public hearing. The review factors will vary depending upon the type and scope of the use under consideration.

- (a) **Public Hearing.** The planning board must hold a public hearing on the SUP application within 62 days of receipt of a complete application. Notice of the public hearing must be published in the town's official newspaper at least 10 days prior to the hearing date. In addition, written notice of the hearing must be given to all landowners whose property adjoins the property that is the subject of the hearing. The notice shall include the name of the project, location of the project site, a brief description of the project and the date, time and place of the public hearing on the SUP application. The written notice shall be mailed by first class mail to the mailing addresses of the owners as shown on the Town's last completed assessment roll. The notice shall be postmarked not less than 10 days prior to the hearing date. An affidavit of mailing shall be provided and shall constitute prima-facie evidence of proper notification.
- (b) **Site Plan - Concurrent Review.** All SUP applications will require a concurrent site plan review under the provisions of the town's Site Plan Review Law. At the applicant's request, the reviews may be done consecutively with the SUP process proceeding first.
- (c) **SEQRA.** All SUP applications will require SEQRA review under article 8 of the NYS Environmental Conservation Law. Only one SEQRA review is required for concurrent reviews. If the project undergoes a consecutive review, the planning board may adopt its prior findings if appropriate.
- (d) **GML §§239-I & M Reviews.** If necessary, the planning board will refer the application to the County Planning Board so that it may conduct its review pursuant to General Municipal Law Sections 239-I and/or 239-M.
- (e) **Other Agency Approvals.** The planning board will not delay its review pending other agency approvals. However, the planning board shall require proof that the applicant has applied for all permits required by other agencies prior to final planning board approval.
- (f) **Effect of Existing Violations.** No special use permit shall be issued for any property that has an existing building code violation, site plan violation or zoning law violation unless granting the special use permit and site plan approval will correct the underlying, existing violation.

### **3. General Review Criteria.**

In making its determination as to whether to issue a special use permit, the planning board shall take into account the public health, safety and welfare

and shall impose appropriate conditions and safeguards so that the following objectives are accomplished to the greatest extent possible:

- (a) Ensure the proposed use is compatible with adjoining properties and with the natural environment in the area.
- (b) Adequacy of parking and use of shared parking where possible.
- (c) Accessibility to fire, police and emergency vehicles.
- (d) Whether the property is suitable for the proposed use based upon the property's topography, vegetation, soils and hydrology, and, if appropriate, whether it can be adequately screened or buffered from neighboring properties and public roads.
- (e) Protect the natural environment to the greatest extent possible.
- (f) Protect neighboring properties from excessive dust, noise, odors, glare, release of harmful substances, and any other nuisances.
- (g) Minimize traffic impacts by properly evaluating vehicular access and circulation, roadway widths and placement. Traffic controls should be adequate to serve the special use and not excessively impact the overall traffic conditions present in the existing neighborhood.
- (h) Evaluate the need for pedestrian walkways and access and provide a safe and efficient pedestrian system.
- (i) Ensure the project design, including all principal and accessory structures, are compatible and harmonize with the existing neighborhood.
- (j) Use landscaping when necessary to act as a noise or visual buffer between the use and adjoining properties.
- (k) Ensure adequate storm water drainage measures are used.
- (l) Ensure water, sanitary waste and sewage facilities are adequate for the proposed use.
- (m) Ensure there is sufficient room for snow removal storage.
- (n) Evaluate and ensure adequate fire protection measures are in place.

#### **4. Decisions on SUP Applications**

- (a) **Type of Decision.** With regard to any special use permit application before it, the planning board may:
  - (1) Approve;
  - (2) Disapprove; or,
  - (3) Approve with modifications or conditions that are reasonable and related to the proposed special use.
  - (4) Approve with Renewal Requirements. Due to the nature of the project, the planning board may require that a special use permits be renewed periodically.
- (b) **Time of Decision - No Default.** The planning board shall issue its decision not later than 62 days after the close of the public hearing. This time may be extended upon written agreement of the parties. The planning board's failure to render a decision within 62 days shall not be deemed a default approval.
- (c) **Filing of Decision.** The planning board shall file its decision in the office of the town clerk within 5 business days of the date its decision is

rendered. A copy of its decision shall be mailed to the applicant by first class mail.

- (d) **Appeal of Decision.** Any person aggrieved by a decision of the planning board under this section may apply to Supreme Court for review by a proceeding under article seventy-eight of the Civil Practice Laws and Rules. Such proceedings shall be instituted within 30 days after the final decision by the planning board is filed in the office of the Town Clerk.

## **5. Miscellaneous Provisions Regarding Special Use Permits.**

- (a) **Special Use Permits to Run with the Land.** Once a SUP is issued, it shall run with the land and shall not be affected by a change in ownership.
- (b) **Expiration of Special Use Permits.** A SUP shall expire if construction does not begin within two years after approval. The planning board may, for good cause shown, extend the expiration of the SUP. All extensions shall be calculated from the expiration date.
- (c) **Renewal of Special Use Permits.** Applications for renewal of special use permits shall be made to the ZEO at least 30 days prior to expiration. The ZEO shall inspect the premises and determine whether the applicant is in compliance with the terms and conditions of the permit. If the applicant is in compliance, then the ZEO shall renew the permit for a period of time equal to the original SUP. Where the ZEO determines the applicant is not in compliance, then permit renewal shall require planning board approval as if the applicant were making a new application for a SUP.
- (d) **Expansion of Special Uses.** Expansion of a special use shall mean a physical increase in the building's square footage, or in the lot area allocated to the special use. An increase in the intensity of the use (more customers, increased business) without a physical expansion shall not be considered an expansion of use. An expansion of any special use shall require planning board review under the review procedures set forth in this section.

## **Section XII. Administration and Enforcement**

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

The provisions of this law shall be administered and enforced by the Zoning Enforcement Officer (ZEO) who shall be appointed by the Town Board and whose compensation shall be fixed by the town board. The ZEO shall have the following powers and duties:

#### **1. Receipt of Initial Applications.**

The ZEO shall receive all applications for:

- (a) Special Use Permits;
- (b) Site Plan Review;

- (c) Subdivision Applications;  
and shall make the following initial determinations:
- (1) With respect to Special Use Permits, the ZEO shall determine whether the proposed use is allowable in the proposed zoning district with a special use permit.
  - (2) With respect to Site Plan Review Applications, the ZEO shall determine whether the proposed use is allowable in the proposed zoning district, whether it is not allowed or whether it would be an allowable use with a special use permit.
  - (3) With respect to Subdivision Applications, the ZEO shall determine whether the proposed subdivision is allowable without an area variance.

**2. Actions on Initial Determinations.**

- (a) **Special Use Permits.** Actions on initial determinations of Special Use Permit Applications are fully set forth above in §XI.C.2.
- (b) **Site Plan Applications.** The ZEO shall review and make his determination within 10 days of receipt of the site plan application.
  - (1) If the ZEO determines that the applicant's proposed use in the site plan proposal can be instituted without a special use permit, the ZEO shall endorse his approval and forward the application to the planning board for review.
  - (2) If the ZEO determines that the applicant's proposed use in the site plan application requires a special use permit, the ZEO shall disapprove the application and inform the applicant, in writing, of his findings within 5 days of making his determination. Findings should include a direction that the applicant submits a special use permit application. Upon consent, the ZEO may convert the site plan application to a special use permit application, endorse his approval thereon and forward the amended application to the planning board for review.
  - (3) If the ZEO determines that the applicant's proposed use in the site plan application is a prohibited use in the zoning district in which it is proposed, or if the applicant refuses to amend his site plan application pursuant to the provisions of paragraph 2, above, then the ZEO shall disapprove the application and inform the applicant, in writing, of his disapproval within 5 days thereof.
- (c) **Subdivision Applications.** The ZEO shall review and make his determination within 10 days of receipt of the subdivision application.
  - (1) If the ZEO determines the applicant's proposed subdivision complies with the existing bulk area requirements of this zoning law, then he shall endorse his approval thereon and forward the application to the planning board for review.
  - (2) If the ZEO determines the applicant's proposed subdivision does not comply with the existing bulk area requirements of this zoning law, then he shall disapprove the application and inform the applicant of his disapproval, in writing, within 5 days thereof.

**3. Interpretation of Terms and Definitions.**

The ZEO has the power to interpret the various terms and definitions contained in this law and how they apply to any application under review. The ZEO's determination is final, subject to appeal as set forth below.

**4. Appeals of Determinations.**

Any person aggrieved by any determination of the ZEO may follow the procedures set forth in Section XIII of this law and file an appeal with the Zoning Board of Appeals.

**5. Miscellaneous Powers and Duties**

In addition to the review powers and duties set forth above, the ZEO shall have the following administrative and enforcement powers and duties:

- (a) The power to issue Zoning Permits.
- (b) The power to conduct investigations incidental to complaints of zoning law violations.
- (c) The power to conduct inspections prior to the issuance of a zoning permit.
- (d) The power to issue stop work orders, notices of violations and compliance orders when necessary to enforce the provisions of this zoning law.
- (e) The power to pursue administrative, civil and criminal enforcement actions when necessary to enforce the provisions of this zoning law.
- (f) The power to exercise all other powers necessary to fulfill all duties conferred upon the ZEO by this zoning law.
- (g) The duty to collect fees as set forth by the town board.
- (h) The duty to establish, and maintain complete and accurate records in all matters coming before the ZEO.

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

### **A. Establishment and Jurisdiction.**

**1. Zoning Board of Appeals:**

A Zoning Board of Appeals (ZBA) is hereby established in accordance with Article 16, § 267 of the New York State Town Law. (Town Law). The board shall consist of five (5) regular members who shall serve a five (5) year term. The Town Law shall govern the ZBA members' term of office and manner of appointment. No ZBA member shall at the same time be an elected or appointed official or employee of the town. ZBA vacancies shall be filled for the unexpired term only.

**2. Jurisdiction.**

The ZBA shall exercise appellate jurisdiction and shall have the duties, rights, powers and functions conferred upon it by Article 16, Section 267 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.

**3. Chairperson:**

The ZBA shall have a chairperson appointed by the Town Board. Such appointment shall be for a one-year term and made by resolution each year during the town's reorganizational meeting, or as soon as practicable thereafter. The chairperson shall be chosen from among the ZBA members. In the event of a mid-term vacancy, the town board may, by resolution, appoint a new chairperson to fill the unexpired, one-year term.

**4. Alternates:**

The town board may, in its discretion, appoint one or more alternate members to the ZBA. Such appointments shall be for a term of one year. In the event of a mid-term vacancy, the town board may, by resolution, appoint a new alternate member to fill the unexpired one-year term. Alternate members would be authorized to serve when regular members are absent or unable to participate on any matter under consideration by the ZBA. 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 local law or ordinance relating to training, continuing education, compensation and attendance shall also apply to any alternate member.

**5. Support Staff.**

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. The town board shall approve any such employment in advance.

**6. Removal from Office:**

The town board shall have the power to remove any ZBA member from the board for cause and after a legally noticed hearing. 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 ZBA meeting in any calendar year. For the purposes of this paragraph, unexcused absences are any absence for which there is no genuine medical excuse or family or personal emergency.

**B. Appellate Procedure and Conduct of Business**

Any person aggrieved by a decision of the ZEO, or other administrative official charged with the enforcement of this zoning law may appeal said decision with the ZBA following the procedures set forth below. Any officer, department board or

bureau of the Town of Cairo shall also have standing to appeal a decision of the ZEO.

**1. Time of appeal - Perfection of Appeal**

- (a) An appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the ZEO.
- (b) An appellant shall have six months from the date the Notice of Appeal is filed with the ZEO to perfect the appeal. An appeal will be considered perfected when the appellant supplies a written request for a hearing.

**2. Method of Appeal.**

- (a) An appeal shall be commenced by the filing of a Notice of Appeal with the ZEO, who shall forward a copy to the chairperson of the ZBA.
- (b) The Notice of Appeal shall specify the grounds for the variance requested, or the interpretation claimed, or for the reversal of an order, requirement, decision or determination of an administrative official and the relief sought and shall include the specific provision of this Zoning Law involved.
- (c) Upon receiving the Appellant's written request for a hearing, the ZEO shall forward the Appellant's Hearing Request and submissions to the ZBA, together with the papers constituting the record upon which the action appealed from was taken.

**3. Stay upon appeal.**

An appeal shall stay all proceedings in accordance with the NYS Town Law §115.

**4. Hearing on appeal.**

- (a) **Time of Hearing:** The ZBA chairperson shall set a hearing date within a reasonable time, but not more than 60 days from the date the ZBA receives the Appellant's written request for a hearing.
- (b) **Notice of Hearing:**
  - (1) Publication: The ZBA 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 appellant and shall be paid prior to the hearing of such appeal.
  - (2) Certified Mailings: In addition to notice by publication, 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 therefrom, 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. Such notice shall be postmarked no later than ten (10) days prior to the hearing date. The costs of such mailings shall be borne by the appellant and paid in advance.
  - (3) Notice with Agricultural Data Statement: If the matter under appeal requires the filing of an agricultural data statement, written notice of

the appeal shall be mailed via certified, return receipt mail to all landowners identified on the agricultural data statement. The notice shall include a description of matter under appeal and the relief requested. Such notice shall be postmarked no later than ten (10) days prior to the hearing date. The cost of such mailings shall be borne by the appellant and paid in advance.

- (4) Notice to County Planning Board: With respect to proposed use and area variances, The ZBA shall comply with the provisions of NYS General Municipal Law, Section 239-m with regard to county planning board review thereof. A copy of GML section 239-m is annexed as Appendix “C” hereto.

(c) **Conduct of Hearing:**

- (1) Method of Appearance: Any party may appear in person, or by agent or attorney.
- (2) Minutes and Records: Minutes shall be kept as required by law and showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The ZBA shall also keep records of its examinations and other official actions.
- (3) ZBA Assistance: The ZBA shall have the authority to call upon any person or entity to assist in its review of any matter before the board. Such person or entity shall provide the board with the necessary legal, specialized or technical information required for the Board to render an informed decision. All such costs shall be borne by the applicant and payable in advance.
- (4) Compliance with Open Meetings Law: ZBA meetings shall be open to the public to the extent provided by law.
- (5) Compliance with state environmental quality review act. The ZBA shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.
- (6) Time of Decision on Appeal: The ZBA shall render its decision within 62 days after the closing of the public hearing. The time frame may be extended upon mutual consent of the parties. Failure of the ZBA to render a decision within 62 days shall not be deemed an approval.
- (7) Voting Requirements: Every motion, resolution or decision of the ZBA shall require an affirmative vote of the majority of the fully constituted board regardless of vacancies or absences. Where a matter before the board was referred to the county planning board, the voting provisions of General Municipal Law §239-m shall apply.
- (8) Filing requirements: Every order, 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.

## **C. Permitted ZBA Actions**

### **1. Actions in General.**

The ZBA may grant area and use variances as provided for in this zoning law. The ZBA shall have the authority to review determinations or decisions of the ZEO and 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.

### **2. Use Variances.**

- (a) Upon appeal from a decision of the ZEO, the ZBA shall have the power to grant use variances as provided for in this zoning law.
- (b) No use variance shall be granted unless the appellant can demonstrate that the applicable zoning regulations and restrictions have caused an unnecessary hardship. In order to prove an unnecessary hardship, the appellant must demonstrate that for each and every permitted use under the zoning regulations for the particular district where the property is located, the following four (4) criteria have been met:
  - (1) The appellant 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) In the granting of use variances, the ZBA shall grant only the minimum variance that it shall deem necessary and adequate to address the appellant's proven, unnecessary hardship and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### **3. Area Variances.**

- (a) Upon appeal from a decision of the ZEO, the ZBA shall have the power to grant area variances as provided for in this zoning law.
- (b) In making its determination the ZBA shall take into consideration the benefit to the appellant if the variance is granted, as weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making its determination, the ZBA shall also consider the following:
  - (1) Whether granting an area variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties;
  - (2) Whether the benefit the appellant seeks can be achieved by some other, feasible method;
  - (3) Whether the requested area variance is substantial

- (4) Whether the requested variance will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district; and
- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the ZBA's decision but shall not necessarily preclude granting the area variance.
- (c) When granting the area variance, the ZBA 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.

**4. Imposition of Conditions.**

When granting a use or area variance, the ZBA board shall 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 or restrictions shall be consistent with the spirit and intent of this law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

## **Section XIV. 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, Zoning Board of Appeals or Zoning Enforcement Officer, 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, except those initiated by the Planning Board, shall be referred to the Planning Board for its recommendation prior to public hearing.

**C. Public Hearing and Notice**

**1. Public Hearing Required.**

No proposed amendment shall become effective until after a public hearing, at which the public shall have an opportunity to be heard. The Town Board shall set by resolution 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.

**2. Publication Required.**

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.

**D. Adoption**

The Town Board may adopt amendments to this Zoning Law by a majority vote of its membership, except in the case of disapproval by the County Planning Board, in which case a super-majority vote of the majority plus one shall be required.

**Section XV. Severability and Effective Date.**

**A. Severability:**

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.

**B. Effective Date:**

This local law shall become effective upon its filing with the NYS Secretary of State in accordance with the Municipal Home Rule Law.

**Section XVI. 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, or in an accessory structure on a lot which primary use is as 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. An Accessory Apartment may not be created within a two-family house or in any accessory structure on a lot that contains a two-family house. An accessory apartment may not be created on a lot that contains a guest cottage.

**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.

**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, animals, bees and apiary products..

**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, silvaculture, 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.

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

**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. For purposes of this law, any sign meeting this definition that is larger than 32 square feet shall be considered a billboard.

**Buffer/Buffer Area:** A part of a property, or an entire property, specifically designed, or left in a natural state, and intended to separate and thus minimize the negative environmental effects of a land use activity, such as noise, dust and glare, on adjacent properties.

**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 Area:** 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.

**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.



**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 intended for exclusive occupancy by a camping unit or units.

**Car Sales:** The rental, lease, sale and/or resale of motor vehicles, new or used.

**Car Repair:** The making of repairs to motor vehicles, their mechanical systems and/or 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 freestanding towers, guyed towers, and monopoles. 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. The International Building code with New York Supplement shall be used to define uses that are not specifically defined in this local law. A change of tenancy or change of ownership shall not be construed as a change of use.

**Code Enforcement Officer:** The officer appointed to 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.

**Commercial Use:** Any activity involving the sale of goods or services carried out for profit and any similar activities carried out by not for profit corporations or other similar organizations, excepting the leasing or rental of 1 and two family residences for residential purposes.

**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.

**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 resources as a result of human activities to the extent that its usefulness is impaired.

**Convenience Store:** A store that is designed and stocked primarily to sell retail items, food, beverages and household supplies to customers who typically purchase such items as a supplement to regular grocery shopping at a grocery store. Such establishments may include the retail sale of gasoline, oil and other automotive fluids, although no repairs or servicing of vehicles is permitted.

**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 designated 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 roughly circular turn-around area for vehicles at the end of a street or road.

**Customary:** According to the customs or usual practices associated with a particular place or set of circumstances.

**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.

**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.

**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, containing three (3) or more dwellings ~~units~~ and designed or used for occupancy by three (3) or more families living independently of each other. Senior citizen housing, condominiums and townhouses shall be considered a multiple family dwellings.

**Dwelling, Single-Family, Attached:** See: Townhouse.

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

**Dwelling, Two-Family:** A building on a single lot designed for two dwellings ~~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 dwellings shall not be considered townhouses, condominiums, single family residences with an accessory apartment, 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 for-profit business or not-for-profit organization that provides instruction or training in a trade, service or art.

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

**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.

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

**Erosion Control:** Any method or process used to prevent 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.

**Fence:** A structure, affixed to or having a location on the ground, placed at or near a property line, and designed and intended to protect, delineate, distinguish or otherwise provide a separation or barrier between two adjoining properties, or portions of two adjoining properties.

**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:** 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.

**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 aboveground 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 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.

**Guest Cottage:** A single-family residential structure on a lot on where the existing use is single-family residential, and on which there already exists a primary, single family residence. A guest cottage is a residential structure that is clearly subordinate to the primary residential structure and may not exceed fifty (50%) percent of the primary residential structure's square footage. The purpose of a guest cottage is to provide visiting family and friends a place to stay. A guest cottage is not an accessory apartment and may not be rented or otherwise used as a source of income. A guest cottage may not be created on a lot that contains an accessory apartment.

**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 specific geographical area in the town as depicted on the Official Zoning Map.

**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 or an accessory structure by a permanent resident of that dwelling that does not change the residential character of the dwelling or vicinity and where no non-resident employees, customers or clients enter the premises.

**Home Occupation, Major:** An occupation or business activity resulting in a product or service for financial gain, conducted wholly or partly in a dwelling or accessory structure which is clearly subordinate to an existing residential use, conducted within a dwelling or an accessory structure by a permanent resident of that dwelling that does not change the residential character of the dwelling 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.

**Industrial Property:** 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.

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

**Itinerant Vendor:** A person, group of persons or other legal entity who engages in the sale of goods or services, at a location other than from a public highway, from a structure, vehicle or piece of equipment that is designed to be moved from one location to another. The fact that any such structure, vehicle or piece of equipment may be set up so as to remain in one location does not change its nature as having been designed to be moved.

**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 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.

**Kennel:** Any place where any number of mammals, birds, reptiles, amphibians or other animals are kept for the purpose of wholesale, boarding, or breeding, whether or not a fee is charged or paid. This shall not include 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.

**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, Country Inn and Tourist Resort/Spa.

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

**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.

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

**Manufactured Home:** A permanent dwelling unit, transportable in one or more 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 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 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 where there are the equivalent of more than 10 employees are normally employed.

**Manufacturing, Light:** A commercial, manufacturing enterprise or business that normally employs the equivalent of 10 or fewer full time employees.

**Mass Gathering:** An event that is likely to result in the assemblage of 2500 or more people in one location at the same time. An event that is likely to result in the attendance of 2500 or more people over the lifetime of the event, but unlikely to have 2500 or more present at the same time is not a mass gathering.

**Mean High Water Level:** The average springtime high water level.



**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.

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

**Mining:** The process of excavating or extracting and removing material from any mine and shall include the on or off site permanent or temporary storage, stockpiling of such material, or the on or off site processing of such material. Movement of earth materials for construction purposes on a single lot or subdivision shall not be considered mining provided that no such material is removed from the lot or subdivision.

**Mobile Home:** See manufactured home.

**Motel:** See Country Inn.

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

**Multiple Occupancy Building:** A multiple occupancy building exists where there are multiple commercial tenants in one building. A multiple occupancy building may contain any combination of commercial or commercial and residential tenants as long as the individual uses are permitted in the zoning district where the building is located.

**Municipal Use:** Any use related to municipal functions as authorized by the Town Board.

**Noise, Nuisance:** Any sound of a decibel level prohibited by the provisions of the Site Plan Review Law.

**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.

**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:** A building or portion of a building used to carry out organizational or administrative functions of a business, trade or organization and not used for the manufacture, storage, display or retail sale of goods.

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

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

**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:** 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.

**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.

**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 that separate or define the separation of the individual dwellings in a two-family or multiple-family dwelling.

**Public Assembly:** Any area where individuals congregate to attend events as participants or spectators.

**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.

**Recreational Business:** A place designed and equipped for the conduct of indoor or outdoor sports, health, fitness, exercise and leisure time activities for profit and may include the retail sale of food, beverages and other items associated with the recreational nature of the business. An Indoor Recreational Business must conduct all its activities within one or more wholly enclosed structures.

**Recreational Vehicle:** A vehicle intended for the temporary habitation of people.

**Recreational Vehicle/Boat Storage:** The outdoor storage of three or more unoccupied recreational vehicles or boats on a single lot.

**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.

**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, Public:** 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 roofline 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.

**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.

**Seasonal Camp:** 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.

**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.

**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.

**Setback:** A minimum horizontal distance from a given point or line of reference, such as a property line or center of a roadway.

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

**Sewer:** Any pipe or conduit used to collect and carry away sewage or storm water 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.

**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 or 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, Movable:** 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 thirty (30) 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.

**Site Plan:** A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in the Site Plan Review Law that shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

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

**Solar Array:** Any structure or arrangement of materials designed to capture energy emanated from the sun and convert it into heat or electrical energy or electricity.

**Solar Array, Commercial:** A solar array with an energy generation capacity designed to sell or return the energy generated back into the energy grid. Any solar array designed to produce more energy than can be consumed by a residence or business on the property on which it is installed, regardless of design output, shall be considered a commercial solar array.

**Solar Array, Private:** A solar array with an energy generation capacity designed to service only the property on which it is installed. A private solar array is designed to service only the residence or business and accessory structures associated with the residence or business to which the solar array is installed. Any excess energy generated that is sold or returned back into the energy grid is only an incidental consequence and not a design purpose of the solar array.

**Solar Array, Abandonment:** A solar array is deemed abandoned when it is no longer actively generating electrical energy and it reasonably appears that the array will not be re-activated to do so.

**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 permit issued for 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.

**Stop Work Order:** An order issued by the Code Enforcement Officer or the Zoning Enforcement Officer that requires the cessation of some or all work on a construction site because of ~~for~~ nonconformance with ~~of~~ this Zoning Law or applicable building codes.

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

**Stormwater:** Stormwater is runoff generated from rain and snowmelt events that flow over land or impervious surfaces, such as paved streets, parking lots, and building rooftops, and does not soak into the ground.

**Stream:** Any perennial and intermittent watercourse identified through site inspection and US Geological Survey maps.

**Stream, Class “C”:** A class C stream is so designated by the NYS DEC. Pursuant to 6 NYCRR 701.8, a class C stream is, “one 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.”

**Structure:** Anything constructed that requires location on the ground, in the ground, or underground, or is attached to something having a location on the ground, in the ground, or underground. Walkways and driveways are not structures.

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

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

**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.

**Townhouse:** A single-story, multiple-family dwelling where ownership of each individual dwelling has its own separate deed in fee simple.

**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.

**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:** The authorization by the zoning board of appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**Variance, Use:** The authorization by the zoning board of appeals for the use of land for a purpose, which is otherwise not allowed or is prohibited.

**Vendor, Itinerant:** See: Itinerant Vendor.

**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.

**Waterbody:** 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.

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

**Wind Tower:** Any mechanism designed for the purpose of converting the kinetic energy of wind into electrical or mechanical energy.

**Wind Tower, Commercial:** A site containing one or more wind towers that is designed to sell the energy created back into the commercial energy grid.

**Wind Tower, Private:** A site containing one wind tower that is designed for on-site consumption of the energy produced. Any excess energy created that is sold back into the commercial energy grid is only incidental to the operation and not a design criteria.

**Wind Tower Safety Zone:** The circumference area that encircles the tower as measured from the base of the tower outward having a radius extending at least the height of the tower plus the length of the blade. The safety zone must exist wholly on a single lot whether or not adjoining lots are co-owned.



**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.

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

## APPENDIX “A”

Use	MS	HC	MS-COM	RR	MT	C	C-MU	M
P= Permitted Use B = Residential Requiring a Building Permit SU= Special use X= Prohibited	Main	Hamlet Cairo	Main Street Commercial	Rural Residential	Mountain Top	Commercial	Commercial Mixed Use	Municipal
<b>Residential Uses</b>								
Single Family	B	B	B	B	B	B	B	X
Two Family	B	B	B	B	B	B	B	X
Multi- Family Including Condominiums, Townhouses and Senior Citizen Housing	SU	SU	SU	SU	SU	SU	SU	X
Accessory Apartments	B	B	B	B	B	B	B	X
Home Occupation, Minor	B	B	B	B	B	B	B	X
Home Occupation, Major or any Home Occupation in Accessory Structure	B	B	B	B	B	B	B	X
Conversion of existing single family to two family dwelling	B	B	B	B	B	B	B	X
Guest Cottage	B	B	B	B	B	B	B	X
Manufactured Home	B	B	B	B	B	B	B	X
Manufactured Home Parks	X	X	X	X	X	B	B	X
Customary Accessory Use	B	B	B	B	B	B	B	B

Non- Residential Uses								
Use	MS	HC	MS-COM	RR	MT	C	C-MU	M
P= Permitted Use SU= Special use X= Prohibited	Main	Hamlet Cairo	Main Street Commercial	Rural Residential	Mountain Top	Commercial	Commercial Mixed Use	Municipal
Agricultural uses outside of an Ag. District.								
crops	X	X	P	P	P	P	P	X
livestock	X	X	X	P	P	X	X	X
Agricultural uses within an Ag. District								
crops	P	P	P	P	P	P	P	P
livestock	P	P	P	P	P	P	P	P
Auto Junk	X	X	X	X	X	SU	SU	X
Auto Salvage Yard	X	X	X	X	X	SU	SU	X
Bank	P	P	P	X	SU	P	P	X
Bar/ Tavern	P	SU	P	X	P	P	P	X
Bed and Breakfast Inn	P	P	P	P	P	P	P	X
Campground	X	X	X	SU	SU	SU	SU	X
Camp, Seasonal	X	X	X	SU	SU	SU	SU	X
Car Repair	SU	X	SU	X	X	SU	SU	X
Car Sales	SU	X	SU	X	X	SU	SU	X
Car Wash	SU	X	SU	X	X	SU	SU	X
Country Inn	P	P	P	SU	P	P	P	X
Day Care Center or Nursery School	P	P	P	P	P	P	P	X
Educational/ Training Facility	SU	SU	SU	SU	SU	SU	SU	X
Equipment Storage Associated with Major Home Business, Commercial or Municipal Use	SU	SU	SU	SU	SU	SU	SU	P
Farm Markets	P	P	P	P	P	P	P	X
Farm Stands	P	P	P	P	P	P	P	X
Fuel Storage and Distribution Facility	X	X	SU	X	X	SU	X	P
Gas Station	X	SU	SU	X	X	SU	SU	X
Horse Boarding	X	X	SU	P	P	P	P	X
Hotel	SU	SU	SU	X	SU	SU	SU	X
Itinerant Vendor	SU	X	SU	X	X	SU	SU	X
Junk Yard	X	X	X	X	X	X	X	X
Kennel	X	X	SU	X	X	SU	SU	X

Use	MS	HC	MS-COM	RR	MT	C	C-MU	M
P= Permitted Use SU = Special use X = Prohibited Use	Main	Hamlet Cairo	Main Street Commercial	Rural Residential	Mountain Top	Commercial	Commercial Mixed Use	Municipal
Manufacturing	X	X	SU	X	X	SU	X	X
Manufacturing, Light	SU	X	SU	X	SU	SU	SU	X
Membership Club	SU	SU	SU	SU	SU	SU	SU	X
Mass Gathering (2,500 or more at any one time.)	SU	SU	SU	SU	SU	SU	SU	SU
Mine	X	X	X	SU	SU	SU	X	P
Multi-Occupancy Building	SU	SU	SU	SU	SU	SU	SU	X
Municipal Use	P	P	P	P	P	P	P	P
Mortuary/ Funeral Parlor	P	P	P	SU	SU	P	P	X
Office Building (> 10,000 Square feet)	P	P	P	SU	SU	P	P	P
Office Building (<10,000 square feet)	P	P	P	X	SU	P	P	P
Propane Storage or Distribution	X	X	SU	X	X	SU	X	X
Public Utility	P	P	P	X	X	P	P	P
Recreational Business, indoor	P	P	P	SU	SU	P	P	X
Recreational Business, outdoor	SU	SU	SU	SU	SU	SU	SU	X
Recreational Vehicle/Boat Storage	X	X	X	X	X	P	P	X
Religious Structures	P	P	P	P	P	P	P	X
Research Laboratory	SU	SU	SU	X	X	SU	SU	X
Restaurant	P	P	P	X	SU	P	P	X
Retail Business > 4,000 Square feet	SU	SU	SU	X	SU	SU	SU	X
Retail Business < 4,000 Square feet	P	P	P	X	SU	P	P	X
Recycling or Scrap Yard	X	X	X	X	X	SU	SU	X
Self-storage structures	X	X	SU	X	X	SU	SU	X
Service Business, with no customers at site	P	P	P	P	P	P	P	X
Service Business, with customers at site	P	P	P	SU	SU	P	P	X
Timbering*	P	P	P	P	P	P	P	P
	*If clear cutting 15,000 square feet or more you need a site plan							

<b>Use</b>	<b>MS</b>	<b>HC</b>	<b>MS-COM</b>	<b>RR</b>	<b>MT</b>	<b>C</b>	<b>C-MU</b>	<b>M</b>
P= Permitted Use SU = Special use X = Prohibited Use	Main	Hamlet Cairo	Main Street Commercial	Rural Residential	Mountain Top	Commercial	Commercial Mixed Use	Municipal
Tourist Resort/Spa	SU	SU	SU	X	SU	SU	SU	X
Veterinary Hospital with Boarding Facility	X	X	X	X	X	SU	SU	X
Veterinary Hospital, No Outdoor Boarding Facility	P	P	P	SU	SU	P	P	X
Warehouse	P	P	P	X	X	P	P	X
Wind Tower Private	P	P	P	P	P	P	P	P
Wind Tower Commercial	X	X	X	X	X	X	X	X
Solar Array Private	P	P	P	P	P	P	P	P
Solar Array Commercial	X	X	SU	SU	SU	SU	SU	P
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