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Article I. General Provisions

§ 1.0 Short Title

This law shall be known as the "Town of Seneca Zoning Law" for the Town of Seneca in the County of Ontario, State of New York.

§ 2.0 General Purpose and Intent

The purpose of this Zoning Law is to provide for the orderly growth in the Town of Seneca in accordance with the Town's recently completed comprehensive plan and the Route 5&20 Corridor Management Plan. The Zoning Law offers guidance on the use, height and bulk of uses; areas have been specifically designated for residential, commercial and industrial growth and other areas have been identified for preservation. This protects the overall character of the Town, develops cohesive "neighborhoods" and minimizes conflicts among land uses.

This Law establishes and implements regulatory powers to the ends that adequate light, pure air, convenient access and safety from fire, flood and other dangers may be secured; that the taxable value of land and buildings throughout the Town may be conserved and enhanced; that congestion in the public streets may be lessened or avoided; that the hazards to persons and damage to property resulting from the accumulation or runoff of storm water may be lessened or avoided; that sites, areas and structures of historical, architectural and aesthetic importance may be preserved; and that the public health, safety, comfort, morals and welfare may otherwise be promoted. To these ends this Law is enacted to:

A. Guide and regulate the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.

B. Protect the established character and the social and economic well-being of both private and public property.

C. Promote, in the public interest, the utilization of land for the purposes for which it is most desirable and best adapted.

D. Regulate and limit the height, bulk and location of buildings.

E. Establish, regulate and limit the building or setback lines on or along streets in the Town.

F. Regulate and limit the density of population and the intensity of uses of lot areas.

G. Regulate and determine the area of yards, courts and other open spaces within and surrounding buildings.

H. Classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses.

I. Divide the entire Town into districts of such number, shape and area, and of such different classes according to use of land and buildings, height and bulk of buildings, intensity of use of lot areas, area of open spaces and other classifications as may be deemed best suited to regulate development.

J. Fix standards to which buildings or structures in such districts shall conform.

K. Prohibit uses, buildings or structures incompatible with the character of established districts.

L. Provide regulations pertaining to pre-existing lots, structures and uses that do not conform to the regulations, standards, restrictions and limitations established by this Law.

M. Prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed by this Law.

N. Provide for variances from such regulations, standards, restrictions and limitations.

O. Provide for Special Permits Uses, Planned Development District Uses, Cluster Development Uses and other uses requiring special approval, within the established districts.

P. Provide administrative bodies and procedures as shall be necessary to the implementation and enforcement of the various provisions of this Law.

Q. Provide for the orderly amendment of this Law.

§ 3.0 Applicability

A. General Scope

(1) Territorial Application

This Law shall apply to all structures, land and uses within the corporate limits of the Town of Seneca, New York. No uses shall be permitted within any public right-of-way.

(2) General Application

All buildings and structures erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this Law which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses that do not comply with the regulations of this Law shall be allowed to continue subject to the provisions of Article XV relating to nonconformities.

(3) General Prohibition

No building or structure; no use of any building, structure or land; and no lot of record or zoning lot now or hereafter existing shall hereafter be established, altered, moved, divided or maintained in any manner except as authorized by the provisions of this Law.

(4) Other Laws within the Town of Seneca

All applications under this Chapter in the Town of Seneca shall adhere to all applicable laws, ordinances and regulations including, but not limited to, the Town of Seneca Right to Farm Law and the Town of Seneca Storm water Management Law.

(5) Private Agreements

This Law is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the regulations of this Law are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements or legal relationships, the regulations of this Law shall govern.

B. Existing Variances and Special Permits

Any Variance, Special Exception or Special Use Permit lawfully issued prior to the effective date of this Law, or any amendment thereof, which could be lawfully issued pursuant to the provisions in effect after such effective date shall be deemed to be and continue valid after such effective date. Any structure or use lawfully authorized by any such Variance or Special Permit that could not be so issued after such effective date shall be allowed to continue subject to the provisions of Article XVI dealing with lawfully existing nonconformities.

C. Building Permits Issued Prior to Effective Date

(1) Completion of Construction

Nothing in this Law shall be deemed to require any change in the plans, construction or designated use of any structure in the event that:

(a) A building permit for such structure was lawfully issued prior to the effective date of this Law, or any amendment thereof; and

(b) Such permit had not by its own terms expired prior to such effective date; and

(c) Such permit was lawfully and properly issued in accordance with the law prior to such effective date; and

(d) There has been a substantial change of position, substantial expenditures or incurrence of substantial obligations by the permit holder in reliance on such permit; and

(e) Such change of position, expenditures or incurrence of obligations occurred prior to the time the permit holder had actual or constructive knowledge of any proposed amendment to this Law which would, upon adoption, make the issuance of such permit illegal; and

(f) Construction pursuant to such permit is commenced prior to the expiration of such permit and within ninety (90) days of its issuance and is thereafter diligently pursued to completion.

D. Pending Applications

Any complete application submitted prior to the effective date of the adoption of this Zoning Code or any subsequent amendment thereto shall proceed under the regulations in place at the time such application was determined complete.

E. Repeal of Prior Provisions

The Town of Seneca Zoning Law dated November 2004 is hereby repealed in its entirety. Except as expressly provided in said Law, as revised thereby, such repeal shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been effected.

F. Severability - Provisions Declared Invalid

(1) If any court of competent jurisdiction shall adjudge any provision of this Law to be invalid, such judgment shall not affect any other provisions of this Law.

(2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Law to a particular property, building or structure, such judgment shall not affect the application of the said provision to any other property, building or structure.

G. Effective Date

This Law shall become effective within thirty (30) days from the date of its adoption. Whenever used in this Law, the term "effective date" shall mean July 15, 2008.

Article II. Definitions

§ 4.0 Word Usage and Interpretation

In the interpretation of this Law, the provisions and rules of this Law shall be observed and applied, except when the context clearly requires otherwise.

A. Words in the present tense include the future;

B. Words in the singular include the plural and the plural the singular;

C. The word "shall" is intended to be mandatory;

D. The word "lot" shall include the word "plot" or "parcel";

E. The word "person" shall include an individual, firm or corporation;

F. A building or structure includes any part thereof;

G. The word "and" indicates that all connected items, conditions, provisions or events shall apply;

H. The word "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination;

I. The words "either…or" indicates that the connected items, conditions, provisions or events may apply singly but not in any combination.

J. The word "Town" means the Town of Seneca, New York.

K. The word "County" means the County of Ontario, New York.

In case of any difference of meaning or implication between the text of this Law and any caption, illustration or table, the text shall control.

§ 5.0 Definitions

When used in this Law, the following terms shall have the meanings herein ascribed to them. Where any definition is divided into classifications or categories of activities or uses, each classification or category shall be considered a different activity or use requiring separate application of the provisions of this Law.

ACCESSORY USE OR STRUCTURE – An accessory use or structure that:

- Is subordinate to and serves a principal building or a principal use; and
- Is subordinate in area, extent and purpose to the principal structure or principal use served; and
- Contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure or principal use served; and
- Is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this Law.

ADULT ARCADE -- Any business enterprise that offers or maintains one or more adult video viewing booths.

ADULT CABARET -- Any business enterprise which regularly features or offers to the public, customers or members, performances by persons who appear nude or semi-nude or live performances that are characterized by their emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

ADULT MOVIE THEATER -- Any business enterprise which regularly features or offers to the public the presentation of motion picture films, movies or sound recordings which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities and which are presented to a common audience of more than five persons in an enclosed common area or are presented in a common area of more than one hundred fifty (150) square feet.

ADULT RETAIL STORE – A business enterprise that meets any of the following tests:

- Offers for sale or rental items from any two of the following categories:
  - Sexually oriented materials including books and videos;
  - Lingerie; or
  - Leather goods which are marketed or presented in a context to suggest their use in connection with specified sexual activities;
- Offers for sale sexually oriented toys and novelties, except a business enterprise which devotes less than ten (10) percent of its stock in trade and sales and display area to sexually oriented materials, with all sexually oriented toys and novelties separated from other sales and display areas by an opaque wall at least eight feet in height with a management-controlled system of access to ensure that only persons over the age of eighteen (18) years are allowed to enter the area;

- Devotes more than ten (10) percent of its stock in trade or sales and display area to sexually oriented materials without having all sexually oriented materials separated from other sales and display areas by an opaque wall at least eight (8) feet in height with a management-controlled system of access to ensure that only persons over the age of eighteen (18) years are allowed to enter the area;
- Devotes more than forty (40) percent of its stock in trade or sales and display area to sexually oriented materials; or
- Advertises or holds itself out in signage visible from the public right-of-way as "X...," "adult," "sex" or otherwise as a sexually oriented business.

ADULT RETAIL STORE, LIMITED – Any business enterprise which offers for sale or rental sexually oriented materials, and which devotes at least ten (10) percent and not more than forty (40) percent of its stock in trade or sales and display area to sexually oriented materials, provided that:

- The following items are not also offered for sale:
  - Lingerie; or
  - Leather goods which are marketed or presented in a context to suggest their use in connection with specified sexual activities;
- All sexually oriented materials are separated from other sales and display areas by an opaque wall at least eight feet in height with a management-controlled system of access to ensure that only persons over the age of eighteen years are allowed to enter the area; and
- The business enterprise does not advertise or hold itself out in signage visible from the public right-of-way as "X...," "adult," "sex" or otherwise as a sexually oriented business.

ALTERATIONS - As applied to a building or structure, the change or rearrangement in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, or in the exit facilities; an enlargement of a building or structure, whether by extending on a side or by increasing in height; the moving from one location or position to another; any alteration whereby a structure is adapted to another or different use.

AMUSEMENT CENTER - The premises, including a theater, hall, auditorium, tent, structure, building or enclosure of any type, yard, or lot, on or within which is offered or operated any amusement game. This definition shall not include such premises in which jukeboxes are the only type of amusement game.

ANTENNA – A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include, but not be limited to, cellular, paging, personal communications services and microwave communications.

ANTENNA SUPPORT STRUCTURE – A structure other than a telecommunications tower, which is attached to a building and on which transmitting and/or receiving antenna(s) are located.

APARTMENT – A room or suite of rooms used as a single dwelling unit, located in a building in which there are two or more such rooms or suites.

APARTMENT BUILDING – A building arranged, intended or designed to be occupied by three or more families living independently of each other.

APPEAL – A request for the review of the local administrator's interpretation of any provision of this Law or a request for a variance.

ATTACHED DWELLING -- See "Dwelling, Attached."

AUTOMOBILE WRECKING -- The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts.

AREA OF SHALLOW FLOODING -- A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flows may be evident.

AREA OF SPECIAL FLOOD HAZARD -- Land in the floodplain subject to a one- percent or greater chance of flooding in any given year.

BASE FLOOD – The one-hundred-year flood, that is, the flood having a one (1) percent chance of being equaled or exceeded in any given year.

BASE FLOOD LEVEL – The highest elevation of water during the base flood. "Base flood levels" throughout the Town are listed in the most current publication of the Flood Insurance Study, Town of Seneca, New York, Ontario County, Federal Insurance Administration, United States Department of Housing and Urban Development.

BASEMENT - That space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

BED AND BREAKFAST – An owner-occupied and operated dwelling originally designed as a residential structure where limited overnight lodging and a breakfast are provided for compensation to tourist or recreational guests.

BEER – Any beverage which is defined as "Beer" in the Alcoholic Beverage Control Law of NYS.

BREWERY – Any place or premise defined as a "brewery" in the Alcoholic Beverage Control Law of NYS.

BUFFER AREA -- Strips of land area covered with grass, vegetation, trees, fencing, embankments or berms designed to separate or screen one zoning district or use from another zoning district or use or from a highway.

BUILDING – Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property.

BUILDING COVERAGE – The percentage of a lot area occupied by the ground area of principal and accessory buildings on such lot, excluding the area occupied by a solar collector.

BUILDING, PRINCIPAL – A building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING CODE -- The New York State Uniform Fire Prevention and Building Code.

BUILDING FRONT – The exterior wall of a building facing the front line of the lot.

BUILDING FRONTAGE -- The length along a ground floor building front facing a street or private way accessible from a street which is occupied by a separate and distinct use; or the length along a ground floor building side facing a street which is occupied by a separate and distinct use or by the same use which occupies the front of said building.

BUILDING HEIGHT – The vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE -- A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or a projected roof or porch, the vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than one foot in width. All yard and setback requirements are measured to the building lines.

CAMPING GROUND -- A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding manufactured homes designed for year-round occupancy or as a place of residence.

CAR WASH -- Any building or premises, or portion thereof, the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

CHANGE OF USE – A transition to a use that is different, in terms of specific use type, than the use it replaces. Not included are changes in occupancy involving the same specific use where there is not increase in floor area, extension of use or addition.

CHIMNEY, SOLID FUEL FIRED OUTDOOR HEATING DEVICE: Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired outdoor heating device, especially that part of such structures extending above a roof.

COMMERCIAL VEHICLE – All trucks, vans, construction equipment and limousines, bearing commercial license plates and with a gross vehicle weight, as defined by the manufacturer, that is in excess of four (4) tons.

CORNER LOT -- See "Lot, Corner."

COVERAGE -- See "Lot, Coverage."

DAY CARE – Daytime care or instruction of three or more persons away from their own homes for more than three but less than 24 hours per day, by an individual, association, corporation, institution or agency, whether or not for compensation or reward.

DAY CARE CENTER – A place other than an occupied residence providing or designed to provide day care, or an occupied residence providing or designed to provide day care for nine or more persons.

DAY CARE HOME, FAMILY – A program caring for children for more than three hours per day per child in which child day care is provided in a family home for three to six children. A family day care provider may, however, care for seven or eight children at any one time if no more than six of the children are less than school age and the school-aged children receive care primarily before or after the period such children are ordinarily in school, during school lunch periods, on school holidays, or during those periods of the year in which school is not in session in accordance with the regulations of the department.

DAY CARE HOMES, FAMILY ADULT – A program caring for adults for more than three hours per day per person in which day care is provided in a family home for three to six adults.

DAY CARE HOME, GROUP FAMILY -- A program caring for children for more than three hours per day per child in which child day care is provided in a family home for seven to ten children of all ages, or up to twelve children where all of such children are over two years of age, except for those programs operating as a family day care home which care for seven or eight children. A group family day care provider may provide child day care services to two additional children if such additional children are of school age and such children receive services only before or after the period such children are ordinarily in school or during school lunch periods, or school holidays, or during those periods of the year in which school is not in session.

DEVELOPMENT PLAN -- Any plan hereinafter adopted by the Town Board, after notice and a public hearing, for the development or redevelopment of an area with specific geographic boundaries, which clearly identifies the purposes of the development or redevelopment and involves one or more elements of land acquisition, site clearance, rehabilitation or construction of buildings, construction or reconstruction of public improvements and land disposition and which is specifically designated a "development plan" for purposes of this Law. This definition shall also include any Urban Renewal Plans and the Downtown Cultural District Plan.

DISTILLERY – Any place or premise defined as a "Distillery" in the Alcoholic Beverage Control Law of NYS.

DRINKING ESTABLISHMENT – An establishment which serves alcoholic beverages for on premises consumption and does not intend to serve meals as outlined in the definition of a restaurant in the Alcoholic Beverage Control Law of NYS.

DRIVE-THRU -- Includes drive-thru refreshment stands, banks and the like where patrons are served directly in automobiles.

DWELLING – Any building or structure, or part thereof, used and occupied for human habitation, or intended to be so used, and includes any appurtenances belonging thereto.

DWELLING, ATTACHED -- A row of two or more adjoining dwelling units, each of which is separated from the others by one or more un-pierced walls extending from ground to roof.

DWELLING, MANUFACTURED HOME -- A structure transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet in length, or when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under 24 CFR Part 2382.

DWELLING, MODULAR HOME – A home as defined by the NYS Uniform Building and Fire Prevention Code.

DWELLING, MULTIFAMILY – A dwelling designed for or occupied by more than two families.

DWELLING, SINGLE-FAMILY DETACHED -- A dwelling designed for and occupied by not more than one family and surrounded by open space or yards and having no roof, wall or floor in common with any other dwelling unit.

DWELLING, TWO-FAMILY -- A dwelling designed for and occupied by not more than two families in separate dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall.

DWELLING UNIT -- One room, or a group of rooms joined to each other and not regularly locked, located in a dwelling, designed and maintained as a unified living quarter, occupied by a family, containing integrated facilities used for living, sleeping, cooking, eating and sanitation.

EASEMENT -- Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property.

ENLARGEMENT – An addition to the floor area of an existing building, an increase in the size of any other existing structure or an increase in that portion of a tract of land occupied by an existing use.

ESSENTIAL SERVICES -- The erection, construction, alteration or maintenance by public utilities or any governmental department or commission of underground or overhead gas, electrical telecommunications or water transmission and/or distribution systems, including poles, wires, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or for the public health, safety or general welfare. This definition expressly excludes power generation facilities or sites for the disposal of waste materials associated with the provision of such services.

EXCAVATION -- The process of the removal of sand, gravel, soil (including topsoil) or other natural deposits by stripping, digging or other means.

EXCAVATION SITE -- A parcel of land used for the purpose of extracting stone, sand, gravel, soil (including topsoil) or other natural deposits with the expectation of eventual reclamation to the original or a compatible use.

EXPANSION – An increase in the amount of existing floor area used for an existing use within an existing building.

EXTERIOR WALL – Any wall, which defines the exterior boundaries of a building or its courts or of a structure.

FAMILY – Persons occupying a dwelling unit and living together as a family unit. It shall be presumptive evidence that more than four (4) persons living in a single dwelling unit who are not related by blood, marriage, domestic partnership or legal adoption do not constitute the family unit. In determining whether individuals are living together as a family unit, the following criteria must be present:

- The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not b deemed to be occupied by the functional equivalent of a traditional family;
- The group shares expenses for food, rent or ownership costs, utilities and other household expenses;
- The group is permanent and stable. Evidence of such permanency and stability may include:
  - The presence of minor dependent children regularly residing in the household who are enrolled in a local school;
  - Members of the household having the same address for the purposes of voter registration, driver's license, motor vehicle registration and filing of taxes;
  - Members of the household are employed in the area;
  - The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;
  - Common ownership of the furniture and appliances among the members of the household; and
  - The group is not transient or temporary in nature;
- Any other factor reasonably related to whether or not the group is the functional equivalent of a family;
- A fraternity or sorority will not be considered the functional equivalent of a family.

FARM - Any parcel containing at least 7 acres of land, which is worked for, gain in the growing of agricultural products or the raising of animals. It includes necessary farm structures within the prescribed limitations and the storage of equipment used. It excludes riding academies, livery or boarding stables and kennels.

FARM BUILDING - Any building used for the housing of agricultural equipment, produce, livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to

the operation of the farm as defined by this section. The term "farm building" shall not include "farm labor housing"

FARM LABOR HOUSING – On-farm dwellings for permanent and seasonal employees of the farm operation. Farm labor housing does not include the primary residence of the owner and/or partner of the farm operation.

FENCE - A structure of wood, masonry, wire mesh or other material which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property, erected for the purpose of assuring privacy or protection.

FINISHED GRADE LEVEL -- The level where the finished grade of the ground intersects the foundation walls. Height measurements shall be based from the finished grade level.

FLEA MARKET -- A market or co-op, usually outdoors, with individual stalls or areas selling various types of merchandise such as antiques, used household items, and cut-rate goods.

FLOOD -- General or temporary condition of partial or complete inundation of normally dry land areas caused by overflow of inland or tidal waters or the rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) – The most current official map for the Town, which is prepared by the Federal Emergency Management Agency as part of the Flood Insurance Study. The "FBFM" delineates the regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP -- An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP – The most current official map for the Town on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones in the Town.

FLOOD INSURANCE STUDY -- The most current official report for the Town in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Boundary and Floodway Map and the water surface elevation of the base flood, entitled "Flood Insurance Study, Town of Seneca, New York, Ontario County."

FLOODPROOFING -- Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY – The regulatory floodway.

FLOOR AREA – The sum of the gross horizontal areas of the several floors of a building, measured from the interior face of exterior walls or interior face of common walls. The "floor area" of a building shall include basement floor area.

FLOOR AREA, GROSS – The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the inside faces of exterior walls or from the centerline of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, gross floor area shall not include areas used principally for nonpublic purposes such as storage, rest rooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

FRONTAGE -- All the property fronting on one side of a street, measured along such street, between an intersecting or intercepting street and another intersecting or intercepting street, a right-of-way in excess of 30 feet, an end of a dead-end street, a river, a lake or a Town boundary.

FRONT LOT LINE -- See "Lot Line, Front."

FRONT YARD -- See "Yard, Front."

FRONT YARD LINE -- See "Yard Line, Front."

GARAGE -- A parking deck or any building, or part thereof, used or intended to be used for the parking and storage of vehicles at one or more levels.

GARAGE SALE – The sale or offering for sale to the general public of over five items of personal property on any portion of a lot in a residential zoning district, whether within or outside any building.

HISTORIC SITE -- A parcel of land, which marks or is associated with some event or person of historical importance.

HOME BUSINESS – A commercial use or building, other than a home occupation, conducted within or on the same lot as an occupied single family dwelling by the inhabitants thereof. The term "Home Business" shall include a commercial use in conjunction with an owner-occupied single family residence. The type of business permitted shall include permitted uses within the district that include the provision or sale of goods and/or services on the premises. Any development involving a home business shall be regulated as a home business and not as a mixed use development.

HOME OCCUPATION, LOW INTENSITY -- Any occupation customarily conducted entirely within a dwelling or a building accessory to the dwelling by the inhabitants thereof, which is secondary to the use of the dwelling for dwelling purposes and does not change the character of the residential lot. A home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instruction to groups exceeding four pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles, retail businesses and trades and service establishments.

HOME OCCUPATION, HIGH INTENSITY -- Any occupation or business conducted within a residential dwelling, in a building accessory to the dwelling or on the property of the dwelling which alters the existing character of that dwelling and is clearly subordinate to the primary residential use of that unit.

HOTEL OR MOTEL – A dwelling containing fifteen (15) or more sleeping rooms in which lodging is provided and offered to the public for compensation. This definition shall not be construed to affect local or state licensing provisions.

JUNK VEHICLES – An unregistered vehicle or an inoperable vehicle that would not meet State inspection requirements.

JUNKYARD OR SALVAGE YARDS -- Any property or place where the business of a junk dealer or salvage dealer buys, exchanges, collects, receives, stores, accumulates, sells or otherwise transfers junk or salvage materials -- other than wholly within an enclosed building. In addition, a junk yard shall include property used for the storage of impounded, abandoned, partially dismantled, obsolete or wrecked automobiles -- other than wholly within an enclosed building. The outdoor storage of any of the following is included in this definition:

- Two or more unlicensed junk vehicles;
- Two or more abandoned manufactured homes or recreational vehicles;
- Two or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
- Five or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
- Five and more inoperable pieces of equipment;
- Collection and storage of any second-hand or used material which, taken together, equal in bulk volume of 2000 cubic feet or more;
- Any combination of the above that totals five items.

KENNEL – Any residential or commercial building or lot on which more than three but less than eleven domesticated animals are housed, groomed, bred, boarded, trained or sold. This definition shall include temporary housing of such animals for periods over four hours, but shall not include a private residence where the occupant owns the animals as pets.

LIGHT INDUSTRIAL – Firms engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products mainly by providing centralized services for separate retail outlets. Light industrial uses will generate minimal truck trips, visual emissions, noise, odors or vibrations and have minimal visual impact on an area.

LIVESTOCK, ANIMAL -- Any animal customarily kept by humans for the purpose of providing food, clothing or work, including, but not limited to, equine, bovine, ovine, caprine, porcine and fowl, but excluding bees.

LOT -- A tract of land under single ownership and occupied by, or designated to be developed for, a building and its accessory buildings, or a principal use, together with such open spaces and yards as are designed and arranged, or required under this Law, to be used with such buildings or use. Every lot shall have access in accordance with the provisions this Law.

LOT AREA – The total horizontal area included within lot lines.

LOT, CORNER -- A lot abutting two (2) intersecting streets, where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees. The yards adjacent to both public and private streets shall be considered front yards when determining appropriate setbacks.

LOT COVERAGE – The percentage of a lot area occupied by the ground area of Principal or Accessory Buildings, parking lots, driveways, swimming pools, decks and other impermeable materials on such lot.

LOT, DEPTH OF – The mean horizontal distance between the front and the rear lot lines.

LOT, FRONTAGE – The unbroken length of the front lot line, which is contiguous to a public street or private road.

LOT LINE, FRONT – The lot line, which is adjacent to the public right of way.

LOT LINE, REAR -- That lot line which is parallel to and most distant from the front lot line of the lot; provided, however, that in the case of an irregular, triangular or gore-shaped lot, a line 10 feet in length, entirely within the lot, parallel to, and at the maximum possible distance from, the front lot line shall be considered to be the "rear lot line."

LOT LINE, SIDE – Any lot line other than a front or rear lot line.

LOT LINES – The lines bounding a lot.

LOT, MINIMUM AREA OF – The smallest lot on which a particular use or structure may be located in a particular district.

LOT OF RECORD -- A parcel of land that is a lot in a subdivision recorded on the records of the Recorder of Deeds of Ontario County, New York, or that is described by a metes and bounds description which has been so recorded including all restrictions and conditions placed on the lot as part of any approval process.

LOT, WIDTH OF - The horizontal distance between side lot lines measured at the required front yard setback line.

LOWEST FLOOR – The lowest level of a building, including a basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Law.

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

MANUFACTURING – Activities that include the production of apparel and other garment products, furniture and fixtures, printing – both commercial and industrial – leather products, pottery, glass blowing and the measuring, analyzing and controlling instruments, photographic, medical and optical goods and the like.

MAXIMUM BUILDING COVERAGE - The maximum percentage of a lot to be covered by buildings.

MAXIMUM LOT COVERAGE - The maximum percentage of a lot to be covered by buildings, structures, accessory uses and structures and impervious materials.

MEAN SEA LEVEL -- For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the Town's Flood Insurance Rate Map are referenced.

MINIMUM LOT AREA -- See "Lot, Minimum Area Of."

MINOR OR ACCESSORY SOLAR COLLECTION SYSTEM - A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, with the total surface area of all solar collectors on the lot not to exceed 4,000 square feet.

MIXED-USES – A development or redevelopment that allows for more dense development in a single building or on a single lot and includes a mixture of uses including, but not limited to, two or more of the following: residential, commercial and light industrial.

MOBILE HOME – See "dwelling, manufactured home"

MANUFACTURED HOME LOT -- A parcel of land within a manufactured home park reserved for placement of a manufactured home, including accessory buildings, for the exclusive use of its occupants.

MANUFACTURED HOME PARK - A parcel of land under single ownership on which two or more manufactured homes are occupied as residences or which is planned and improved for the placement of two or more manufactured homes for non-transient residential use, or for the sale or rental of two or more manufactured home lots.

MOTEL – A building or buildings containing sleeping units for transient guests and providing accessory off-street parking facilities; and which may include restaurant facilities and a dwelling unit for a bona fide caretaker or operator. The term "motel" includes hotels, auto courts, tourist courts, motor lodges and similar terms. Each sleeping unit shall contain not less than 240 square feet of living space.

MOTOR HOME -- A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

MOTOR VEHICLE -- A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, wagons and snowmobiles.

MOTOR VEHICLE SERVICE STATION -- Any building, structure or land used to disperse, sell or offer automotive fuels, oils or accessories, including lubrication, washing, polishing or cleaning and the replacement or installation of minor parts and accessories to passenger automobiles or trucks not exceeding 11/2 tons' rated capacity, but not including any major mechanical repair, rebuilding or reconditioning of engines, motor vehicles or trailers or collision service, body repair, frame straightening, painting, undercoating, vehicle steam cleaning or upholstering.

MULTIFAMILY DWELLING -- See "Dwelling, Multifamily."

NEW CONSTRUCTION -- Structures for which the start of construction commences on or after the effective date of the applicable Sections of this Law.

NONCONFORMING BUILDING OR STRUCTURE - Any building or structure, other than a sign, lawfully existing on the effective date of this Law, or any amendment to it rendering such building or structure nonconforming, which:

- Does not comply with all of the regulations of this Law, or any amendment of this Law, governing parking or space and bulk requirements for the zoning district in which such building or structure is located; or
- Is located on a lot which does not, or is so located on a lot as not to, comply with the yard requirements for the zoning district in which such building or structure is located; or
- Any residential structure originally designed and used as a two family dwelling in any district or as a multi-family dwelling and located in an R-2 district or any commercial district.
- Other than in (3) above, any building containing more dwelling units in the structure than permitted by the district regulations where it is located shall be deemed to be a nonconforming use rather than a nonconforming building.

NONCONFORMING USE -- Any use lawfully being made of any land, building or structure, including an accessory use on the effective date of this Law, or any amendment to it rendering such use nonconforming, which does not comply with all of the regulations of this Law, or any amendment hereto, governing use for the zoning district in which such land, building or structure is located.

NURSING OR CONVELESCENCE HOME – An establishment which provides full-time convalescent or chronic care, or both, for three or more individuals who are not related by blood or marriage to the operator and who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such an establishment. A hospital shall not be construed to be included in this definition.

OFFICE BUILDING -- A building comprised of more than 50% of offices, as compared with home occupations, where offices are considered a secondary or incidental use.

ONE-HUNDRED-YEAR FLOOD -- See "Base Flood."

ONE-HUNDRED-YEAR FLOODPLAIN – The area covered by floodwater as a result of the flood having a one (1) percent chance of being equaled or exceeded in any given year.

OUTDOOR STORAGE – Storage of any materials, merchandise, stock, supplies, machines and the like that are not kept in a structure having at least four walls and a roof, regardless of how long such materials are kept on the premises. Outdoor storage shall not include junk and salvage yards, auto wrecking yards or the like.

PARKING LOT – Any land area used or intended to be used for the parking of more than three (3) vehicles.

PARKING SPACE -- A space for the parking of a motor-driven vehicle within a public or private parking area.

PERSONAL CARE FACILITY -- A residential facility, consisting of a single building or a group of buildings, under common or related ownership, located on a single Lot or on contiguous Lots, without reference to contiguous streets, containing two or more of the following services for elderly or disabled persons who are residents of the facility:

- Adult Family Day Care Home.
- Family Day Care Home.
- Housing For The Elderly.
- Nursing Home.
- Residential Care Facilities.

PERSONAL WIRELESS TELECOMMUNICATIONS ACCESSORY FACILITY – A facility serving and subordinate in area, extent and purpose to, and on the same lot as, a telecommunications tower or antenna location. Such facilities include, but are not limited to, transmission equipment, storage sheds, storage buildings and security fencing.

PERSONAL WIRELESS TELECOMMUNICATIONS FACILITIES (PWTF) -- Facilities for the provision of commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services, including but not limited to antennas, telecommunications towers and accessory facilities.

PLACE OF WORSHIP – A structure owned and/or used by a religious organization for worship, religious training, or education.

PUBLIC AND SEMI PUBLIC USES – Any use of land or a structure owned and /or operated by a municipality, county or the state or federal government or any agency thereof or by a private nonprofit organization for a public service or purpose, including schools, public libraries, fire and public safety buildings, museums, parks and trails for recreational and educational purposes (excluding commercial enterprises), public meeting halls, governmental buildings and community centers.

QUARRY EXCAVATION SITE - A parcel of land used for the purpose of extracting stone, sand, gravel, soil (including topsoil) or other natural deposits with no expectation of eventual reclamation to the original or a compatible use.

RECREATIONAL FACILITIES -- Swimming pools, tennis and/or racquetball courts, bowling alleys, ice rinks, roller skating rinks, golf courses, driving ranges or other active indoor or outdoor sports.

RECREATIONAL VEHICLE – Any vehicle used or arranged to be used for living or as sleeping quarters, mounted on wheels and movable or propelled either by its own power or drawn by another power vehicle. Self-propelled vehicles used primarily for transportation, less than eighteen (18) feet long and with not more than two (2) axles, shall not be considered a "house car".

REFUSE COLLECTION – Location for accumulated refuse, garbage, rubbish, debris and other waste materials from activities conducted on the premises.

REGULATORY FLOODWAY – The regulatory floodway in the Town is delineated on the Flood Boundary and Floodway Map, and the base flood elevations in the floodway are listed in the Flood Insurance Study. The regulatory floodway is the channel of a river or other watercourse and the adjacent land area which must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

RESIDENTIAL BUILDING – A building the principal use of which is a residential use.

RESIDENTIAL CARE FACILITY -- A facility designed to provide individual dwelling units for elderly persons who are independently mobile, which provides on-site supervision and assistance available to the residents on an occasion, "as-needed" basis, and where at least one (1) meal each day is provided in a common dining area and which includes certain design features associated with the needs of the elderly which are not customarily in the construction of conventional dwelling units, such as emergency call systems, common dining facilities, common laundry facilities, minimal housekeeping services, common leisure and recreational facilities, transportation services and similar supporting services for the convenience of the residents.

RESTAURANT – Any place or premise defined as a "Restaurant" in the Alcoholic Beverage Control Law of NYS.

RESTAURANT, DRIVE-THRU -- An establishment where food, soft drinks, ice cream and similar confections are sold for principal consumption outside the confines of the principal building or in automobiles, regardless of whether or not seats are provided for patrons.

RETAIL SALES AND SERVICE – The sale, provision of service or on-premises incidental production or assembly of general merchandise to the general public for direct use or consumption, but not including the sale to another business for resale purposes.

ROADSIDE STAND -- Retail outlets, with all related structures, for the sale of farm products.

SAWMILL, PERMANENT -- A manufacturing facility where logs are sawed, including the on-site storage of any materials used in the manufacturing process. Permanent sawmills are considered industrial uses.

SAWMILL, PORTABLE -- Refers to a portable or readily movable manufacturing facility where logs are sawed, including the on-site storage of any materials used in the manufacturing process.

SELF-STORAGE WAREHOUSES -- One or more one-story buildings intended for use by the public and operated as a business for short-term self-storage of personal items.

SETBACK -- The horizontal distance between the street, rear or side lines of the lot and the front, rear or side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the portion of the building that projects furthest towards the setback. Setbacks from street lines to building lines are defined as "front setbacks." Setbacks from side lot lines are "side setbacks." Setbacks from rear lot lines are "rear setbacks."

SHOPPING CENTER -- Two or more separate commercial buildings that are located on a single or adjacent lot, or two or more buildings developed as part of a single integrated development with a common architectural design.

SIGN -- A "sign" is a name, identification, description, display or illustration which is affixed to, or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity, person, institution, organization, or business. "Sign" does not include merchandise, pictures or models of products or services incorporated in a window display, or scoreboards located on athletic fields.

SIGN BOARD – The portion of building originally designed for the placement of a sign and may include only a portion of the building over the door or may extend the length of the building.

SIGN, ADDRESS – A sign displaying the number or other designation assigned to a housing unit, business establishment, or other structure for purposes of mail delivery, emergency services, and so forth.

SIGN, ADVERTISING -- A sign which 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.

SIGN, ATTACHED – Any sign attached to a building.

SIGN, BANNER -- Any sign possessing characters, letters, illustrations or ornamentations or designed to attract attention by scenic effect, with or without characters; "banner" shall include streamers, wind-driven whirligigs, or other devices applied to cloth, paper, fabric or similar material, with or without frame and not of permanent construction.

SIGN, DETACHED – Any sign not attached to a building.

SIGN, FACE – The area of the sign where the name, identification, description, display or illustration is located not including the structural support for the sign.

SIGN, POLITICAL -- A sign expressing support for a candidate for public office, or expressing any other position regarding a public figure or a public issue but bearing no commercial message whatsoever.

SIGN, PORTABLE -- Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs made as A-frames or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for commercial messages; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

SIGN, TEMPORARY -- Any sign that is used only for a short period of time not to exceed 30 days that is not permanently mounted.

SIGN, WINDOW -- Any sign that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

SINGLE-FAMILY DETACHED DWELLING -- See "dwelling, single-family detached."

SOLID FUEL FIRED OUTDOOR HEATING DEVICE: Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. This includes any equipment, device, or apparatus which is UL listed and intended for outdoor use regardless if it is placed in an enclosure such as a shed, barn, residence, or any other similar structure.

SPECIAL FLOOD DEVELOPMENT (WITHIN A SPECIAL FLOOD HAZARD AREA) -- Any construction involving buildings or other structures that results in an increase in ground coverage; installation of underground utility systems; all improvements that significantly increase the amount of surface paved area; all mining and drilling; and all substantial dredging, filling, excavating or grading, or any man-made change to improved or unimproved real estate located within the special flood hazard area.

SPECIAL FLOOD HAZARD AREA – The land located in the one-hundred-year floodplain; commonly referred to as the "base floodplain" or the "one-hundred year floodplain."

STABLE -- A building in which any horses are kept for remuneration, hire or sale.

STORY -- That portion of a building, including a basement, between the surface of any floor and the surface of the floor next above; also, any portion of a building used for human occupancy between the topmost floor and the roof. A **HALF STORY** shall include that part of a building between a pitched roof and the uppermost full story, having a ceiling height of seven (7) feet or more for not exceeding one half (1/2) the floor area of such full story. For purposes of side yard determination, a basement shall be counted as a half story.

STREET -- A public or private way, square or lane, having a right-of-way at least 40 feet in width, permanently open to common and general use, which affords the principal means of access to abutting property.

STREET FRONTAGE – The length along the right-of-way line of any public street.

STRUCTURAL ALTERATION -- Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

STRUCTURE -- Anything constructed or erected which requires temporary or permanent support or attachment to the ground, beneath the ground or to something having permanent location on the ground, including gasoline and oil tanks, buildings, manufactured homes, fences and billboards.

SUBDIVISION – A division of land as defined in the Town of Seneca Subdivision Ordinance.

SUBSTANTIAL IMPROVEMENT -- Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or before the damage occurred, if the structure has been damaged and is being restored. This term does not include any project for improvement of a structure to comply with state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of any structure or contributing structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

TOTAL AGGREGATE SQUARE FEET – Means the total square footage of 1 or more buildings or structures on a single lot, including accessory and temporary uses.

TWO-FAMILY DWELLING - See "Dwelling, Two-Family."

WIND ENERGY FACILITY - Wind Energy Facility means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. See regulations for Specified Uses.

WINE - Any beverage which is defined as "wine" in the Alcoholic Beverage Control Law of NYS.

WINERY - Any place or premise defined as a "Winery" in the Alcoholic Beverage Control Law of NYS.

YARD - An open space on the same lot with a building or structure.

YARD, FRONT - An open space extending the full width of the lot between a main front building line and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line and the front of the main front building line. On corner lots, the front yard shall be both yards that front on the streets.

YARD, REAR - An open space extending the full width of the lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward, except as before specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.

YARD, SIDE - An open space extending from the front yard to the rear yard between a main building and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward. The required width of a side yard shall be measured horizontally from the nearest part of the main building. An interior side yard is any side yard not on the street side of a corner lot.

ZONING PERMIT -- An official finding that a planned use of property, as indicated by an Application, complies with the requirements of this Law or meets special conditions of a variance or Special Permit.

Article III. Zoning Districts Established

§ 6.0 Zoning Districts Established

In order to carry out the purposes and provisions of this Law, the Town of Seneca is hereby divided into the following districts:

CATEGORY	DISTRICT
Agricultural Zoning District	AG - Agricultural Zoning District
Residential Districts	R-1 -Low Density Residential R-2 - Medium Density Residential
Commercial Districts	C-1 - General Mixed Use District C-2 – Community Commercial District
Industrial Districts	M-1 - General Industrial District
Special Districts	PUD - Planned Unit Development

§ 7.0 Zoning Map

A. Map Incorporated

The boundaries of the zoning districts are hereby established on a map entitled "Zoning Map of the Town of Seneca" which map accompanies and is hereby declared to be a part of this Law.

There shall be only one Official Zoning Map that shall be kept in the office of the Town Clerk, and it shall bear the Seal of the Town of Seneca, a certification that it is the Official Zoning Map of the Town of Seneca and its date of adoption. Said Zoning Map shall show the boundaries of the zoning districts herein established and which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Law.

Any changes made in zoning district boundaries or other matters portrayed on the Zoning Map under the provisions set forth herein shall be permanently affixed to the Zoning Map promptly after the amendment has been approved by the Town board and shall convey information as to the date and nature of the change. No amendment to this Law that involves matters portrayed on the Zoning Map shall become effective until such change and entry has been made on said Zoning Map and has been attested by the Town Clerk.

B. Omitted Land

It is the intent of this Law that the entire area of the Town, including all land and water areas, rivers, streets, alleys, railroads, and other rights-of-way, be included in the districts established by this Law. Any area not shown on the Zoning District Map as being included in such a district shall be deemed to be, and it is hereby, classified in the AG - Agricultural Zoning District.

§ 8.0 District Boundaries

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

A. Where the designation on the Zoning Map indicates a boundary approximately upon a road, the center line of the road shall be construed to be the boundary;

B. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary;

C. Distances shown on the Zoning Map are perpendicular distances from road center lines measured to the district boundary, which boundaries in all cases where distances are given are parallel to the road center line;

D. In other cases, the district boundary shall be determined by the use of the scale of the Zoning Map.

E. Where a district boundary divides a lot of record at the time such boundary is adopted, the district requirements of the greater portion of the lot will become the requirements of the entire lot.

Article IV. AG - Agricultural Zoning District

§ 9.0 Purpose

The AG Agricultural Zoning District is intended to preserve existing agricultural lands in the Town and protect the rural character of the area that reinforces the special quality of life enjoyed by residents in Seneca. Agriculture provides the visual benefits of open space and is an important part of the Seneca economy. The creation of the Agricultural Zoning District illustrates the Town's commitment to farming and agricultural uses as a preferred use in these districts and shall protect existing agricultural areas from suburban and urban development, encourage the continuation of agriculture, reduce land conflicts and preserve open space and natural resources.

§ 10.0 Permitted Uses

A. The following farm uses are permitted in the AG District:

A. Boarding of animals;

B. Farms and farm related buildings used for the storage of products or equipment located on the same parcel as the principal use;

C. Forestry and reforestation;

D. Game farms, fish hatcheries and fishing reserves;

E. Farm related Manure Storage Facility, Non-CAFO (Confined animal feeding operation) subject to the requirements of Section 81. Manure Storage Facility.

F. Labor housing that could include a single manufactured home. Farm labor housing that includes more than a single manufactured home requires a special use permit;

G. Nurseries, lawn/landscape services, orchards, greenhouses, vineyards;

H. Produce stands, including only movable or temporary structures for the sale of agricultural products grown principally by the operator during the harvest season;

I. Wildlife sanctuaries, woodland preserves, arboretums.

J. Timber processing including the on-farm processing of timber grown on a farm operation which is included in the Agricultural District as part of Article 25AA of the New York State Agriculture and Markets Law, into woodland products, including but not limited to logs, lumber, posts and firewood, through the use of a readily moveable, nonpermanent saw mill, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

B. The following non-farm uses are permitted in the AG District:

A. Single and two family detached dwellings. There shall be no more than 1 principal dwelling unit on a single parcel, unless elsewhere provided in this law.

B. Public and semi-public buildings;

C. One subdivided lot as provided in this section.

(l) Effective Date. For the purpose of this section, each lot shall be identified by the Tax Map of the Town of Seneca dated 3-1-05, and single ownership shall be determined by deed filed as of 3-1-05. It is the express intent of this chapter that no parcel as defined herein may be changed or reconfigured after 3-1-05 for the purpose of applying or avoiding the restrictions of this Article. All density and/or calculation number of allowable units shall be based on the lot as identified by the Tax Map of the Town of Seneca dated 3-1-08.

(a) Maximum Density Allowed.

(i) A single subdivided lot is allowed on existing lots that are between 5 and 100 acres in total size.

(A) The minimum lot size for such new subdivided lot is 1 Acre.

(B) Minimum lot frontage is 150 feet.

(ii) Up to 2 subdivided lots are allowed on existing lots that are more than 100 acres and up to 150 acres in total size.

(A) The minimum lot size for such new subdivided lot is 1 Acre.

(B) Minimum lot frontage is 150 feet.

(iii) Up to 3 subdivided lots are allowed on existing lots that are more than 150 acres and up to 200 acres in total size.

(A) The minimum lot size for such new subdivided lot is 1 Acre.

(B) Minimum lot frontage is 150 feet.

(iv)Existing lots that are greater than 200 acres in size are allowed 1 subdivided lot per 50 acres

(A) The minimum lot size for such new subdivided lot is 1 Acre.

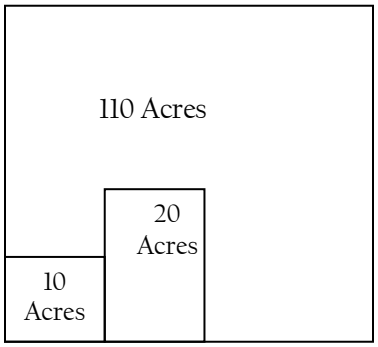
(B) Minimum lot frontage is 150 feet.



Where existing lot is more than 5 Acres and Less than 100 Acres in size

Example:
Existing lot = 75 Acres
1 Subdivided Lot is Permitted
Minimum Lot Size = 1 Acre

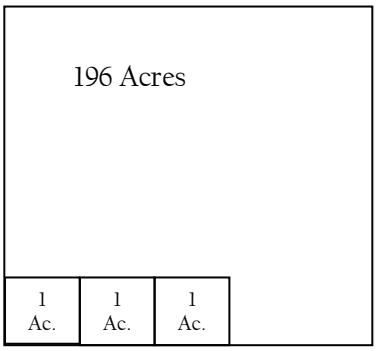
Existing lot = 140 Acres



Where existing lot is more than 100 Acres and Less than 150 Acres in size

Example:
Existing lot = 140 Acres
2 Subdivided Lots are Permitted
Minimum Lot Size = 1 Acre

Existing lot = 199 Acres



Where existing lot is more than 150 Acres and Less than 200 Acres in size

Example:
Existing lot = 199 Acres
3 Subdivided Lots are Permitted
Minimum Lot Size = 1 Acre

§ 11.0 Accessory Uses

The following are the accessory uses, building and structures permitted in the AG District:

A. Decks located in the side or rear yard;

B. Detention and retention ponds;

C. Fences, walls and hedges subject to the provisions of Article XI – Requirements Applying to All Districts;

D. Home occupations, low intensity;

E. Horses or livestock, for personal use, provided there is compliance with the following standards and conditions outlined in Article X – Additional Requirements for Specified Uses;

F. Off-street parking for residents and guests of the principal use;

G. Not more than one (1) commercial vehicle not associated with a Home Business;

H. No more than 2 (two) accessory storage buildings are allowed on any residential lot;

I. Not more than one (1) each of the following when licensed and not fully screened or within an enclosed building: camp trailers, recreational vehicles, utility trailers, motor homes or boat trailers owned by the occupant of the premises for personal use;

J. Private athletic facility, including, but not limited to swimming pools or tennis courts, not operated for gain and not operated by a not-for-profit organization;

K. Private family swimming pools are regulated in Article X – Additional Requirements for Specified Uses;

L. Satellite television receiving antennas subject to the provisions of Article X – Additional Requirements for Specified Uses;

M. Signs subject to the provisions of Article XI Requirements Applying to All Districts;

N. Storage buildings, private detached garages, carports, pool houses, gazebos, patio covers;

O. Terraces and patios;

P. Other uses and structures that are customarily incidental and clearly subordinate to the principal use.

Q. Minor solar collection system.

§ 12.0 Permitted Uses Subject To Site Plan Review

The following uses are allowed subject to site plan review as outlined in Article XIII - Procedures:

A. Adult family daycare homes that have a residential-like appearance ;

B. Bed & breakfast establishments;

C. Family and group family daycare homes that have a residential-like appearance ;

D. Farm labor housing that could include manufactured homes;

E. Parks;

F. Permanent farm stands;

G. Places of worship;

H. Private airfields, landing strips or related facilities;

I. Public and semipublic uses and buildings;

J. Wineries;

K. Major solar collection system or solar farm.

§ 13.0 Special Permitted Uses

The following are special permitted uses subject to the conditions outlined in Article XIII - Procedures:

A. Animal hospitals or kennels;

B. Butcher/meat shops;

C. Camping grounds;

D. Essential services;

E. Excavation Operations;

F. Home Business which includes:

(1) Lawn and/or garden services

(2) Metal fabrication

(3) Agricultural equipment sales and services

(4) Woodworking Shop

(5) General Retail Sales

G. Site Fill that isn't included on an approved site plan for commercial or industrial uses;

H. Stables or riding academies where animals are rented or leased;

I. Wind Energy Conversion Systems.

J. Portable Sawmill; excludes timbering processes as provided in §10. Permitted Uses.

K. Brewery

L. Distillery

M. Winery

§ 14.0 Lot, Area And Yard Requirements

The following lot, area and yard requirements apply to the AG District.

A. Lot Frontage Requirements

(1) All Uses

(a) Minimum Lot Frontage – one hundred fifty (150) feet

B. Lot Area Requirements

(1) Farm Uses

(a) Minimum Lot Area – seven (7) acres

(b) Maximum Building Coverage – ten (10) percent

(c) Maximum Lot Coverage – twenty five (25) percent

(2) Residential Uses

(a) Minimum Lot Area – 1 Acre

(b) Maximum Building Coverage – ten (10) percent

(c) Maximum Lot Coverage – twenty five (25) percent

C. Yard Requirements

(1) Farm Uses

(a) Front Yards

(i) Minimum Front Yard Setback – one hundred (100) feet

(b) Side Yards

(i) Minimum Side Yard Setback – forty (40) feet on each side

(c) Rear Yard

(i) Minimum Rear Yard Setback – fifteen (15) feet unless adjacent to a residential use when the rear yard setback shall be eighty (80) feet

(2) Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback – Principal and Detached Accessory– eighty (80) feet

(b) Side Yards

(i) Minimum Side Yard Setback – Principal - thirty (30) feet on each side

(ii) Minimum Side Yard Setback – Detached Accessory – fifteen (15) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback – Principal - thirty (30) feet

(ii) Minimum Rear Yard Setback – Detached Accessory – fifteen (15) feet

D. Corner Lots

Both yards abutting streets shall be considered front yards and shall follow the regulations of this Article; all side and rear yards shall follow the regulations of this Article.

§ 15.0 Bulk Requirements

The following requirements apply to buildings constructed in the AG District.

A. Building Heights

(1) All Uses

(a) Maximum Building Height –– Residential – thirty five (35) feet

(b) Maximum Building Height – Detached Residential Accessory – twenty five (25) feet

(c) Maximum Building Height – Other Farm Structures – one hundred (100) feet

B. Floor Area

(1) All Uses

(a) Minimum Floor Area – one thousand (1,000) square feet

§ 16.0 Personal Wireless Telecommunications Facilities (PWTF)

Personal wireless telecommunication facilities in the AG District shall be regulated as outlined in § 83.0 Personal Wireless Telecommunication Facilities.

§ 17.0 Additional Regulations

See Article XI Requirements Applying to All Districts for additional regulations that apply to the AG District.

Article V. R-1 Low Density Residential District

§ 18.0 Purpose

The R-1 District is designed to provide for the development of areas that are occupied primarily by single-family residences. The purpose of the R-1 District is to promote orderly development of the Town and encourage well-designed living environments which protect and stabilize the residential characteristics of the Town. The areas designated R-1 District will result in areas that provide opportunities for larger yards and houses and serve as transitional areas between agricultural areas and more dense areas of development.

Mixed-use development that is compatible with residential community character is encouraged. Such development needs to be designed in scale with surrounding properties, be of appropriate intensity for the property, be architecturally compatible to the neighborhood, and not cause adverse impacts to the neighborhood character.

§ 19.0 Permitted Uses

The following uses are permitted in the R-1 District:

A. Single-family detached dwellings;

B. Family and group family day care homes that have a residential-like appearance;

C. Adult family day care homes that have a residential-like appearance.

D. All farm uses which are permitted in the Ag zoning district on a parcel within a County Ag district.

§ 20.0 Accessory Uses

The following are permitted accessory uses in the R-1 District:

A. Decks located in the side or rear yard;

B. Detention and retention ponds;

C. Fences, walls and hedges subject to the provisions of Article XI – Requirements Applying to All Districts;

D. Home occupations, low intensity;

E. Horses or livestock, for personal use, provided there is compliance with the following standards and conditions outlined in Article X – Additional Requirements for Specified Uses;

F. Off-street parking for residents and guests of the principal use;

G. Not more than one (1) commercial vehicle;

H. Storage buildings, private detached garages, carports, pool houses, gazebos, patio covers;

I. Private athletic facility, including, but not limited to swimming pools or tennis courts, not operated for gain and not operated by a not-for-profit organization;

J. Private family swimming pools are regulated in Article X – Additional Requirements for Specified Uses;

K. No more than 2 (two) accessory storage buildings are allowed on any residential lot;

L. Not more than one (1) each of the following when licensed and not fully screened or within an enclosed building: camp trailers, recreational vehicles, utility trailers, motor homes or boat trailers owned by the occupant of the premises for personal use;

M. Satellite television receiving antennas subject to the provisions of Article X – Additional Requirements for Specified Uses;

N. Signs subject to the provisions of Article XI – Requirements Applying to All Districts;

O. Terraces and Patios;

P. Other uses and structures that are customarily incidental and clearly subordinate to permitted uses or uses that require site plan review or special permits.

Q. Minor solar collection system

§ 21.0 Permitted Uses Subject to Site Plan Review

The following uses are allowed subject to site plan review as outlined in Article XIII Procedures:

A. Home occupations – high intensity;

B. Bed and Breakfast Establishments;

C. Nursery schools and day care centers that have a residential-like appearance;

D. Funeral homes;

E. Public and semi-public uses

F. Places of worship;

G. Residential Care Facilities;

§ 22.0 Special Permit Uses

The following uses are allowed as Special Permit Uses in the R-1 District:

A. Essential services;

B. Site Fill that isn't included on an approved site plan for commercial or industrial uses;;

C. Mixed-use development in single or multiple buildings that includes only those uses permitted or specially permitted in the R-1 District and which meet the special requirements provided in this law.

§ 23.0 Lot, Area and Yard Requirements

The following lot, area and yard requirements apply to the R-1 District.

A. Lot Frontage Requirements

(1) Residential Uses

(a) Minimum Lot Frontage – one hundred fifty (150) feet

(2) Non- Residential Uses

(a) Minimum Lot Frontage – one hundred fifty (150) feet

B. Lot Area Requirements

(1) Residential Uses

(a) Minimum Lot Area – twenty five thousand (25,000) square feet

(b) Maximum Building Coverage – twenty (20) percent

(c) Maximum Lot Coverage – thirty (30) percent

(2) Non-Residential Uses

(a) Minimum Lot Area – twenty five thousand (25,000) square feet

(b) Maximum Building Coverage – twenty (20) percent

(c) Maximum Lot Coverage – thirty (30) percent

C. Yard Requirements

(1) Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback – fifty (50) feet

(b) Side Yards

(i) Minimum Side Yard Setback – Principal - thirty (30) feet on each side

(ii) Minimum Side Yard Setback – Detached Accessory – fifteen (15) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback – Principal - thirty (30) feet

(ii) Minimum Rear Yard Setback – Detached Accessory – fifteen (15) feet

(2) Non-Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback – Principal - fifty (50) feet

(ii) Minimum Side Yard Setback – Detached Accessory – twenty (20) feet

(b) Side Yards

(i) Minimum Side Yard Setback – Principal - thirty (30) feet

(ii) Minimum Rear Yard Setback – Detached Accessory – twenty (20) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback - thirty (30) feet

D. Corner Lots

Both yards abutting streets shall be considered front yards and shall follow the regulations of this Article; all side and rear yards shall follow the regulations of this Article.

§ 24.0 Bulk Requirements

The following requirements apply to buildings constructed in the R-1 District.

A. Building Heights

(1) Residential Uses

(a) Maximum Building Height – thirty five (35) feet

(b) Maximum Building Height – Detached Accessory – twenty (20) feet

§ 25.0 Personal Wireless Telecommunications Facilities (PWTF)

Personal wireless telecommunication facilities in the R-1 District shall be regulated as outlined in § 83.0 Personal Wireless Telecommunication Facilities.

§ 26.0 Additional Regulations

See Article XI – Requirements Applying to All Districts for additional regulations that apply to the R-1 District.

Article VI. R-2 Medium Density Residential District

§ 27.0 Purpose

The purpose of the R-2 District is to provide for the development of neighborhoods that include a mixture of single, two and multi family housing and complementary services, encouraging higher densities of new development. Lot sizes are generally smaller than the R-1 zone to accommodate the smaller housing types that are allowed in the R-2 district. R-2 districts are areas currently served by public water or are in locations that could support these services. Limited types of commercial uses are allowed in the zone to ensure the residential character is protected and enhanced. The following regulations shall apply in all R-2 districts:

§ 28.0 Permitted Uses

The following uses are permitted in the R-2 District:

A. Single-family detached dwellings;

B. Single-family attached dwelling;

C. Two-family dwellings;

D. Multi-family dwellings;

E. Accessory apartment;

F. Adult family day care homes that have a residential-like appearance;

G. Family and group family day care homes that have a residential-like appearance.

H. All farm uses which are permitted in the Ag zoning district on a parcel within a County Ag district.

§ 29.0 Accessory Uses

The following uses are allowed as Accessory Uses in the R-2 District:

A. Decks located in the side or rear yard;

B. Detention and retention ponds;

C. Fences, walls and hedges subject to the provisions of Article XI – Requirements Applying to All Districts;

D. Home occupations, low intensity;

E. Horses or livestock, for personal use, provided there is compliance with the following standards and conditions outlined in Article X – Additional Requirements for Specified Uses;

F. Off-street parking for residents and guests of the principal use;

G. Not more than one (1) commercial vehicle;

H. Storage buildings, private detached garages, carports, pool houses, gazebos, patio covers;

I. Private athletic facility, including, but not limited to swimming pools or tennis courts, not operated for gain and not operated by a not-for-profit organization;

J. Private family swimming pools are regulated in Article X – Additional Requirements for Specified Uses;

K. No more than 2 (two) accessory storage buildings are allowed on any residential lot;

L. Not more than one (1) each of the following when licensed and not fully screened or within an enclosed building: camp trailers, recreational vehicles, utility trailers, motor homes or boat trailers owned by the occupant of the premises for personal use;

M. Satellite television receiving antennas subject to the provisions of Article X – Additional Requirements for Specified Uses;

N. Signs subject to the provisions of Article XI – Requirements Applying to All Districts;

O. Terraces and patios;

P. Other uses and structures that are customarily incidental and clearly subordinate to permitted uses or uses that require site plan review or special permits.

Q. Minor solar collection systems

§ 30.0 Permitted Uses Subject to Site Plan Review

The following uses are allowed subject to site plan review as outlined in Article XIII Procedures:

A. Bed and breakfast establishments;

B. Day care centers that have a residential-like appearance;

C. Home occupations – high intensity;

D. Nursing or convalescent homes;

E. Public and semi public uses;

F. Places of worship;

G. Residential care facilities that have a residential-like appearance;

§ 31.0 Special Permitted Uses

The following uses are allowed as Special Permit Uses in the R-2 District:

A. Essential services;

B. Site Fill that isn't included on an approved site plan for commercial or industrial uses.

§ 32.0 Lot, Area and Yard Requirements

The following lot, area and yard requirements apply to the R-2 District.

A. Lot Frontage Requirements

(1) Residential Uses

(a) Minimum Lot Frontage – Single Family Residential – one hundred (100) feet

(b) Minimum Lot Frontage – Two Family Residential – one hundred twenty five (125) feet

(c) Minimum Lot Frontage – Multi-Family – one hundred fifty (150) feet

(2) Non Residential Uses

(a) Minimum Lot Frontage – one hundred (100) feet

B. Lot Area Requirements

(1) Residential Uses

(a) Single-Family Detached and Attached

(i) Minimum Lot Area – Detached and Attached – twenty thousand (20,000) square feet

(ii) Maximum Building Coverage – thirty-five (35) percent

(iii) Maximum Lot Coverage – fifty (50) percent

(b) Two-Family

(i) Minimum Lot Area – twenty two thousand (22,000) square feet

(ii) Maximum Building Coverage - thirty-five (35) percent

(iii) Maximum Lot Coverage - fifty (50) percent

(c) Multi-Family

(i) Minimum Lot Area – thirty thousand (30,000) square feet

(ii) Maximum Building Coverage - thirty-five (35) percent

(iii) Maximum Lot Coverage - fifty (50) percent

(2) Non-Residential Uses

(a) Minimum Lot Area – thirty thousand (30,000) square feet

(b) Maximum Building Coverage - thirty-five (35) percent

(c) Maximum Lot Coverage - fifty (50) percent

C. Yard Requirements

(1) Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback – Single and Two-family - forty (40) feet

(ii) Minimum Front Yard Setback – Multi-family - fifty (50) feet

(b) Side Yards

(i) Minimum Side Yard Setback – Single and Two-family - fifteen (15) feet

(ii) Minimum Side Yard Setback – Multi-family - twenty (20) feet

(iii) Minimum Side Yard Setback – Detached Accessory - fifteen (15) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback – Single and Two-family - thirty (30) feet

(ii) Minimum Rear Yard Setback – Multi-Family - thirty (30) feet

(iii) Minimum Rear Yard Setback – Detached Accessory - fifteen (15) feet

(2) Non-Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback - (40) feet

(b) Side Yards

(i) Minimum Side Yard Setback - twenty (20) feet each side

(c) Rear Yard

(i) Minimum Rear Yard Setback – thirty (30) feet

D. Corner Lots

Both yards abutting streets shall be considered front yards and shall follow the regulations of this Article; all side and rear yards shall follow the regulations of this Article.

§ 33.0 Bulk Requirements

The following requirements apply to buildings constructed in the R-2 District.

A. Building Heights

(1) Residential Uses

(a) Maximum Building Height – Single Family – thirty five (35) feet

(b) Maximum Building Height – Two Family – thirty five (35) feet

(c) Maximum Building Height – Multi-Family – thirty five (35) feet

(d) Maximum Building Height – Detached Accessory – twenty (20) feet

(2) Non-Residential Uses

(a) Maximum Building Height – thirty five (35) feet

B. Building Floor Area

(1) Residential Uses

(a) Minimum Floor Area – One Story Dwelling – eight hundred and fifty (850) square feet

(b) Minimum Floor Area – Two Story Dwelling – twelve hundred (1,200) square feet

(c) Maximum Floor Area – Detached Accessory – twelve hundred (1,200) square feet

(2) Non-Residential Uses

(a) Minimum Floor Area – twelve hundred (1,200) square feet

§ 34.0 Personal Wireless Telecommunications Facilities (PWTF)

Personal wireless telecommunication facilities in the R-2 District shall be regulated as outlined in § 83.0 Personal Wireless Telecommunication Facilities.

§ 35.0 Additional Regulations

See Article XI – Requirements Applying to All Districts for additional regulations that apply to the R-2 District.

Article VII. C-1 General Mixed Use District

§ 36.0 Purpose

The intent of the C-1 General Mixed Use District is to provide locations to accommodate general retail, service, finance, insurance and real estate and related structures and uses. General Mixed Use Districts are often adjacent to Residential Districts to ensure the population of the Town is adequately serviced. The impacts of these districts on surrounding residential areas are reduced by permitting residential occupancy and allowing the conversion or partial use of residential structures to business and professional uses. Under usual circumstances, these districts will only be established in areas served by public water.

The intent of the C-1 Districts along the Routes 5 and 20 corridor is to allow appropriately scaled development that enhances community character and highlights important resources, especially agricultural resources and vistas, considered important to the community. Development should be transitional in scale and character between the more rural character of agricultural areas in the Town and the denser larger-scale development located in the C-2 Districts and adjacent Town of Geneva. Consequently, large-scale commercial development is not considered an appropriate use in the C-1 District along this corridor. This is reflected by the reduced square footage allowable for commercial uses in this District and requirement that there shall be no more than one principal building on a lot in the C-1 District, except for home businesses. All commercial development proposed in the hamlet areas of the Town needs to be of appropriate scale, intensity and character to the adjacent properties and neighborhood. Flexibility in design is encouraged, but must not adversely impact the character of the hamlet area.

§ 37.0 Permitted Uses and Structures

The following uses are permitted in the C-1 District:

A. Single-family detached dwellings;

B. Two-family dwellings;

C. Apartment on second floor of existing commercial structures;

D. All farm uses which are permitted in the Ag zoning district on a parcel within a County Ag district.

§ 38.0 Accessory Uses

The following are the accessory uses, buildings and structures permitted in the C-1 General Mixed Use District:

A. Decks located in the side or rear yard;

B. Detention and retention ponds;

C. Fences, walls and hedges subject to the provisions of Article XI – Requirements Applying to All Districts;

D. Home occupations, low intensity;

E. Off-street parking for residents and guests of the principal use;

F. Private athletic facility, including, but not limited to swimming pools or tennis courts, not operated for gain and not operated by a not-for-profit organization;

G. Private family swimming pools are regulated in Article X – Additional Requirements for Specified Uses;

H. Not more than one (1) commercial vehicle;

I. Not more than one (1) each of the following when licensed and not fully screened or within an enclosed building: camp trailers, recreational vehicles, utility trailers, motor homes or boat trailers owned by the occupant of the premises for personal use;

J. No more than 2 (two) accessory storage buildings are allowed on any residential lot;

K. Signs subject to the provisions of Article XI – Requirements Applying to All Districts;

L. Satellite television receiving antennas subject to the provisions of Article X – Additional Requirements for Specified Uses;

M. Storage buildings, private detached garages, carports, pool houses, gazebos, patio covers;

N. Terraces and patios;

O. Other uses and structures that are customarily incidental and clearly subordinate to permitted uses or uses that require site plan review or special permits.

P. Minor solar collection systems

§ 39.0 Permitted Uses Subject to Site Plan Review

The following uses are permitted subject to site plan review as outlined in Article XIII - Procedures:

A. Residential Uses

(1) Single-Family Attached;

(2) Multi-family Attached.

B. Non-Residential Uses. Non-residential buildings or structures shall occupy less than 5,000 square feet total aggregate in size on any single lot, except as otherwise outlined in these provisions.

(1) Adult Family Day Care Facilities

(2) Family and Group Family Day Care Facilities

(3) Dance, art, music or photo studios;

(4) Day care centers and nursery schools

(5) Health club and fitness facilities;

(6) Places of worship;

(7) Professional offices;

(8) Public and semi public facilities;

(9) Restaurants and bakeries, excluding drive-thrus;

(10) Retail sales and services;

(11) Bed and Breakfast Establishments;

(12) Major solar collection system or solar farm.

§ 40.0 Special Permit Uses

The following uses are allowed as Special Permit Uses in the C-1 General Mixed Use District. All specially permitted buildings and structures shall be less than 5,000 square feet total aggregate size:

A. Essential services;

B. Garden supply and nurseries;

C. Health club and fitness facilities;

D. Hotels or motels;

E. Self storage warehouse under 4,000 total aggregate square feet;

F. Site Fill that isn't included on an approved site plan for commercial or industrial uses;

G. Banks;

H. Nursing or Convalescent Homes;

I. Mixed-use development in a single building. Any mixed-use development involving an owner-occupied residence shall be considered a Home Business and regulated in Section 71; Mixed use development shall be allowed in multiple buildings in legal existence prior to the adoption date of this local law.

J. Home Businesses.

K. Motor vehicle repair and inspection services, excluding vehicle sales.

L. Brewery

M. Distillery

N. Winery

§ 41.0 Lot, Area and Yard Requirements

The following lot, area and yard requirements apply to the C-1 District.

A. Lot Frontage Requirements

(1) Residential Uses

(a) Minimum Lot Frontage – Single Family Residential – one hundred (100) feet

(b) Minimum Lot Frontage – Two Family Residential – one hundred twenty five (125) feet

(c) Minimum Lot Frontage – Multi-Family – one hundred fifty (150) feet

(2) Non Residential Uses

(a) Minimum Lot Frontage – one hundred (100) feet

B. Lot Area Requirements

(1) Residential Uses

(a) Single-Family Detached and Attached

(i) Minimum Lot Area – Detached and Attached – twenty thousand (20,000) square feet

(ii) Maximum Building Coverage – thirty-five (35) percent

(iii) Maximum Lot Coverage – fifty (50) percent

(b) Two-Family

(i) Minimum Lot Area – twenty two thousand (22,000) square feet

(ii) Maximum Building Coverage - thirty-five (35) percent

(iii) Maximum Lot Coverage - fifty (50) percent

(c) Multi-Family

(i) Minimum Lot Area – thirty thousand (30,000) square feet

(ii) Maximum Building Coverage - thirty-five (35) percent

(iii) Maximum Lot Coverage - fifty (50) percent

(2) Non-Residential Uses

(a) Minimum Lot Area – thirty thousand (30,000) square feet

(b) Maximum Building Coverage - fifty (50) percent

(c) Maximum Lot Coverage – fifty (50) percent

C. Yard Requirements

(1) Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback – Single and Two-family - forty (40) feet

(ii) Minimum Front Yard Setback – Multi-family - fifty (50) feet

(b) Side Yards

(i) Minimum Side Yard Setback – Single and Two-family - fifteen (15) feet each side

(ii) Minimum Side Yard Setback – Multi-family - twenty (20) feet each side

(iii) Minimum Side Yard Setback – Detached Accessory – fifteen (15) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback – Single and Two-family - thirty (30) feet

(ii) Minimum Rear Yard Setback – Multi-Family - thirty (30) feet

(iii) Minimum Rear Yard Setback – Detached Accessory - fifteen (15) feet

(2) Non-Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback - forty (40) feet

(b) Side Yards

(i) Minimum Side Yard Setback – fifteen (15) feet each side unless adjacent to a Residential District in which case the side yard shall be the same as the required side yard setback in the Residential District

(c) Rear Yard

(i) Minimum Rear Yard Setback –fifteen (15) unless adjacent to a Residential District in which case the rear yard shall be the same as the required rear yard setback in the Residential District

D. Corner Lots

Corner lot front setbacks shall reflect the front setbacks of the other corner buildings at that intersection, but in no case shall be less than the average front yard depth of building(s) in the commercial district where the property is located.

§ 42.0 Bulk Requirements

The following requirements apply to buildings constructed in the C-1 District.

A. Building Heights

(1) Residential Uses

(a) Maximum Building Height – Single Family – thirty five (35) feet

(b) Maximum Building Height – Two Family – thirty five (35) feet

(c) Maximum Building Height – Multi-family – thirty five (35) feet

(d) Maximum Building Height – Detached Accessory– twenty (20) feet

(2) Non-Residential Uses

(a) Maximum Building Height– forty (40) feet

B. Floor Area

(1) Residential Uses

(a) Minimum Floor Area – One Story Dwelling – eight hundred and fifty (850) square feet

(b) Minimum Floor Area – Two Story Dwelling – twelve hundred (1,200) square feet

(c) Maximum Floor Area – Detached Accessory – twelve hundred (1,200) square feet

(2) Non-Residential Uses

(a) Minimum Floor Area –twelve hundred (1,200) square feet

§ 43.0 Personal Wireless Telecommunications Facilities (PWTF)

Personal wireless telecommunication facilities in the C-1 District shall be regulated as outlined in § 83.0 Personal Wireless Telecommunication Facilities.

§ 44.0 Additional Regulations

See Article XI – Requirements Applying to All Districts for additional regulations that apply to the C-1 District.

Article VIII. C-2 Community Commercial District

§ 45.0 Purpose

The intent of the C-2 Districts along the Route 5 and 20 corridor is to allow appropriately scaled higher density development that preserves and enhances the Town's community character through appropriate design elements, amenities or treatments that create, enhance and reinforce the design relationships between the buildings, sites and streets.

§ 46.0 Permitted Uses and Structures

The following uses are permitted in the C-2 District:

A. Accessory apartment on second floor of existing commercial structures;

B. Adult family day care homes.

C. Family and group family day care homes.

D. All farm uses which are permitted in the Ag zoning district on a parcel within a County Ag district.

§ 47.0 Accessory Uses

The following are the accessory uses, buildings and structures permitted in the C-2 Community Commercial District:

A. Decks located in the side or rear yard;

B. Detention and retention ponds;

C. Fences, walls and hedges subject to the provisions of Article XI – Requirements Applying to All Districts;

D. Home occupations, low intensity;

E. Home occupations, high intensity;

F. Off-street parking for residents and guests of the principal use;

G. Private athletic facility, including, but not limited to swimming pools or tennis courts, not operated for gain and not operated by a not-for-profit organization;

H. Private family swimming pools are regulated in Article X – Additional Requirements for Specified Uses;

I. Not more than one (1) each of the following when licensed and not fully screened or within an enclosed building: camp trailers, recreational vehicles, utility trailers, motor homes or boat trailers owned by the occupant of the premises for personal use;

J. No more than 2 (two) accessory storage buildings are allowed on any residential lot;

K. Signs subject to the provisions of Article XI – Requirements Applying to All Districts;

L. Satellite television receiving antennas subject to the provisions of Article X – Additional Requirements for Specified Uses;

M. Storage buildings, private detached garages, carports, pool houses, gazebos, patio covers;

N. Terraces and patios;

O. Other uses and structures that are customarily incidental and clearly subordinate to permitted uses or uses that require site plan review or special permits;

P. Minor solar collection systems.

§ 48.0 Permitted Uses subject to site plan review

The following uses are permitted subject to site plan review as outlined in Article XIII - Procedures:

A. Banks;
B. Bed and breakfast establishments;
C. Dance, art, music or photo studios;
D. Day care centers and nursery schools;
E. Health club and fitness facilities;
F. Nursing or convalescent homes;
G. Parks;
H. Places of worship;
I. Planned business centers;
J. Professional offices;
K. Public and semi public facilities;
L. Restaurants and bakeries;
M. Retail sales and services;
N. Multi-family dwellings;
O. Major solar collection systems or solar farms.

§ 49.0 Special Permit Uses

The following uses are allowed as Special Permit Uses in the C-2 District:

A. Amusement enterprises not conducted within a completely enclosed building including a carnival or circus;

B. Automatic and manual car washes;

C. Automotive related uses, subject to the Article X - Additional Requirements for Specified Uses, including:

(1) Vehicle Repair.

(2) Vehicle Sales Areas.

(3) Vehicle Service Station.

(4) Vehicle Storage.

(5) Vehicle Wrecking.

D. Building supply centers;

E. Drive-thru restaurants, bakeries and banks;

F. Essential services;

G. Garden supply and nurseries;

H. Health club and fitness facilities;

I. Hotels or motels;

J. Manufactured home Parks;

K. Retail sales and services;

L. Self storage warehouse;

M. Site Fill that isn't included on an approved site plan for commercial or industrial uses;

N. Mixed-use development in single or multiple buildings.

O. Brewery

P. Distillery

Q. Winery

R. Drinking Establishment

§ 50.0 Lot, Area and Yard Requirements

The following lot, area and yard requirements apply to the C-2 District.

A. Lot Frontage Requirements

(1) Residential Uses

(a) Minimum Lot Frontage – Multi-Family – one hundred fifty (150) feet

(2) Non Residential Uses

(a) Minimum Lot Frontage – one hundred (100) feet

B. Lot Area Requirements

(1) Residential Uses

(a) Multi-Family

(i) Minimum Lot Area – thirty thousand (30,000) square feet

(ii) Maximum Building Coverage - thirty-five (35) percent

(iii) Maximum Lot Coverage - fifty (50) percent

(2) Non-Residential Uses

(a) Minimum Lot Area – thirty thousand (30,000) square feet

(b) Maximum Building Coverage - fifty (50) percent

(c) Maximum Lot Coverage – fifty (50) percent

C. Yard Requirements

(1) Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback – Multi-family - twenty (20) feet

(b) Side Yards

(i) Minimum Side Yard Setback – Multi-family - twenty (20) feet each side

(ii) Minimum Side Yard Setback – Detached Accessory – fifteen (15) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback – Multi-Family - thirty (30) feet

(ii) Minimum Rear Yard Setback – Detached Accessory - fifteen (15) feet

(2) Non-Residential Uses

(a) Front Yards

(i) Minimum Front Yard Setback - Average front yard depth of building(s) within one hundred (100) feet, but in no case more than one (1) foot larger than either of the front yard depths of buildings on the two adjacent lots. In cases where no buildings are within one hundred (100) feet, the minimum front yard setback shall be twenty (20) feet.

(b) Side Yards

(i) Minimum Side Yard Setback – fifteen (15) feet each side unless adjacent to a Residential District in which case the side yard shall be the same as the required side yard setback in the Residential District

(c) Rear Yard

(i) Minimum Rear Yard Setback –fifteen (15) unless adjacent to a Residential District in which case the rear yard shall be the same as the required rear yard setback in the Residential District t

D. Corner Lots

Corner lot front setbacks shall reflect the front setbacks of the other corner buildings at that intersection, but in no case shall be less than the average front yard depth of building(s) in the commercial district where the property is located.

§ 51.0 Bulk Requirements

The following requirements apply to buildings constructed in the C-2 District.

A. Building Heights

(1) Residential Uses

(a) Maximum Building Height – Multi-family – thirty five (35) feet

(b) Maximum Building Height – Detached Accessory – twenty (20) feet

(2) Non-Residential Uses

(a) Maximum Building Height– forty (40) feet

B. Floor Area

(1) Residential Uses

(a) Minimum Floor Area – One Story Dwelling – eight hundred and fifty (850) square feet

(b) Minimum Floor Area – Two Story Dwelling – twelve hundred (1,200) square feet

(c) Maximum Floor Area – Detached Accessory – twelve hundred (1,200) square feet

(2) Non-Residential Uses

(a) Minimum Floor Area – twelve hundred (1,200) square feet

§ 52.0 Personal Wireless Telecommunications Facilities (PWTF)

Personal wireless telecommunication facilities in the C-2 District shall be regulated as outlined in § 83.0 Personal Wireless Telecommunication Facilities.

§ 53.0 Additional Regulations

See Article XI – Requirements Applying to All Districts for additional regulations that apply to the C-2 District.

Article IX. M-1 General Industrial District

§ 54.0 Purpose

The purpose of the M-1 General Industrial District is to provide for the establishment of industrial uses and associated administrative offices essential to the development of a balanced economic base and the creation of local job opportunities in an industrial environment. The M-1 General Industrial District is established to regulate such development so that it will not be detrimental or hazardous to the surrounding community and to the general health, safety and well-being of the Town of Seneca. The District is established to encourage the development of non-noxious, non-polluting industry. The following outlines regulations that apply to the M-1 District:

§ 55.0 Permitted Uses and Structures

All farm uses which are permitted in the Ag zoning district on a parcel within a County Ag district.

All other uses allowed in the M-1 District are subject to site plan review as specified in this Article.

§ 56.0 Accessory Uses

The following are the accessory uses, buildings and structures permitted in the M-1 District:

A. Detention and retention ponds;

B. Fences, walls and hedges subject to the provisions of Article X – Additional Requirements for Specified Uses;

C. Satellite television receiving antennas subject to the provisions of Article X – Additional Requirements for Specified Uses;

D. Signs subject to the provisions of Article XI – Requirements Applying to All Districts;

E. Temporary buildings for uses incidental to construction work, which buildings shall be removed within fourteen (14) days upon completion or abandonment of the construction work;

F. Utility buildings and facilities incidental to permitted uses and uses requiring site plan review or special permits;

G. Retail and services such as restaurants (no drive-thru), convenience stores, retail banks, savings and loans and credit unions provided such accessory use constitutes no more than ten (10) percent of the developed floor area of the project and such accessory uses shall be located, arranged and integrated within the development to serve primarily the shopping and service needs of employees and businesses in and near the Industrial District.

H. Other uses and structures that are customarily incidental and clearly subordinate to permitted uses or uses that require site plan review or special permits;

I. Minor solar collection systems.

§ 57.0 Permitted Uses Subject To Site Plan Review

The following uses are permitted subject to site plan review as outlined in Article XIII - Procedures:

A. Automatic and manual car washes;

B. Automotive related uses, subject to the Article X - Additional Requirements for Specified Uses, including:

(1) Vehicle Repair.

(2) Vehicle Sales Areas.

(3) Vehicle Service Station.

(4) Vehicle Storage.

(5) Vehicle Wrecking.

C. Corporate headquarters, regional headquarters and administrative offices. Local service offices such as real estate sales, insurance agencies, doctor's offices, or other offices typically found in commercial districts may only be included in a structure or integrated complex of at least twenty-five-thousand (25,000) square feet of gross floor area.

D. Manufacturing uses, high-tech or light industrial when conducted within an enclosed building.

~~E.~~ Mixed-use facilities developed according to an approved site plan.

F. Motels and hotels.

G. Recycling centers.

H. Research laboratories including testing facilities.

I. Sexually oriented businesses, subject to the Additional Requirements for Specified Uses in §94.0, including only adult arcade, adult cabaret, adult movie theater, accessory adult retail store, adult retail store and escort agency.

J. Site Fill that isn't part of a plan or construction activity approved by the Town;

K. Technical and vocational schools.

L. Warehouses.

M. Permanent or Portable Sawmills.

N. Food and meat processing facilities

O. Brewery or winery

P. Drinking Establishment

Q. Major solar collection systems or solar farms.

§ 58.0 Lot, Area and Yard Requirements

The following lot, area and yard requirements apply to M-1 District.

A. Lot Frontage Requirements

(1) Minimum Lot Frontage – one hundred (100) feet

B. Lot Area Requirements

(1) Minimum Lot Area – fifteen thousand (15,000) square feet

(2) Maximum Building Coverage – fifty (50) percent

(3) Maximum Lot Coverage – seventy-five (75) percent

C. Yard Requirements

(a) Minimum Front Yard Setback forty (40) feet

(b) Side Yard

(i) Minimum Side Yard Setback – fifteen (15) feet unless adjacent to a Residential District in which case the side yard shall be the same as the required side yard setback in the Residential District

(ii) Minimum Side Yard Setback – Detached Accessory– fifteen (15) feet

(c) Rear Yard

(i) Minimum Rear Yard Setback - Principal Use or Structure – fifteen (15) feet unless adjacent to a Residential District in which case the rear yard shall be the same as the required rear yard setback in the Residential District

(ii) Minimum Rear Yard Setback – Detached Accessory– fifteen (15) feet

§ 59.0 Bulk Requirements

The following requirements apply to buildings constructed in the M-1 District.

A. Building Heights

(1) Maximum Building Height – thirty five (35) feet

§ 60.0 Personal Wireless Telecommunications Facilities (PWTF)

Personal wireless telecommunication facilities in the M-1 District shall be regulated as outlined in Article X, Additional Requirements for Specified Uses.

§ 61.0 Additional Regulations

See Article XI– Requirements Applying to All Districts for additional regulations that apply to the M-1 District.

Article X. Additional Requirements for Specified Uses

§ 62.0 Purpose

The Additional Requirements for Specified Uses place restrictions on specific uses, both permitted and Special Permitted, because of the potential impacts on surrounding properties. These restrictions are applied to a project to mitigate impacts including noise, off-site parking, traffic and unsightliness, odors, dust and fumes. The regulations promote the public health and general safety and neighborhood character of the immediate neighborhood and the entire Town of Seneca community.

§ 63.0 Accessory Uses

Accessory uses shall be subject to the following requirements:

A. All detached accessory structures shall be set back behind the front line of the Principal structure.

B. No accessory use or structure may be allowed or constructed before the primary use or structure has been established and constructed.

§ 64.0 Animal Hospitals

Animal hospitals shall be subject to the following requirements:

A. All animal hospitals shall comply with the appropriate health regulations prior to the issuance of any permit.

B. All animal hospitals having outside runs or pastures shall be no closer than one hundred (100) feet from any residential lot boundary.

§ 65.0 Bed And Breakfast

Bed and breakfast shall be subject to the following requirements:

A. No alteration to either the exterior or the interior of any principal or accessory structure shall be made which changes the character and appearance of the residential premises.

B. Only rooms designed as bedrooms shall be used for guest lodging.

C. Guest parking shall include one (1) off-street parking space for each bedroom and shall be buffered from adjacent residential lots by planting or screening as per zoning regulation.

D. The building proposed for occupancy as a bed-and-breakfast shall comply with the New York State Uniform Fire Prevention and Building Code, as well as any subsequent updates.

E. No sign, other than one externally lit sign not more than four (4) square feet in area, shall be permitted.

§ 66.0 Butcher/Meat Shops

Butcher/meat shops shall be subject to the following requirements:

A. All butcher/meat shops shall comply with the appropriate NYS Department of Health and Department of Agriculture regulations prior to the issuance of any permit.

B. All operations shall be performed within an enclosed principal building on the premises.

C. A butcher/meat shops shall be no closer than two hundred (200) feet from any residential lot boundary.

D. Sufficient screening shall be provided along all public right-of-ways and lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations and stored material and equipment from all points when viewed from ground level.

E. All permanent storage of material, merchandise and equipment shall be within the principal building, with the exception of refuse and trash, which shall be stored in closed containers and in an area screened from view at all points on any public or private property or street when viewed from ground level.

§ 67.0 Camping Grounds

Camping grounds shall be subject to the following requirements:

A. No site preparation or construction shall commence nor shall existing structures be occupied until final Site Plan Approval has been granted and permits have been issued by all governmental agencies involved.

B. No permanent external appurtenances such as carports, cabanas or patios may be attached to any travel trailer or other vehicular accommodation parked in a camping ground, and the removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.

C. The minimum site area for a camping ground is ten (10) acres.

D. No more than a total of ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.

E. A camping ground shall be so located that no entrance or exit from a site shall discharge traffic into any Residential District nor require movement of traffic from the camping ground through a Residential District.

F. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or safety and health of the occupants.

G. Uses and structures customarily incidental to the operation of camping grounds, such as headquarters, toilets, dumping stations and showers are permitted as accessory uses to the camping grounds.

H. Convenience establishments shall be permitted as accessory uses in camping grounds in such districts where they are not allowed as principal uses, subject to the following restrictions:

(1) Such establishments and the parking area primarily related to their operations shall not occupy more than 5% of the gross area of the camping ground.

(2) Such establishments shall be restricted in their use to occupants of the camping ground.

(3) Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character, which would attract customers other than occupants of the camping ground.

I. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Departments of Health and/or Environmental Conservation, and shall receive approval from said agencies.

J. Streets in camping grounds shall be private, but shall be constructed with a stabilized travel-way and shall meet the following minimum stabilized travelway width requirements:

(1) One-way, no parking: 12 feet.

(2) One-way with parking on one side, or two-way with no parking: 18 feet.

(3) Two-way with parking on one side: 27 feet.

(4) Two-way with parking on both sides: 34 feet.

K. Each trailer site shall be at least 2,500 square feet in area and have a minimum width of 40 feet.

L. A minimum of 10% of the gross site area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area or utility site shall be counted as meeting recreational purposes.

M. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached.

N. In connection with the use of any camping ground, no parking, loading or maneuvering incidental to parking or loading shall be permitted on any public street, sidewalk or required buffer or right-of-way, or any public grounds or on any private grounds not part of the camping ground, unless the owner has given written permission for such use. Each camping ground shall provide off-street parking, loading and maneuvering space, located and scaled so that the prohibitions above may be observed, and camping ground owners shall be responsible for violations of these requirements.

O. An adequate lighting system shall be provided for the camping ground.

P. All utilities shall be underground.

Q. Garbage and rubbish shall be collected and disposed of as often as may be necessary to ensure sanitary conditions.

R. All applicable sanitation standards of the State of New York shall be met.

S. No camp structure, except fences, gates and permitted signs shall be located within three hundred (300) feet of any street or property line.

§ 68.0 Car Washes

Car washes shall be subject to the following requirements:

A. All washing and machine-dry operations shall be conducted within a building.

B. The building exit for automobiles that have completed the washing and machine-drying process shall be set back a minimum of fifty (50) feet from the nearest point of any street property line.

C. No washing, vacuuming, steam cleaning, waxing, polishing or machine-drying operation, and no building within which such operations are conducted, shall be permitted within one hundred (100) feet of a Residential District.

D. All lot lines abutting or adjacent to Residential Districts or uses shall be screened by a solid masonry wall or fence not less than four (4) feet nor more than six (6) feet in height.

E. Perimeter landscaped open space shall be provided in the front yard.

F. All entrance and exit lanes and parking areas shall be surfaced with an asphalt or portland cement binder pavement so as to provide a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation.

G. Queuing lane(s) for each bay shall be provided subject to the Requirements Applying to All Districts in Article XII.

§ 69.0 Day Care Centers

Day care centers shall be subject to the following requirements:

A. Every application for a day-care center shall set forth each agency which must approve the establishment or operation of the center, shall be accompanied by a copy of an application or other request to each such agency for such approval, shall set forth the status of each such application, and shall state any facts known to the applicant which may result in the denial or delay of any required approval which has not been obtained as of the time of the filing of the application for a Special Permit.

B. No permanently installed play equipment shall be located in the required front yards.

§ 70.0 Excavation Operations

Excavation operations shall be subject to the following requirements:

A. Excavation operations may be permitted as Special Permit Uses in the A-G Agricultural, C-1 Mixed Use, C-2 Community Commercial, or M-1 General Industrial District upon the approval by the Zoning Board of Appeals.

B. No site preparation or construction shall commence nor shall existing structures be occupied until final Site Plan Approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved. A copy of the reclamation plan shall be submitted as part of the site plan.

C. The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.

D. The minimum lot area for any such use shall be ten (10) acres.

E. All buildings and excavation operations shall be located or shall occur not less than 100 feet from any street or property line. The setback area shall not be used for any use in conjunction with the excavation and appurtenant activities except for one public notice sign identifying the use of the property, fencing, berms, buffers, access roads and parking.

F. All equipment used for excavations and processing shall be constructed, maintained and operated in such a manner as to eliminate as far as is practicable noises and vibrations, and dust conditions which are injurious or a nuisance to persons living in the vicinity.

G. All operations shall be conducted between the hours of 7:00 AM and 6:00 PM with no Sunday or holiday operations, and except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

H. All land that has been excavated must be rehabilitated in accordance with reclamation plans approved by the Planning Board as part of the site development plan review and approval process. Whenever possible, the Planning Board will encourage excavation operators to reclaim areas on an ongoing basis as part of the excavation operation. All reclamation shall be completed within one year after the termination of operations, at the expense of the operator. A licensed engineer shall prepare the reclamation plan.

I. A performance bond or some other financial guarantee shall be require to assure that the conditions stipulated in the approval of the Special Permit are carried out.

J. All access roads shall be constructed to screen, as much as feasible, excavation and appurtenant activities from public view. The junction of the access and the public road must be at an angle of not more than 10 degrees deviation from a right angle, or ninety degrees. Fencing shall be provided on all sides of the excavation area. The fencing shall be at least six feet in height and of a type approved by the Planning Board.

K. Existing hills, trees and ground cover fronting along public roads or adjacent property shall be preserved, maintained and supplemented by selective cutting, transplanting and addition of new trees, shrubs and other ground cover for the purpose of screening and noise reduction.

L. Lateral support shall be sufficient to prevent the hazard or damage to persons, adjacent properties and public roads by reason of slides, sinking or collapse.

M. Operations shall not be detrimental to adjacent property nor unduly interfere with the quiet enjoyment of adjacent property.

N. An adequate and comprehensive drainage system shall be provided to convey the storm water runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total watershed area. No excavation shall be allowed within 50 feet of a natural watercourse as defined in Appendix 75A of the New York State Department of Health Regulations.

O. The applicant shall include a plan for the control of soil erosion and excessive ground water seepage upon public roads, streams or adjacent properties. The Town Planning Board shall determine whether or not the controls are adequate and in force prior to approval of the original or renewed permit.

P. All applications for a permit under this section must contain an operations plan in sufficient detail to describe the excavation operation, including active excavation and storage areas.

Q. Prior to taking action on any proposal for a permit under this section the Planning Board shall request and receive a written report on the adequacy and/or appropriateness of the proposed excavation.

R. A quarry for the removal of stone in bulk without crushing, a sand or gravel pit and topsoil removal may be authorized by the Zoning Board of Appeals, with appropriate approvals from the NYS Department of Environmental Conservation, provided that:

(1) No excavation, blasting or stock piling of materials shall be located within three hundred (300) feet of any public road, property line or any creek.

(2) No power-activated sorting machinery or equipment shall be located within six hundred (600) feet of any public road or other property line and all such machinery shall be equipped with satisfactory dust elimination devices.

(3) All excavation slopes in excess of 1:2 shall be adequately fenced as determined by the Zoning/Code Enforcement Officer.

(4) Extension of an existing nonconforming operation shall not be permitted.

(5) The applicant shall submit a copy of the reclamation plan as approved by the NYS Department of Environmental Conservation.

§ 71.0 Home Business

Home businesses shall be subject to the following requirements:

A. No more than one (1) home business shall be permitted per parcel.

B. Home businesses shall be allowed only on parcels with an owner occupied single-family residence.

C. A home business may be contained in either the dwelling unit or an accessory building and allow for outdoor display of finished product.

(1) In a dwelling unit, the home business may not occupy more than 25% of the dwelling unit, or 1,000 square feet, whichever is less.

(2) Where a home business is conducted in an accessory building, only one (1) accessory building is permitted.

(3) Accessory buildings constructed for a home business shall not exceed 2,500 square feet in total aggregate size.

(4) Where a home business utilizes outdoor finished product display, such display shall be limited to less than 2,000 square feet in total aggregate display, and shall not be located in front of the residential structure.

(5) All work performed for the home business shall be conducted totally within the dwelling unit or accessory structure.

D. Home businesses shall be limited to a maximum of 3 non-resident employees.

E. All storage related to a home business shall be wholly contained within permanent buildings.

F. Home businesses may include only those uses permitted or specially permitted within the zoning district in which the property is situated, except that the following uses are prohibited as a home business:

(1) Automotive related uses involving cars, trucks, motorcycles, boats, or any other motor vehicle normally licensed and intended for use upon the highway including, but not limited to,

(i) Vehicle sales

(ii) Vehicle repair and/or inspection

(iii) Vehicle service station

(iv) Vehicle storage

(v) Vehicle wrecking and/or dismantling

(vi) Vehicle painting and/or body repair

G. The home business shall not emit or discharge odorous, toxic, or noxious vapors, heat, glare, smoke, dust, or effluent across any lot line.

H. No vehicle trips generated by the home business shall be permitted between 9:00 p.m and 7:00 a.m.

I. All home businesses shall require a Town-issued operating permit and be subject to

routine fire safety inspections conducted by the Town Code Enforcement Officer as outlined in local or State law.

J. Where the home business includes a specially permitted use, all provisions of Article XI. Additional Requirements for Specified Uses and Article XII. Requirements Applying to All Districts apply.

§ 72.0 Home Occupations, Low Intensity

Home occupations shall be subject to the following requirements:

A. No more than fifteen (15) percent or three hundred fifty (350) square feet of the floor area of the dwelling unit, whichever is less, shall be devoted to the home occupation. This requirement shall not apply to family day care homes.

B. No stock-in-trade shall be displayed or sold on the premises.

C. There shall be no outdoor storage of commercial vehicles, equipment or materials used in the home occupation.

D. Not more than one (1) vehicle used in commerce shall be permitted in connection with any home occupation.

E. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.

F. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.

G. No sign shall be allowed in the R-1 District.

H. In all other Districts, one (1) unlighted sign, not over two (2) square foot in area attached flat against the dwelling and displaying only the occupant's name and occupation, shall advertise the presence or conduct of the home occupation.

I. Instruction for no more than five (5) attendees shall be allowed.

§ 73.0 Home Occupations, High Intensity

High intensity home occupations shall be subject to the following requirements:

A. No more than twenty-five (25) percent or four hundred fifty (450) square feet of the floor area of the dwelling unit, whichever is less, shall be devoted to the home occupation. This requirement shall not apply to family day care homes.

B. No more than one thousand (1,000) square feet of any lot may be used for storage of equipment and materials used in the home occupation.

C. All outdoor storage equipment or materials used in the home occupation, shall be screened in accordance with §110.0 Landscaping, Buffers and Screening.

D. Not more than two (2) vehicles used in commerce shall be permitted in connection with any home occupation. This shall not include merchandise for sale as part of the home occupation.

E. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.

F. No home occupation shall be permitted which is noxious, offensive or hazardous by reason of hours of operation, vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emissions.

G. No sign, other than one (1) externally lit sign not over eight (8) square foot in area and displaying only the occupant's name and occupation, shall advertise the presence or conduct of the home occupation.

H. Instruction for no more than five (5) attendees shall be allowed.

I. Outdoor display area(s) are not allowed.

§ 74.0 Horses and Livestock

Horses and livestock, kept on property for personal use and not associated with farm operation, are permitted in provided that there is compliance with the following standards and conditions:

A. No such accessory use shall be permitted on lots having less than two (2) acres of land.

B. The number of horses and livestock permitted on each lot shall not exceed the following: two (2) horses or livestock (in any aggregate combination) for the first two (2) acres of lot area plus one (1) additional horse or livestock for each additional acre of lot area.

C. Not more than two (2) horses or livestock boarded shall be owned by or for the use or benefit of persons other than those who are resident occupants of said lot.

D. The resident occupants of the lot shall, upon written request of the Zoning/Code Enforcement Officer, produce a sworn affidavit or other reasonable evidence of said ownership of every horse or livestock boarded or kept on said property.

E. All grain-type feed shall be kept in rodent proof metal containers.

F. No manure shall be stored or permitted to accumulate within one hundred (100) feet from any boundary line or within twenty-five (25) feet from a dwelling on the same lot, or within one hundred twenty five (125) feet from a dwelling on any adjacent lot.

G. The Zoning/Code Enforcement Officer shall approve the location for the storage area for manure and it shall be stored, treated and disposed of in such a manner so that it shall not create any odor or attract or harbor any rodents, flies or other insects.

H. The stables, barns, sheds or accessory buildings or structures used in connection with or for sheltering horses or livestock pursuant to this section shall not exceed those reasonably necessary to accommodate permitted horses and livestock and shall not be located nearer to the street line than the rear line of the principal dwelling.

I. The maintenance of the structures and hygienic conditions connected with the accessory use here permitted shall be under the supervision of the Town and New York State, to the extent necessary.

J. If the conditions are found to be dangerous to the health, safety and welfare of humans or animals, or if any of the requirements of this Law are not complied with by the resident occupants, the accessory use here permitted shall, upon order of the Zoning/Code Enforcement Officer, be discontinued until such time as the conditions complained of are remedied to the satisfaction of the Zoning/Code Enforcement Officer.

§ 75.0 Hotels and Motels

Hotels or motels, where allowed under this Law, shall conform to the following requirements:

A. No rental structure or part thereof shall be placed closer to any street or road line than one hundred (100) feet.

B. No rental structure or part thereof shall be placed closer to any other property line than fifty (50) feet.

C. No rental structure or part thereof shall be placed closer to any other Residential District boundary than two hundred (200) feet.

§ 76.0 Junk Vehicles

Junk vehicles shall be subject to the following regulations:

A. Junk vehicles shall be stored within a completely enclosed building or shall be surrounded by a solid stable fence or wall designed to be completely opaque.

B. A maximum of one (1) junk vehicle may be maintained outdoors if surrounded by a solid stable fence or wall.

C. More than one (1) junk vehicle stored outdoors, even if surrounded by a solid stable fence or wall, will constitute a junkyard and shall be prohibited.

D. Sustained progress in restoring a junk automobile to operational condition shall be allowed under the following conditions and said vehicle shall not constitute a junk vehicle:

(1) A maximum of one restoration per any single parcel.

(2) The entire restoration shall take a reasonable time to accomplish.

(3) Such vehicles shall be located so as to create the least nuisance possible.

(4) Noise associated with the restoration shall be limited to reasonable hours.

(5) Restoration shall be for personal use only, and not for profit.

§ 77.0 Junkyards or Salvage Yards

No new junkyards shall be allowed within the Town of Seneca.

Existing junkyards shall conform to the following requirements. Any junkyard within the Town shall be conducted within the confines of a completely enclosed building, shall be completely screened from the public right-of-way or within the confines of a tight-board fence at least six feet in height and set back from the center line of the road on which it adjoins or abuts at least one hundred fifty (150) feet. The enclosure setback shall also be at least fifty (50) feet from any adjoining property line. The following rules apply to all junkyards, as defined in this Law, in the Town of Seneca:

A. An application for an annual license or the renewal shall be filed with the Town Clerk and shall be accompanied by initial application and renewal fees as set from time to time by resolution of the Town Board.

B. The application for a license or license renewal shall be made on printed forms furnished by the Town of Seneca and shall include the name and address of the owner in fee of the tract (if the fee is vested in some person other than the applicant, a duly verified statement by that person that the applicant is authorized by him to maintain and operate the junkyard and make the application). Each license or renewal shall expire on the 31st day of December following the issuance.

C. Before a junkyard license shall be issued, there must be a favorable recommendation by a majority of the Town Board of the Town of Seneca, and the premises must be inspected by each of the members of the Town Board, or their duly authorized representatives, and certified by them as complying with all of the provisions of this Law and all other applicable ordinances of the Town of Seneca.

D. Any applicant for a junkyard permit shall state that he, as agent or owner, shall be responsible for the proper maintenance and upkeep of the proposed junkyard and shall further submit the following information:

(1) Boundaries of plot and areas;

(2) Drawings of entrances, exits and walkways;

(3) Location of junkyard site or lot;

(4) Name and address of owner and/or operator.

E. The Town Board, or any other duly authorized agent or employee of said Town, shall have the right at any reasonable time to enter any junkyard or other premises used for junkyard operations to inspect the same for the purposes of determining whether the requirements of this Law are continuing to be met by the owner or operator of said junkyard. If upon inspection it shall be found that the permit holder has violated any provisions of this Law, the Town Board shall have the power to revoke or suspend any license and order the cessation of junkyard operations upon the premises, after notice and proper hearing.

F. No curb cuts or driveways shall be located within one hundred fifty (150) feet of any Residential District boundary line.

G. In the event that a protest is presented to the Zoning/Code Enforcement Officer no later than twenty-four (24) hours before the Zoning Board of Appeals is scheduled to consider the Special Permit, which protest is duly signed and acknowledged by the owners of twenty (20) percent or more of the total of all properties located in Residential Districts within one thousand (1,000) feet of the subject property and in Commercial Districts within five hundred (500) feet of the subject property, a Special Permit shall not be approved except by a three-fourths vote of the Zoning Board of Appeals.

§ 78.0 Kennels

A. No site preparation or construction shall commence nor shall existing structures be occupied until final Site Plan Approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.

B. Buildings housing animals within kennels shall not be closer than one hundred (100) feet to any lot line.

C. All animals shall be housed within an enclosed building and be provided with fenced outdoor areas for exercise purposes only.

D. No outdoor area enclosed by fences for the use of animals shall be permitted within the front yard. Fenced areas shall not be closer than one hundred (100) feet of any side or rear property line.

E. Specific plans shall be provided for the proper treatment or removal of all animal waste.

F. Specific plans shall be provided for the handling of all deceased animals.

G. There shall be no more than 10 animals allowed to be housed or boarded on a lot or in a building at any one time.

H. The Town Planning Board may refer any site plan proposed for a new operation or modification to an existing operation to the United States Department of Agriculture, New York State Agriculture and Markets, and Ontario County Humane Society for review and comment.

§ 79.0 Manufactured Homes

The following shall apply in addition to all other regulations of the Town.

A. Manufactured homes shall be allowed in any district where single family homes are allowed only on a single building lot as a permanent single-family dwelling and in manufactured home communities if the following conditions are met:

(1) The minimum building width shall be twenty four (24) feet.

(2) The minimum roof pitch shall be 4:12.

(3) Hitches and running gear must be removed.

(4) The structure must be provided with stabilizing devices and other supports to prevent overturning due to wind and roof load.

B. When manufactured housing is proposed as a single-family dwelling, the perimeter enclosure between the base of home and top of perimeter foundation shall be of poured cement, concrete masonry unit construction, or permanent studded wall foundation covered with masonry product.

C. When a manufactured home is proposed to be used for on-farm labor housing , said manufactured home is to be occupied by an employee of the owner of the lot on which said manufactured home occupies and that said employee is primarily engaged in the occupation of farming and derives at least 50% of his/her income from such occupation. Prior to placement of said manufactured home on a lot, the owner shall obtain a temporary permit valid for a three (3) year period, which is renewable for three (3) year periods. On-farm labor housing is not subject to the requirements in A.1 and A.3. of this section.

D. The Zoning/Code Enforcement Officer may issue a temporary permit for a manufactured home when said manufactured home is to be used as an interim dwelling during construction of a permanent residence or in the event that a permanent residence has been damaged or destroyed by fire or other similar hardship conditions. Said manufactured home shall be removed within twelve (12) months from the date of issuance of the temporary permit. A single extension, up to twelve (12) months, may be granted by the Zoning Board of Appeals. Such temporary manufactured home is not subject to the requirements in A.1. and A.3. of this section.

E. All manufactured homes used as offices or referred to as "mobile offices" shall be prohibited in the Town of Seneca. This shall not include construction field offices required on site for specific projects completed in the Town of Seneca. These field offices, however, shall be removed from the construction site within seven (7) days of project completion.

§ 80.0 Manufactured home Parks

The following shall apply in addition to all other regulations of the Town of Seneca regarding manufactured home parks:

A. It is unlawful within the Town of Seneca for any person or persons to construct or operate a manufactured home park without first securing the required permits and approvals from the Town of Seneca and complying with the regulations of this Law.

B. Any applicant for a manufactured home park license shall state that as agent or owner, shall be responsible for the proper maintenance and upkeep of the proposed park and shall furnish the following information:

(1) Boundaries of plot area;

(2) Entrances, exits and walkways;

(3) Trailer sites or lots;

(4) Method and plan of sewage disposal;

(5) Method and plan of garbage disposal;

(6) Water supply;

(7) Electric lighting;

(8) Owners' and operators' name and address.

C. The park plan shall include the following:

(1) A manufactured home park shall have an area of not less than ten (10) acres.

(2) No manufactured home lot or related office or service building shall be closer to a street, road or other property line than one hundred (100) feet.

(3) No manufactured home or trailer lot, office or service building shall be closer to any street or road line than one hundred (100) feet or closer to any other property line than fifty (50) feet.

D. Wherever located, a manufactured home park shall conform to the following additional requirements:

(1) The park shall be located on a well-drained site suitable for the purpose, with an adequate entrance road at least twenty (20) feet wide.

(2) Individual manufactured home lots shall have an area of not less than twelve thousand (12,000) square feet with a minimum lot frontage of eighty (80) feet and a minimum depth of one hundred (100) feet.

(3) Margins alongside of the rear property line shall be densely planted with trees and shrubs for a depth of not less than twenty-five (25) feet.

(4) Each manufactured home shall have an entrance platform to conform with the overall plan.

(5) Each manufactured home park shall provide sanitary services and conveniences including water supply, sewage disposal, lighting, garbage disposal and incinerator, according to the regulations in this Article.

(6) Each manufactured home park shall include a minimum of twenty (20) percent open space; this shall include common areas, parks, playgrounds and other amenities that can be used by the residents of the park.

E. A sufficient supply of water obtained from the Town of Seneca water system or a private water system approved by the NYS Department of Health shall be provided to each manufactured home.

F. Waste from showers, toilets and laundries shall be connected to a waste water system in a manner approved by the Town and New York State. All kitchen sinks, washbasins, lavatories, bath and showers in the manufactured home located in any manufactured home park shall empty into a system approved by the Town and State.

§ 81.0 Manure Storage Facility

The Town of Seneca recognizes that many farm operations produce animal waste that, as a necessity, must be stored short or long term in a Manure Storage Facility such as a lagoon or tank. Soils within much of the town are permeable in nature. Due to the nature of the soils within the Town it is important for proper planning and construction of farm related Manure Storage Facilities to ensure the continued protection of ground water resources within the Town.

A. Definitions.

1. Manure Storage Facility – Non-CAFO: Any farm related, on ground, above ground, or in-ground manure storage facility which is intended for long term manure storage and not regulated by NYS DEC, Division of Ag and Markets, or USDA as a confined animal feeding operation(CAFO).

B. Regulations for Manure Storage Facility – Non-CAFO.

1. Manure Storage Facilities shall be allowed only on a viable farm or agricultural operation as defined by NYS Department of Ag and Markets Law.
2. Manure Storage Facilities shall obtain a building permit prior to being constructed and operated. Design plans shall be submitted with every building permit application for a farm related Manure Storage Facility. All plans for farm related Manure Storage Facilities shall be designed by and stamped with the seal of a New York State licensed design professional.

C. Site Requirements

All manure storage facilities shall be installed, operated and maintained pursuant to the following conditions:

1. Manure storage facilities shall be placed a minimum of 100ft from a road right-of-way, but shall not be set closer to the right-of-way than the nearest permanent structure being served.
2. Manure storage facilities shall be placed a minimum of 30ft from a side or rear property line. Manure storage facilities shall be placed a minimum of 100ft from an existing occupied residential or non agricultural building.
3. Unlined manure storage facilities shall be placed a minimum of 300ft from any existing well, watercourse, or water body.
4. Lined manure storage facilities shall be placed a minimum of 100ft from any existing well, watercourse, or water body.

D. Permit Application Requirements

All applications for manure storage facilities shall comply with following.

1. A completed permit application shall be submitted to the Zoning Office.
2. A site map shall be provided at the time of application which shows the location of the proposed manure storage facility and distances to all buildings, property lines, water courses, water bodies, wetlands and existing wells.
3. A peer review meeting with the Town Agricultural Committee will be scheduled and held within 30days of the time of application to provide guidance for the applicant with

respect to sound agricultural practices. Upon completion of a peer review meeting a permit shall be issued so long as all required setbacks are met.

§ 82.0 Mixed Use Development

A. Mixed Use Development in Single Structures

Different categories of use may occupy the same building. Such mixed use buildings shall only include uses which are specifically listed as permitted or specially permitted within the District in which the structure is located. Site plan review is required. All other regulations within this law apply.

B. Mixed Use Development in Multiple Buildings

1. Different categories of use may occupy single or multiple buildings. Such mixed use buildings shall only include uses which are specifically listed as permitted or specially permitted within the District in which the structure is located. Site plan review is required. All other regulations within this law apply.

2. The purpose of allowing Mixed Use Development in multiple buildings is to provide the opportunity for flexible development of permitted commercial and/or residential uses in multiple buildings on a single lot of land that:

   a. Implements the purposes of the Town of Seneca Comprehensive Plan, Zoning Law, and other studies and plans prepared by the Town;

   b. Promotes the compatibility of commercial developments within the commercial district and surrounding properties by coordinating building placement, orientation, scale, bulk, parking, signage, landscaping, streetscape, pedestrian facilities, and historical features;

   c. Encourages creative opportunities which support and retain existing businesses in the community, and;

   d. Preserves and enhances desirable site characteristics, such as open space, agricultural resources, natural topography, vegetation and geologic features and the prevention of soil erosion.

2. Approval Criteria:

   a. The proposed development satisfies the purpose statement outlined in this section.

   b. The proposed buildings will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.

   c. That the proposed building(s) or use(s) complies with all applicable regulations of this Law except as modified pursuant to the authority of this Section.

   d. That the proposed development will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations.

e. That the proposed development will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

f. That the proposed development will not result in the destruction, loss or damage of any natural, agricultural, scenic or historic feature of significant importance to the community.

3. Additional Requirements:

a. All owners of the tract shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any tract shall be deemed a violation as to all owners and all tracts.

b. The minimum lot size shall be 10 acres.

c. Applications for special use permits shall be completed as outlined on forms provided by the Town. In addition, applications shall provide the following:

1. The location of specific land uses and buildings, vehicular and pedestrian circulation systems, extent of public and private open space, extent of utility systems, residential and non-residential structures;

2. Proposed Phasing Plan for the Project.

3. The overall maximum density of residential uses and intensity of nonresidential uses;

4. The existing and proposed ownership and management of the unit development, including the buildings, landscaped areas and open spaces.

4. Development Standards

a. No use shall be allowed except those permitted or permissible in the district in which such development is to be located.

b. No permit for such development will authorize any increase in the overall density or intensity of development nor any increase in the overall lot coverage permitted by the district regulations applicable in the district in which such development is to be located. All land devoted to private street purposes shall be excluded from density, intensity and lot coverage calculations.

c. All applications for development shall follow the site plan review procedures approved by the Town. Additionally, the applicant shall:

1) Initial Conference. Before submitting an application for development, the applicant shall schedule an appointment and meet with the Code Enforcement/Zoning Officer to discuss the procedure for approval, including submittal requirements and design standards.

2) Existing Conditions Inventory. After the initial conference, the applicant shall submit to the Town an Existing Conditions Inventory which is a series of maps and descriptive information as described below. Mapping for the initial application can be done in any combination of features as long as the individual map components can be distinguished and the relationship between map components can be determined.

a. Topographic contours at 2-foot intervals.
b. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems.
c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetland areas, natural swales, drainage ways, and steep slopes.
d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-along trees with a caliper of more than 24 inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation.
e. Current and past land use, all buildings and structures on the land, cultivated areas, paved areas, and all encumbrances, such as easements or covenants.
f. Known critical habitat areas for rare, threatened or endangered plants and species.
g. Description of any known past or present waste sites, on-site hazardous waste practices or conditions, and history of waste disposal practices. Also describe if the property or any part thereof has been or is included in the NYS Department of Environmental Conservation Hazardous Waste Disposal Site Program.
h. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
i. Unique geological resources, such as rock outcrops and glacial features.
j. Cultural resources: Brief description of historic character of buildings and structures, historically important landscapes, and archeological features. This includes a review of the National Historic Register, State Historic Register, Local reports, and the Cultural Resources Inventory prepared by the Town. Proposals for development involving or affecting historic and cultural resources must show measures planned to protect or enhance these features.

3) The applicant will use the Existing Conditions Inventory to develop a preliminary plan for review by the Planning Board. The Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are the most important to preserve.

4) No land shall be developed that is identified as being environmentally sensitive. Areas identified as being environmentally sensitive include, but are not limited to:

a. All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), or as determined by another public entity.

b. All wetland areas determined by the New York State Department of Environmental Conservation, United States Army Corps of Engineers, and other public entities.
c. Areas that are known to provide habitat for rare, threatened or endangered species.
d. Areas within 100 feet of a stream or waterway.
e. Areas with slopes greater than 25%.
f. Archaeological sites considered significant by the New York State Historic Preservation Office.

5) Development on Prime Agricultural Lands. Development of land containing prime agricultural soils is discouraged. The applicant shall provide the Planning Board with a plan showing proposed mitigation measures to avoid or limit impact to prime agricultural lands.
6) Open space requirement. The applicant must provide a concept and management plan showing 50% of the property as permanent open space. Open space areas need to be contiguous. Where open space involves viable agricultural resources, preservation of large tracts of agricultural land shall be a priority. Roads, building site and building infrastructure are not included in the 50%. Under no circumstances shall the lot coverage exceed 50%.

§ 83.0 Personal Wireless Telecommunication Facilities (PWTF)

The purpose of this Section is to provide sound land use policies, procedures and regulations for personal wireless telecommunications facilities. These will protect the Town from the visual or other adverse impacts of these facilities, while encouraging unobtrusive development that ensures comprehensive wireless telecommunications services. The standards reflect a policy that expresses a preference that antennas be located on existing buildings and towers rather than on newly constructed towers.

The regulations of this Section shall govern and control the erection, enlargement, expansion, alteration, operation, maintenance, relocation and removal of all personal wireless communication facilities. The regulations of this section relate to the location and design of these facilities and shall be in addition to the provisions of the any other federal, state or local laws or Federal Communication Commission (FCC) regulations pertaining to such facilities.

A. District Standards

(1) Residential Districts

(a) **Antennas on buildings** - Antennas on buildings are permitted on all buildings which are four (4) stories or greater in height, provided that the antennas and related support structures do not extend more than twenty (20) feet above the roofline.

(b) **Antennas on existing towers** - Antennas on existing telecommunications towers or other structures shall require a Special Permit unless otherwise allowed by the terms of a prior Special Permit.

(c) **Telecommunications towers** - Telecommunications towers shall not be permitted in Residential Districts.

(2) Agricultural and Commercial Districts

(a) **Antennas on buildings** - Antennas on buildings are permitted on all buildings which are four (4) stories or greater in height, provided that the antennas and related support structures do not extend more than twenty (20) feet above the roofline.

(b) **Antennas on existing towers** - Antennas on existing telecommunications towers or other structures shall require a Special Permit unless otherwise allowed by the terms of a prior Special Permit.

(c) **Telecommunications towers** - Telecommunications towers shall require a Special Permit and shall be subject to the additional design standards set forth in this Section.

(3) M-1 District

(a) **Antennas on buildings** - Antennas on buildings are permitted on all buildings provided that the height above grade does not exceed one hundred (100) feet, and provided that antennas and related support structures that extend more than twenty (20) feet above a roof are

set back at least one hundred (100) feet from the nearest Residential District.

(b) **Antennas on existing towers** - Antennas on existing telecommunications towers or other structures are permitted unless otherwise restricted pursuant to the terms of a prior Special Permit.

(c) **Telecommunications towers** - Telecommunications towers are permitted provided that the height of the tower does not exceed one hundred (100) feet, and provided that the tower is located at least one hundred (100) feet from the nearest Residential District.

B. Design Standards

The following design standards shall apply to antennas and telecommunications towers installed or constructed pursuant to the terms of this Law:

(1) **Co-location** - Telecommunications towers shall be designed to provide for co-location by four (4) providers or designed so that they can be retrofitted to accommodate four (4) providers.

(2) **Fencing** - The base area of a tower shall be enclosed with a fence not less than six (6) feet in height. The following conditions shall apply to all fencing:

(a) Horizontal openings between pickets shall not exceed four (4) inches.

(b) Where a chain-link fence is provided, the openings between links shall not exceed 2 3/8 inches.

(3) **Landscaping** - Landscaping shall be provided along the perimeter of the tower base area to provide a visual screen or buffer for adjoining private properties and the public right-of-way. Required front yard setback areas shall be landscaped. Compensatory site improvements may be provided in lieu of base area landscaping at the discretion of the Planning Board.

(4) **Signs** - Signs shall not be permitted on towers except for signs displaying owner contact information and safety instructions. Such signs shall not exceed five square feet in surface area.

(5) **Color** - Towers shall either be gray in color, have a galvanized finish or be colored appropriate to the tower's locational context to the extent that the tower is as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).

(6) **Access** - Access to tower or monopole areas shall be from established site access points whenever possible.

(7) **Dish Antennas** - Dish antennas shall be colored, camouflaged or screened to the extent that they are as unobtrusive as possible, and in no case shall the diameter of a dish antenna exceed six (6) feet.

(8) **FAA Standards.** Antennas and support structures required to be lighted and painted other than gray or a galvanized finish by FAA regulations shall be allowed only upon the issuance of a Special Permit subject to the additional standards set forth in this Section.

(9) **Accessory Equipment** - Accessory equipment may be located within an existing building, or in newly constructed buildings and structures when limited to four-hundred (400) square feet in floor area.

C. Bulk, Space and Yard Requirements

(1) **Height**

Except as otherwise restricted by this Section, antennas located on buildings and other structures and towers shall be subject to the applicable district regulations pertaining to height.

(2) Setback

(a) Setback requirements for towers and accessory buildings and structures shall be a minimum distance equal to the height of the tower.

(b) Street yard setback areas shall be landscaped and used for no other purposes.

D. Additional Requirements and Standards

(1) Personal Wireless Telecommunications Facilities Application

(a) Each application for a personal wireless telecommunications facility shall be accompanied by a plan which shall reference all existing personal wireless telecommunications facility locations, any such facilities in the abutting Towns which provide service to areas within the Town of Seneca and any changes proposed within the following twelve-month period, including plans for new locations and the discontinuance or relocation of existing wireless facilities.

(b) Special Permit applications required by this Section shall be accompanied by an updated annual plan.

(2) Special Permit Applications

All PWTF applications in the Town of Seneca shall require a Special Permit.

(a) In reviewing Special Permit applications required by this Section, the Zoning Board of Appeals shall consider the Town's policy preferring that antennas are located on existing buildings, towers and other structures, rather than on newly constructed towers. When considering appropriate height in conjunction with such applications, the Zoning Board of Appeals shall be more permissive when a facility is proposed for co-location by more than one service provider and less permissive when the facility is proposed for use by a single provider.

(b) In approving a Special Permit required pursuant to this Section, the Zoning Board of Appeals may waive any of the height, distance separation, setback and design standards of this Section when it finds that doing so will have no detrimental impact on adjacent properties or on the public health, safety and welfare and that such waiver is in keeping with the purpose of this section and with the Town's policy on personal wireless communications facilities.

(2) **Discontinuance of Use**

If the use of any facility is discontinued, the provider shall notify the Town of Seneca within ninety (90) days of such discontinuance. If the facility will be retained, the provider shall establish that the facility will be reused, and all necessary approvals obtained, within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility removed. At the discretion of the Zoning/Code Enforcement Officer, upon good cause shown, the one-year period for removal may be extended for a period not to exceed one additional year.

E. Exceptions and Explanatory Notes

(1) Personal wireless telecommunications facilities may be repaired or maintained without restriction.

(2) Antennas may be replaced in kind without restriction.

(3) Other structures as referenced in this Section include freestanding structures as well as structures attached to or located on buildings, such as antenna support structures, church spires, belfries, cupolas, domes, monuments, water towers, observation towers, windmills, solar energy collectors and equipment used for the monitoring or operation of such collectors, chimneys, smokestacks, flagpoles, masts and similar structures.

§ 84.0 Private Airfields, Landing Strips

Private Airfields, Landing Strips shall be subject to the following requirements:

A. Private Airfields and Landing Strips may be permitted as Special Permit Uses in the AG Agricultural Zone District upon the approval of a Special Permit by the Zoning Board of Appeals.

B. All private airfields and landing strips shall comply with the regulations of the appropriate federal and state agencies.

C. No commercial flying lessons that involve use of flying aircraft shall be permitted.

D. All ascent approaches and descent flight paths shall be at least five hundred (500) feet from any residential structure.

§ 85.0 Public Utilities

Public utilities shall be subject to the following requirements:

A. Any structure shall be set back not less than twenty-five (25) feet from all property lines other than the minimum setback requirements of the applicable zoning district, whichever is greater.

B. No parking or storage areas/facilities shall be located in the front setback.

C. The uses shall be enclosed by a screen and landscaped as required by §110.0.

D. The outdoor storage of vehicles and equipment on the premises shall be prohibited.

§ 86.0 Satellite Television Receiving Antennas

Satellite television receiving antennas shall be subject to the following requirements:

A. In industrial districts only, the roof-mounted satellite television receiving antenna can be no more than ten (10) feet in diameter and must be accompanied by drawings stamped by a licensed engineer indicating wind load imposed, roof structure design or re-design of roof structure to carry added wind/weight load.

B. In industrial districts, satellite antennas shall not be more than twenty-five (25) feet above grade. Ground mounted systems in commercial districts shall be screened with appropriate fencing or landscaping indicated in §110.0 Landscaping, Buffers and Screening.

C. No more than one (1) satellite television receiving antenna is allowed per residential or commercial lot.

D. In residential and commercial districts, ground mounted satellite antennas are allowed only in side or rear yards and their overall height shall not be greater than twelve (12) feet in height. The perimeter shall adhere to all setback requirements set forth in this Law.

E. In residential and commercial districts, roof top mounted satellite antennas larger than eighteen (18) inches shall be prohibited.

§ 87.0 Portable Sawmills

A. Sawmills shall only be conducted as an home business use within the Ag district and shall be subject to all regulations contained herein and Article XI, Section 72 of this Zoning Law.

B. Logs or other material to be sawed shall/ come from timber produced on the premises or imported from off-site sources.

C. Production shall not exceed three-thousand (3,000) board feet in any day or thirty thousand (30,000) board feet in any month.

D. Combined horsepower of all engines or motors used in the milling process shall not exceed seventy-five (75).

E. Vehicular access to the sawmill shall be via a minimum twenty (20) foot wide access drive which shall have a stone, paved, or concrete surface.

F. The total aggregate amount of on-site raw logs, finished lumber, and slab waste shall not exceed fifteen-thousand (15,000) board feet at any time.

G. The total aggregate amount of on-site waste sawdust shall not exceed sixty (30) cubic yards at any time.

H. Area Requirements

All sawmills shall be installed, operated and maintained pursuant to the following conditions:

1. Minimum Parcel size shall be ten (10) acres.
2. Milling machinery shall not be located closer than one hundred (100) feet from the nearest side or rear property line.
3. Buildings containing storage of material or milling machinery shall be set back a minimum of one hundred (100) feet from the road right of way. However, in no case shall storage of material or milling machinery be placed ahead of the front line of the residence.

§ 88.0 Sexually Oriented Businesses

This Section regulates sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the Town. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content of any speech, including sexually oriented speech. Similarly, this Section is not intended to or effect the restriction or denial of access by adults to speech protected by the First Amendment and New York Constitution, or to deny access by the distributors and exhibitors of sexually oriented speech to their intended market. Neither is the intent nor effect of this Law to condone or legitimize the distribution of obscene material. Sexually Oriented Business shall be subject to the following requirements:

A. Single Adult Use Per Location

There shall only be one sexually oriented business permitted on a single premises and they shall only be permitted in the M-1 District.

B. Measurement

(1) The number of items in stock in the sales and display area at the time of a site inspection. The number of sexually oriented items shall be calculated as a percentage of total items.

(2) The entire interior floor space of a business establishment devoted to sales and display, including aisles, measured in square feet at the time of a site inspection. The floor space devoted to sales and display of sexually oriented materials shall be calculated as a percentage of total sales and display area.

(3) Where sexually oriented materials are physically separated from other materials by an eight-foot wall, the separate sales and display area (including any aisles) shall be compared to the total sales and display floor area.

(4) Where floor area includes a mixture of sexually oriented material with any other material, it shall be counted as sexually oriented. Any such area shall include one-half of the area of any aisles adjacent to the display or sales of sexually oriented materials.

C. Additional Standards

(1) Adult Arcade, Adult Cabaret or Adult Retail Store

An adult arcade, adult cabaret, or adult retail store shall be licensed by the Town of Seneca.

(2) Adult Movie Theater

An adult movie theater shall be licensed by the Town of Seneca. All aisles shall have theater runway and aisle lighting that illuminates the entire floor surface of the aisle at a level of not less than 0.2 foot-candles.

D. Separation Requirements

(1) Measurement

The following separation requirements shall be measured from the lot line of a sexually oriented business to the lot line of a protected use or other sexually oriented business listed below. Where a multi-tenant facility such as a shopping center is involved, measurement shall occur from the boundary of the leasehold interest instead of the property line.

(2) Protected Uses

For the purpose of measuring separation from sexually oriented businesses, "protected uses" shall include the following:

(a) Public or private elementary or secondary schools;

(b) Public parks and playgrounds;

(c) Public or private community centers;

(d) Places of worship;

(e) Hospitals;

(f) Public Libraries.

(3) Distance Requirements.

(a) Adult Arcade, Adult Cabaret, Adult Movie Theater and Adult Retail Store

(i) Distance from any Protected Use – one thousand (1,000) feet

(ii) Distance from any Residential or Commercial District – one thousand (1,000) feet

(iii) Distance from any other Limited Adult Retail Store or Escort Agency – N/A

(b) Distance from any other Sexually Oriented Business – one thousand (1,000) feet

E. Specific Nonconforming Use Provisions

A sexually oriented business lawfully operating in conformance with this Law shall not be rendered a nonconforming use by the location, subsequent to its lawful establishment and licensing (if required) of a protected use listed violation of the distance requirements in this Section.

§ 89.0 Single-Family Dwellings

Single-family dwellings shall be subject to the following requirements:

A. All new single-family structures shall require a NYS licensed architect or engineer stamped drawings.

§ 90.0 Shopping Centers

Shopping centers shall be subject to the following requirements:

A. The proposed development shall be in accordance with a Site Plan submitted to the Town of Seneca and approved by the Planning Board.

B. The entire development shall be in a single ownership, built or financed by a single party unless satisfactory evidence is shown that all parties financially or otherwise concerned in the development are legally bound to conform to the submitted Site Plan.

C. The proper highway authority and the Public Works Department shall approve all vehicular entrances and exits upon public roads.

§ 91.0 Site Fill

A. Any location in which more than 10,000 square feet of area is filled with more than one foot of material that is not part of an approved site plan.

B. There shall be a single access point to the location of the fill deposited on site. The access point shall be lockable to avoid unwanted material from being deposited.

C. All deposited material shall be graded and top-dressed annually.

D. The property owner shall provide the Town with a detailed, accurate description of the type and content of the fill material to be placed at the proposed fill site.

E. No lot shall be filled to a point higher than any public or private road adjoining the property and shall be sloped at a minimum grade of 1% away from the public or private road.

F. A storm water management plan shall be presented at the time of application. The applicant shall provide documentation that the quantity and quality of storm water run off will be equal to or less than pre- fill status.

G. Mud and dust control measures must be submitted with the application for site fill.

§ 92.0 Solar Energy Systems

Solar Collectors and Installations for Minor Systems.

A. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town as an accessory use. Building permits shall be required for installation of rooftop and building-mounted solar collectors.

B. Ground-mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts of the Town, subject to the following requirements:

1. The total surface area of all solar collectors on the lot shall not exceed 4,000 square feet, and, when combined with all other buildings and structures on the lot, shall not exceed lot coverage.

2. A building permit has been obtained for the solar collectors.

3. The solar collectors are located in a side or rear yard.

4. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.

C. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed solar collectors.

D. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.

E. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Ontario County and other applicable laws and regulations.

F. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than
90 days after the end of the twelve-month period.

Solar Collectors and Installations for Major Systems or Solar Farms.

A. Where applicable, and unless more restrictive regulations also apply, the requirements of this chapter shall apply to solar collectors and installations for major systems or solar farms.

B. A major system or solar farm shall be constructed pursuant to Site Plan approval from the Town Planning Board and must meet the criteria set forth below and obtain all other necessary approvals.

C. Areas of potential sensitivity:

1. Historic and/or culturally significant resources.

2. Within 100 feet landward of a freshwater (DEC) wetland.

3. Adjacent to, or within, the control zone of any airport.

D. A major system or solar farm may be permitted in the AG, C-1, C-2, and M-1districts in the Town when authorized by site Plan approval from the Planning Board subject to the following terms and conditions. The Town has determined that the protection of agricultural land and production, and the rural character of the Town are of primary importance. Therefore the Town has determined to limit the total cumulative installed capacity of major solar systems or farms within the Town to 16MW. All projects will be on a first come basis and will be processed once a complete application has been submitted to the Town with no preference given to any one location, property owner, or developer.

1. The total coverage of all buildings and structures on a lot, including freestanding solar panels, shall not exceed limits for the zoning district.

2. Height and setback restrictions.

(a) The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 15 feet in height above ground.

(b)The minimum setback from property lines meets the requirements of the zoning district.

(c) A landscaped buffer shall be provided around all equipment and solar collectors to provide screening from adjacent residential properties and roads.

3. Design standards.

(a) Removal of trees and other existing vegetation shall be minimized or offset with planting elsewhere on the property.

(b) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.

(c) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

(d) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.

(e) All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a self-locking gate, and provided with landscape screening.

(f) A solar farm to be connected to the utility grid shall provide a "proof of concept" letter from the utility company acknowledging the solar farm will be connected to the utility grid in order to sell electricity to the public utility.

(g) Each solar system or farm shall be designed to minimize the total acreage of developed land.

(h) Each solar system or farm, site and storm water management plan shall be reviewed by Ontario County Soil and Water District prior to final site plan approval.

4. Signs.

(a) A sign not to exceed 8 square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.

(b) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

5. Abandonment.

(a) All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.

(b) If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.

(c) The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:

(1) Removal of aboveground and belowground equipment, structures and foundations.

(2) Restoration of the surface grade and soil after removal of equipment.

(3) Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.

(4) The plan shall include a time frame for the completion of site restoration work.

(d) In the event the facility is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.

(e) Upon cessation of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity, or implement the decommissioning plan.

(f) If the owner and/or operator fails to fully implement the decommissioning plan within the 180-day time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and enforced and collected with interest by the same officer and in the same manner as other taxes.

(g) The site developer shall purchase a bond equal to 20% of the project installation cost prior to permits being issued for any solar project. The bond shall be in place for the life of the facility and shall be used to fund the de-commissioning of the facility in the event it is abandoned.

§ 93.0 Solid Fuel Fired Outdoor Heating Devices

A. Regulations for Solid Fuel Fired Outdoor Heating Devices

(1) All solid fuel fired outdoor heating devices installed within the Town limits are required to meet emission standards currently required by the Environmental Protection Agency (EPA). Emission standards currently required by the EPA are hereby adopted by reference together with any amendments or modifications made to them in the future.

(2) All solid fuel fired outdoor heating devices shall be installed, operated and maintained in strict conformance with the manufacturer's instructions and the regulations promulgated hereunder. In the event of a conflict, the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.

(3) The owner/purchaser of a solid fuel fired outdoor heating device shall provide the manufacturer's instructions for all devices prior to a building permit being issued.

(4) All outdoor solid fuel fired heating devices and chimneys shall be UL listed.

(5) No homemade solid fuel fired outdoor heating devices will be allowed.

B. Substantive Requirements

All outdoor devices shall be installed, operated and maintained pursuant to the following conditions:

(1) Fuel shall be only natural untreated, wood, wood products, corn products or other fuels specifically permitted by the manufacturer.

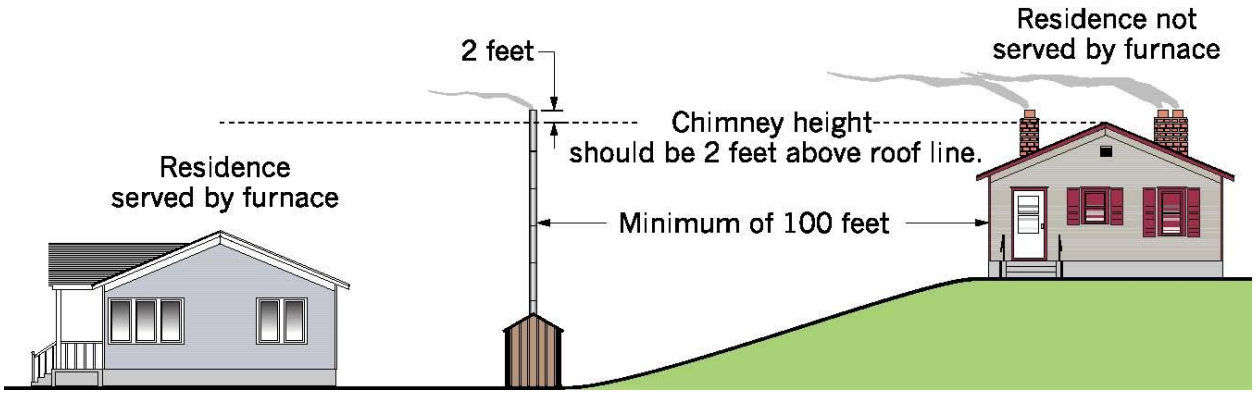
(2) The following fuels are strictly prohibited:
   a. processed wood products, other than products specifically manufactured for use in solid fuel fired heating devices, and other non-wood products not permitted by manufacturer
   b. garbage

c. painted or treated wood
d. tires, rubber, or plastics
e. any other items not specifically allowed by the manufacturer or this provision.

(3) Device location:
a. All outdoor solid fuel fired heating devices shall be installed in the rear or side yard. No outdoor solid fuel fired heating devices shall be installed in the front yard.
b. All outdoor solid fuel fired heating devices shall be installed a minimum of 30 feet from nearest side or rear property line.
c. All outdoor solid fuel fired heating devices shall be installed a minimum of 100 feet from nearest inhabited structure not being supplied by said device.
d. All exterior storage of fuel for outdoor solid fuel fired heating devices shall be provided in the side or rear yard, and shall be stored in a manner to prevent rodent harborage.

(4) Chimney height:
a. All outdoor solid fuel fired heating devices located between 100ft and 300ft of a habitable structure not served by the device shall have a chimney installed which extends a minimum of 2 feet higher than the peak of the non-served structure.

b. All outdoor solid fuel fired heating devices located more than 300ft from a habitable structure shall have a chimney installed in accordance with manufacture's instructions.



§ 94.0 Swimming Pools

Private swimming pools shall be subject to the following requirements:

A. The pool shall be used only as an accessory use to a dwelling for the private use of the owner or occupant of such dwelling or building and their family, guests or employees.

B. Outdoor swimming pools shall be located in the side or rear yard, but not closer than fifteen (15) feet to the side or rear property line. Swimming pools shall never be permitted in a front yard.

C. No permit shall be issued for such pool unless the applicant can show that there is sufficient water supply to accommodate such pool without detriment to normal water consumption requirements and that all proposed water supply connections are proper and adequate.

D. No permit shall be issued for such pool unless the applicant can show that the proposed drainage of such pool is adequate and will not interfere with existing sewerage or drainage facilities, with the property of others or with public highways. Pools may not be drained into septic systems.

E. No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance to surrounding properties.

F. Building and zoning permits shall be required for all swimming pools more than twenty four (24) inches deep.

G. Applications for swimming pool permits shall comply with these regulations and all applicable requirements of the State of New York. Where the regulations of the Town and state are inconsistent, the more restrictive requirements shall govern.

H. Such pool shall be maintained in a manner sufficient to meet the bacterial standards established by the provision of the New York State Sanitary Code relating to public swimming pools.

I. Pools equipped with an integral filtration system and filter pumps or other mechanical devices that shall be so located and constructed so as not to interfere with the peace, comfort and repose of the occupant of any adjoining property.

§ 95.0 Temporary Uses

Except as otherwise expressly provided in this Section, temporary uses are permitted in any zoning district subject to the standards hereinafter established.

A. Particular Temporary Uses Permitted by Right with Zoning Permit:

Subject to the specific regulations and time limits that follow, and to the other applicable regulations of the district in which the use is permitted, the following temporary uses of land are permitted in the zoning districts herein specified:

(1) Garage and Yard Sales

(a) No directional or advertising sign associated with the sale shall exceed four square feet in area.

(b) No directional or advertising sign shall be displayed more than seven (7) days prior to the sale, and each sign shall be removed immediately upon completion of the sale.

(c) Garage and yard sales are limited to one sale lasting no more than 5 consecutive days within a 30-day period of time.

(d) Display merchandise and areas must be removed from outdoor display within 24 hours following the close of sale.

(2) Roadside Stands

(a) Temporary roadside stands are exempted from the yard and setback requirements for the use district in which it is located.

(b) No roadside stand shall be located in the right-of-way.

(c) Pull-offs shall be provided to allow vehicles to park on areas off the road and right-of-way.

(3) Seasonal Sales

(a) Seasonal sales, including, but not limited to, Christmas tree sales, may be permitted in any District on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of undue adverse impact on other properties in the District.

(b) Such use shall be limited to a period not to exceed forty-five (45) consecutive days.

(c) Display of Christmas trees need not comply with the yard and setback requirements of this Law, except that no tree shall be displayed within thirty (30) feet of the intersection of the curb-lines of any two streets. In no case shall the use be located in the right-of-way.

B. Particular Temporary Uses Permitted with Site Plan Review:

Subject to the specific regulations and time limits that follow, and to the other applicable regulations of the district in which the use is permitted, the following temporary uses of land are permitted in the zoning districts herein specified with site plan review and approval by the Town Planning Board:

(1) Carnival or Circus or Festival

(a) A carnival or circus may be permitted in any Agricultural, Commercial or Industrial District or in any Residential District on property owned by any not-for-profit group or organization and when approved by the Town Planning Board on the basis of the adequacy of the parcel size, parking provisions and traffic access and the absence of undue adverse impact on surrounding properties in the Residential District.

(b) Such use shall be limited to a period not to exceed seven (7) days.

(c) Such use need not comply with the front yard requirements of this Law except that structures or equipment that might block the view of operators of motor vehicles on the public streets shall not be located within thirty (30) feet of the intersection of the curb-lines of any two streets. In no case shall the use be permitted in the right-of-way.

(d) Such use need not comply with the maximum height requirements of this Law.

(2) Contractors' Offices, Equipment Sheds and Construction Staging Areas

(a) Contractors' offices, equipment sheds and construction staging areas containing no sleeping or cooking accommodations may be permitted in any district when accessory to a construction project.

(b) Temporary storage shall be allowed as an accessory use to the contractor's office or equipment shed.

(c) Such use shall be limited to a period not to exceed the duration of one (1) year; after one year, a renewal of the site plan shall be required.

(3) Indoor and Outdoor Art and Craft Shows, Exhibits and Sales

(a) Indoor and outdoor art and craft shows, exhibits and sales may be permitted in any Agriculture, Commercial or Industrial District subject to proper approval of the Town, or in any public park in a Residential District.

(b) Such use shall be limited to a period not to exceed five (5) days.

(4) Real Estate Offices

(a) Real estate offices containing no sleeping or cooking accommodations unless located in a model dwelling unit may be permitted in any district when accessory to a new housing development.

(b) Such use shall be limited to the period of the active selling or leasing of dwelling units in such development.

(5) Other Temporary Uses

(a) Other temporary uses found by the Zoning Board of Appeals to comply with the provisions of this Section but in no case shall they exceed a period of thirty (30) days.

C. Flea Markets

(1) Flea Markets shall be permitted in the C-1, C-2, and M-1 Districts only.

D. Public Hearings

(1) The Planning Board may by majority vote waive the requirement for public hearings for temporary uses. Such waiver shall be based on a determination of no significant impact to the public safety and general welfare of the Town.

E. Parking

Before approving any temporary use, the Planning Board shall as part of site plan review make an assessment of the total number of off-street parking spaces which shall be reasonably required for use, on the basis of the particular use, its intensity, and the availability of other parking facilities in the area, and shall approve such temporary use only if such off-street parking is provided.

F. Hours or Days of Operation

No temporary use shall be operated during any hours or on any days of the week except such as are designated by the reviewing agency required by this Section on the basis of the nature of the temporary use and the character of the surrounding uses.

§ 96.0 Vehicle Rental Services

Vehicle Rental Services shall be subject to the following requirements:

A. No repairs, except on vehicles being rented, shall be performed on the premises and any such repairs shall be performed only within the principal building on the premises.

B. Screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property, to block any view of the use, its operations and stored materials and equipment from all points on such residential property when viewed from ground level.

C. Outdoor display of rental vehicles shall be set back a minimum of twenty (20) feet from all lot lines abutting residentially zoned or developed property.

D. Setback areas shall be equipped to prevent access by rental vehicles.

§ 97.0 Vehicle Repair Stations

Vehicle Repair Stations shall be subject to the following requirements:

A. No such use shall be located within fifty (50) feet of any Residential District boundary line.

B. All repairs shall be performed within an enclosed principal building on the premises.

C. No partially dismantled or wrecked vehicle or any unlicensed vehicle shall be stored for more than seventy-two (72) hours outside of a completely enclosed building.

D. All permanent storage of material, merchandise and equipment shall be within the principal building, with the exception of refuse and trash which shall be stored in closed containers and in an area screened from view at all points on any public or private property or street when viewed from ground level.

E. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of repair operations and stored material and equipment from all points on such residential property when viewed from ground level.

F. Accessory sales of vehicles are allowed provided they do not:

(1) Occupy more than twenty-five (25) percent of the lot size; and

(2) Occupy the required parking spaces.

§ 98.0 Vehicle Sales Areas

Vehicle sales areas shall be subject to the following requirements:

A. No such use shall be located within fifty (50) feet of any Residential District boundary line.

B. Vehicle storage areas shall be surfaced with an asphalt or portland cement binder pavement providing an all-weather, durable and dustless surface and shall be graded and drained to dispose of surface water accumulation by means of a positive stormwater drainage system connected to a approved wastewater treatment system.

C. Accessory repairs shall be allowed provided they are performed within the principal building on the premises.

D. All permanent storage of material, merchandise (excludes vehicles for sale) and equipment shall be within the principal building, with the exception of refuse and trash which shall be stored in closed containers and in an area screened from view at all points on any public or private property or street when viewed from ground level.

E. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of repair operations and stored material and equipment from all points on such residential property when viewed from ground level.

§ 99.0 Vehicle Service Stations

Vehicle service stations shall be subject to the following requirements:

A. No open-air outdoor storage of materials, merchandise and equipment shall be permitted during non-business hours. Storage of materials, merchandise and equipment during non-business hours shall take place within the principal building or within closed, secure containers such as outdoor storage cabinets.

B. Refuse and trash may be stored outdoors at all times only if placed in closed containers located in an area screened from view at all points on any public or private property or street when viewed from ground level.

C. No partially dismantled or wrecked vehicle or any unlicensed vehicle shall be stored for more than seventy-two (72) hours outside of a completely enclosed building.

D. Screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of service station operations and stored material and equipment from all points on such residential property when viewed from ground level.

E. In addition to the sign restrictions outlined in §115.0, when calculating signage square footage for service stations, signage shall include all attached and detached signage, window signs, canopy signs and signs on pumps.

F. An accessory car wash shall have no more than a single point of access for entering and exiting, shall be arranged to prevent drive-thru operation and shall be limited to a single bay.

G. Queuing lanes shall be subject to the Requirements Applying to All Districts provided in this Law.

§ 100.0 Vehicle Storage Areas

Vehicle storage areas shall be subject to the following requirements:

A. Any portion of a lot used for open off-street parking for storage areas for motor vehicles, truck trailers, contractor's equipment or boats, shall be deemed to be a vehicle storage area.

B. No fuel dispenser, motor vehicle or any other equipment or storage shall be closer than seventy-five (75) feet from a Residential District, nor twenty (20) feet of a street line, nor shall it be located in the front yard setback of the principal building.

C. New vehicle storage areas or alterations of existing motor vehicle use areas shall be subject to the following requirements:

(1) Every vehicle storage area and access driveway shall be surfaced with a durable and dustless material and shall be so graded and drained as to dispose of surface water accumulations.

(2) Any fixture used to illuminate any vehicle storage area shall be arranged so as to direct the light away from the street and from adjoining lots in any Residential District.

(3) Every vehicle storage area, except off-street parking areas for less than five (5) vehicles, shall be screened from any adjoining lot in any Residential District by a landscaped buffer of no less than five (5) feet in width. Such buffer shall be landscaped and maintained by the owner.

(4) No entrance or exit to a vehicle storage area shall be permitted within thirty (30) feet of any intersecting street lines and, except for permitted residential off-street parking areas in the Residential Districts, no entrance or exit shall be permitted within ten (10) feet of a lot in any Residential District.

(5) No vehicle storage area shall be used for auto wrecking or for storage of wrecked, partially dismantled or equipment, or motor vehicles that do not qualify for New York State motor vehicle registration and inspection.

§ 101.0 Wind Energy Regulations

A. Purpose

The purpose of these regulations is to provide for the construction and operation of Wind Energy Facilities in The Town of Seneca, subject to reasonable conditions that will protect the public health, safety and welfare.

B. Definitions

(1) "Applicant" is the person or entity filing an application under this Law.

(2) "Facility Owner" means the entity or entities having an equity interest in the Wind Energy Facility, including their respective successors and assigns.

(3) "Operator" means the entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.

(4) "Hub Height" means the distance measured from the surface of the tower foundation to the height of the Wind Turbine hub, to which the blade is attached.

(5) "Habitable Structure" means a residence, barn, shop, garage, school, hospital, church, public library (or other building used for public gathering) that is designed for habitable use.

(6) "Turbine Height" means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

(7) "Tower Height" means the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

(8) "Wind Turbine" means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

(9) "Wind Energy Facility" means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

(10) "Participating Landowner" means any landowner on whose property all or a portion of a Wind Energy Facility is located or who has an agreement with the Facility Owner or Operator.

(11) "Non-Participating Landowner" means any landowner except those on whose property all or a portion of a Wind Energy Facility is located or who has an agreement with the Facility Owner or Operator.

(12) "Small Wind Energy System": A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 250 kW and which is intended to primarily reduce on-site consumption of utility power.

C. Applicability

These regulations apply to all Wind Energy Facilities proposed to be constructed after the effective date of this Law, except that this Law is not intended to apply to stand-alone Wind Turbines constructed primarily for small wind energy systems.

Wind Energy Facilities constructed prior to the effective date of this Law shall not be required to meet the requirements of this Law; Provided that any physical modification to an existing Wind Energy Facility that materially alters the size, type and number of Wind Turbines or other equipment shall require a permit under this Law.

D. Non Permitted Areas

Wind Energy Facilities shall not be permitted or constructed in the R-1, R-2, C-1, C-2, or M-1 districts.

E. Permitted Areas

Wind Energy Facilities shall be permitted in the Commercial Wind Energy Facilities Overlay District encompassing portions of the AG districts as shown on the Town of Seneca Zoning Map.

F. Density Requirement

(1) The overall density of any wind turbine project in its final phase shall not exceed 1 turbine per 100 acres in the overlay district.

(2) The total wind turbine density of the overlay district shall not exceed 1 per 100 acres for each overlay district. For example, if the overlay district is 3,500 acres, there shall be no more than 35 wind turbines total within the overlay district. Small wind energy systems are exempt from the density provision

G. Height Restriction

(1) The Applicant is required to provide the Town with competent evidence showing need for the height of each wind turbine proposed as part of the project. The Applicant is required to design the project with the minimum turbine height necessary to adequately harness wind resources to sustain project viability, but which also minimizes visual and community character impacts. At no time shall any wind turbine exceed 330 feet in height.

H. Permit Requirement

(1) No Wind Energy Facility, or addition of a Wind Turbine to an existing Wind Energy Facility, shall be constructed unless a special use permit has been issued to the Facility Owner or Operator approving construction of the facility under this Law.

(2) Special use permits will only be considered within the boundaries of the overlay zone outlined in section 6, Permitted

Areas.

(3) The permit application or amended permit application shall be accompanied with a fee as determined by the Town Board.

(4) Any physical modification to an existing and permitted Wind Energy Facility that alters the size, type and number of Wind Turbines or other equipment shall require a permit modification under this Law. Like-kind replacements, however, shall not require a permit modification.

(5) The use shall not have an adverse effect on the agriculture of the area.

I. Permit Application

(1) The permit application shall demonstrate that the proposed Wind Energy Facility will comply with this Law.

(2) Among other things, the application shall contain the following:

(a) A narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the Wind Energy Facility; the approximate number, representative types and height or range of heights of Wind Turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.

(b) An affidavit or similar evidence of agreement between the property owner and the Facility Owner or Operator demonstrating that the Facility Owner or Operator has the permission of the property owner to apply for necessary permits for construction and operation of the Wind Energy Facility.

(c) Identification of the properties on which the proposed Wind Energy Facility will be located, and the properties adjacent to where the Wind Energy Facility will be located.

(d) A site plan showing the planned location of each Wind Turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, any testing poles, facilities and associated structures, and layout of all structures within the geographical boundaries of any applicable setback.

(e) A digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations throughout the region, to a distance of 5 miles from the center of the project shall be provided. The scale used shall depict a 3-mile radius no smaller than 2.7 inches, and the base map shall be a published topographic map showing historic and cultural features and other landmarks.

(f) Color photographs, at least 3 inches x 5 inches, taken from locations selected by the Town Planning Board within a three-mile radius of the boundaries of the facility site, shall be provided. Said photographs shall be computer enhanced to simulate the appearance of the as-built aboveground site facilities as such would appear from said locations. The selection of such locations shall be based upon the scenic views and locations identified as important in the Comprehensive Plan of the Town of Seneca and the determination of other existing public viewpoints and adjacent land uses which may be impacted by the proposed wind energy facility.

(g) Shadow Flicker Analysis:

(i) Model and describe the zones where shadow flicker and blade glint will likely be present within the project boundary and a 2-mile radius beyond the project boundary. Include the topography and buildings affected. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speeds.

(ii) Calculate the locations of shadow flicker and blade glint caused by the proposed project; the expected durations of the flicker and glint at these locations and the total number of possible hours per year of flicker and glint at all locations. The analysis shall point out areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.

(h) Noise report: A noise report shall be furnished which shall include the following.

(i) A description and map of the project's noise producing features, including the range or noise levels expected, and the tonal and frequency characteristics expected. The noise report shall include low frequency, infrasound, pure tone, and repetitive/impulsive sound.

(ii) A description and map of the noise sensitive environment, including and sensitive noise receptors, i.e., residences, hospitals, libraries, schools, places of worship, and other facilities where quiet is important within two miles of the proposed facilities.

(iii) A survey and report prepared by a qualified engineer, that analyzes the pre-existing ambient noise regime (including seasonal variation), including but not limited to separate measurements of low frequency and A-weighted noise levels across a range of wind speeds (including near cut in), turbulence measurements, distance from the turbines, location of sensitive receptors relative to wind direction; and analyses at affected sensitive receptors located within two miles of the proposed project site.

(iv) A description and map showing the potential noise impacts, including estimates of expected noise impacts upon construction and operation workers, and estimates of expected noise levels at sensitive receptors.

(v) A description and map of the cumulative noise impacts.

(vi) A description of the project's proposed noise control features, including specific measures proposed to protect workers, and to mitigate noise impacts for sensitive receptors consistent with levels in this document.

(vii) Identification of any problem areas.

(viii) Manufacturer's noise design and field testing data, both audible (dbA), and low frequency for all proposed structures.

(ix) A report that outlines issues and considerations for individuals that wear hearing aids.

(x) A noise complaint and investigation process.

(i) Documents related to decommissioning

(j) A completed New York State Environmental Impact Assessment / SEQR. The applicant is required to complete an archaeological study for areas to be disturbed.

(k) Dimensional representation of the structural components of the tower construction including the base and footings.

(l) Manufacturer's specifications and installation and operation instructions.

(m) Certification by a registered professional engineer that the tower and base design is sufficient to withstand wind load requirements.

(n) All turbines shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the Town of Seneca Planning Board as per the normal special use permit process.

(o) Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted with the application.

(p) A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.

(q) A re-vegetation plan that complies with NYS Ag and Markets restoration guidelines will be submitted and must address how areas that are temporarily disturbed during construction will be restored as well as restoration after decommissioning.

(r) A drainage plan for construction and operation as well as an erosion plan must be developed and submitted for approval by the Town of Seneca Code Enforcement Officer and the Planning Board.

(s) Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Town of Seneca to ensure compliance with this Law. This may include but not be limited to bird migration and flicker impact studies.

(t) Application shall contain a written plan for storage usage and disposal of all hazardous materials, lubricants, cleaning supplies, etc. in accordance with DEC regulations and the written plan shall be approved by DEC.

(3) The Town may, at the expense of the Applicant, hire or contract with an engineer or other professional service(s) to assist the Town with the review of any proposed Wind Energy Facility or project to ensure the public health and safety of the residents of the Town of Seneca.

J. Standards for Granting Special Use Permits

No special use permit shall be granted unless it is determined by the Zoning Board of Appeals that the proposed use meets all of the following criteria:

(1) The location, size and use of structure(s), nature and intensity of operations involved, size of site in relation to the proposed structure(s), and the location of the site with respect to roads giving access to it are such that the proposed use will be in harmony with orderly development of the district.

(2) The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings.

(3) The proposed use shall not conflict with the Town Comprehensive Plan.

(4) Operations of any special use shall not be more objectionable to nearby properties than would be the operations of any unconditionally permitted use.

(5) A special use permit shall not be issued for a use on property where there is an existing violation of this law.

(6) The use shall not have an adverse effect on the agriculture of the area.

(7) The proposed use shall be in compliance with the requirements of this local law.

K. Site Plan Approval

The Planning Board shall review the site plan and supporting data before approval, rejection, or approval with stated conditions as given, and take into consideration the following:

(1) Harmonious relationship between proposed uses and existing adjacent uses;

(2) Maximum safety of vehicular circulation

between the site and road network;

(3) Adequacy of interior circulation, parking and loading facilities, with particular attention to vehicular and pedestrian safety, and;

(4) Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts and properties.

L. Design and Installation

(1) Design Safety Certification

The design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanishcer Lloyd Wind Energies, or other similar certifying organizations.

(2) Uniform Construction Code

To the extent applicable, the Wind Energy Facility shall comply with the NYS Building Codes, National Electrical Codes, NFPA and other national or state codes as deemed applicable by The Town of Seneca Code Enforcement Officer.

(3) Controls and Brakes

All Wind Energy Facilities shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

(4) Electrical Components

All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes.

(5) Visual Appearance; Power Lines

(a) Wind Turbines shall be a non-reflective, non-obtrusive color such as white, off-white or gray.

(b) Wind Energy Facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety. Lighting shall not be a nuisance to surrounding residences. The Town will determine whether lighting on multiple facilities shall be synchronized or designed to flash independently. If FAA approval is gained to allow for upward facing only lights, all lighting shall be retrofitted with such lighting.

(c) Wind Turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, Facility Owner and Operator at the base of the tower in no larger than 6" letters.

(d) On-site transmission and power lines between Wind Turbines shall, to the maximum extent practicable, be placed underground and in accordance with Ag and Markets recommendations and relevant building codes.

(6) Warnings

(a) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(b) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.

(7) Climb Prevention/Locks

(a) Wind Turbines shall not be climbable up to fifteen (15) feet above ground surface.

(b) All access doors to Wind Turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

(8) Meteorological (MET) Tower Construction

(a) Meteorological towers shall be monopoles rather than lattice construction, and shall use no guy wires where possible.

M. Setbacks

(1) Habitable Structures

(a) Wind Turbines shall be set back from the nearest habitable structure a distance not less than the normal setback requirements for that zoning classification or 1.25 times the Turbine Height, whichever is greater. The setback distance shall be measured from the center of the Wind Turbine base to the nearest point on the foundation of the habitable structure.

(b) Wind Turbines shall be set back from the nearest habitable structure located on a Non-participating Landowner's property a distance of not less than 1,500 feet, as measured from the edge of the Wind Turbine base to the nearest point on the foundation edge of the habitable structure.

(2) Property lines: All Wind Turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or 1.25 times the Turbine Height, whichever is greater. The setback distance shall be measured to the center of the Wind Turbine base.

(3) Public Roads: All Wind Turbines shall be set

back from the nearest public road a distance of not less than 1.25 times the Turbine Height, as measured from the right of-way line of the nearest public road to the center of the Wind Turbine base.

N. Waiver of Setbacks

(1) Property owners may not waive setback requirements and must adhere to setbacks as defined in this section.

O. Use of Public Roads

(1) The Applicant shall identify all state and local public roads to be used within The Town of Seneca to transport equipment and parts for construction, operation or maintenance of the Wind Energy Facility.

(2) The Town of Seneca's engineer or a qualified third party engineer hired by the Town of Seneca and paid for by the Applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

(3) The Town of Seneca may bond the road in compliance with state regulations.

(4) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense, returning the road to a condition satisfactory to the Town Highway Superintendent or its representatives.

(5) The Applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

P. Local Emergency Services

(1) The Applicant shall provide a copy of the project summary and site plan to local emergency services, including all local paid or volunteer Fire and Ambulance Department(s).

(2) Upon request, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Wind Energy Facility.

Q. Noise and Shadow Flicker

(1) Audible sound from a Wind Energy Facility shall not exceed forty-five (45) dBA, as measured at the property line on a Non-participating Landowner's property. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 - 1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*. A commercial wind energy facility shall not be operated so that

infrasound noise, pure tone noise, or impulsive sound below 20Hz affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.

(2) The Facility Owner and Operator shall make reasonable efforts to minimize shadow flicker to any Occupied Building on a Non-participating Landowner's property.

R. Signal Interference

(1) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

(2) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or interference with signal transmission or reception.

S. Liability Insurance

(1) Prior to issuance of a Building Permit, the applicant shall provide the Town of Seneca with proof in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance of a level to be determined by the Town Board in consultation with the Town's insurer to cover damage or injury which might result from the failure to a tower or towers or any other part(s) of the generation and transmission facility.

T. Decommissioning

(1) The Facility Owner and Operator shall, at its expense, complete decommissioning of the Wind Energy Facility, or individual Wind Turbines, within (12) twelve months after the end of the useful life of the Facility or individual Wind Turbines.

(2) The Wind Energy Facility or individual Wind Turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

(3) Decommissioning shall include removal of Wind Turbines, buildings, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.

(4) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(5) An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the

equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the Town of Seneca after the first year of operation and every fifth year thereafter.

(6) The Facility Owner or Operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; Provided, that at no point shall Decommissioning Funds be less than twenty five percent (25%) of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or Commonwealth chartered lending institution chosen by the Facility Owner or Operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within NYS and is approved by the Town of Seneca.

(7) Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Town of Seneca.

(8) If the Facility Owner or Operator fails to complete decommissioning within the period prescribed by Paragraph 18(A), the landowner shall have six (6) months to complete decommissioning.

(9) If neither the Facility Owner or Operator, nor the landowner complete decommissioning within the periods prescribed by Paragraphs 18(A) and 18(H), then the Town of Seneca may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Town of Seneca shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Town of Seneca may take such action as necessary to implement the decommissioning plan.

(10) The escrow agent shall release the Decommissioning Funds when the Facility Owner or Operator has demonstrated and the municipality concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

U. Maintenance/Inspections

(1) The Owner or Operator of the Wind Facility must submit, on an annual basis, a summary of the operation and maintenance reports to the Town of Seneca. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the Town reasonably requests.

(2) Any physical modification to the Wind Facility that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with the Town of Seneca Code Enforcement Officer to determine whether the physical modification requires a special use permit modification.

(3) The Town of Seneca staff, along with licensed 3rd party professionals retained by the Town for the specific purpose of conducting inspections of the Wind Facility shall have the right, once annually, and with sufficient prior notice, to accompany the owner or operator, or his agent, on the premises where a Wind Facility has been constructed, to inspect all parts of said Wind Facility installation and to require that repairs or alterations be made. The owner or operator of a Wind Facility may retain a licensed 3rd party professional engineer familiar with the specific Wind Facility system to prepare and submit to the Town of Seneca a written report which addresses the repairs or alterations requested, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary. This report must be submitted within thirty (30) days after receiving notice from the Town of Seneca that repairs or alterations are requested unless both parties have agreed to a longer period of time. Town of Seneca will consider any such written report and determine whether the repairs or alterations should be made as originally requested or as suggested in the written report.

(4) Inspections, at a fee to be determined from time to time by the Town of Seneca and paid by the applicant, may be made by the Town of Seneca Code Enforcement Officer, or by a qualified inspector for equipment of this type selected by the Town of Seneca, no more than

once annually to certify the safety and maintenance of the Wind Facility and accessory structures.

V. Public Inquiries and Complaints

(1) The Facility Owner and Operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

(2) The Facility Owner and Operator shall make reasonable efforts to respond to the public's inquiries and complaints.

W. Small Wind Energy Systems

(1) Permitted Use: Small wind energy systems shall be a permitted use in all zoning classifications where structures of any sort are allowed; subject to certain requirements as set forth below:

(a) Tower Height: For property sizes between one-half (1/2 acre) and one (1) acre the tower height shall be limited to 80 ft. For property sizes of one acre or more, the tower height shall be limited to 200 ft., except where such height does not conform to regulations imposed by the FAA.

(b) Set-back: No part of the wind system structure, including guy wire anchors, may extend closer than 1.25 times the turbine height to the property boundaries of the installation site.

(c) Noise: Small wind energy systems shall not exceed 50 dBA, as measured at the closest non- participating landowner's occupied building. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

(d) Approved Wind Turbines: Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

(e) Compliance with Uniform Building Code: Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.

(f) Compliance with FAA Regulations: Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

(g) Compliance with National Electric Code: Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

(h) Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

Article XI. Requirements Applying to All Districts

§ 102.0 Purpose

The Requirements Applying to all Districts regulate activities, uses, structures, conditions and treatments that may be present on a property whether or not a principal structure or use is present. These requirements contribute to and promote the health, safety, comforts, conveniences and/or necessities of the property's occupants, the immediate neighborhood and/or the entire Seneca community.

§ 103.0 Air Quality

Emissions to the outdoor atmosphere including, but not limited to, any dust, fumes, gas, mist, odor, smoke, vapor, toxic or deleterious emission, either alone or in combination with others, shall be subject to the specific air quality standards and emissions limits set forth in the Federal Air Quality Act and the New York State Air Pollution Control Rules and Regulations as administered by the New York State Department of Environmental Conservation (NYS DEC). A permit to construct, and a certificate to operate, air contamination sources not otherwise exempted by these rules and regulations must be received from the Commissioner of the NYS DEC.

The applicant shall be responsible for notifying the NYS DEC of any proposal to construct or operate an air contamination source, to apply for the required permits and/or to receive a notification of exemption.

In addition, the development shall not emit any smoke, dust, glare, noxious odors, odorous gases or other matter in such quantities as to be readily detectable at any point beyond the perimeter of the site area.

There shall be no emission or transmission of heat or heated air so as to be discernible at any lot line.

§ 104.0 Fences and Walls

The following shall apply to all fences and walls in the Town of Seneca:

A. Heights

(1) The height of all fences or walls shall be measured from the average existing grade within five (5) feet of the location of the fence.

(2) No fence or wall in a Residential District shall exceed six (6) feet in height.

(3) In no event shall fences or walls in non-Residential Districts abutting Residential Districts exceed six (6) feet in height.

(4) Within all non-industrial districts, no fence or wall, other than a necessary retaining wall, over three (3) feet in height shall extend into the front yard of any lot.

(5) A fence of ten (10) feet shall be allowed to enclose a tennis court, provided that such fencing is not less than twenty five (25) feet from either side of the rear property line.

(6) Fences for the purpose of enclosing farmland, horses and cattle shall not exceed eight (8) feet in height.

B. Fence Surface

(1) In Residential Districts, fences not more than sixty percent (60%) solid may be located in any front yard or in any yard with street frontage.

(2) No chain-link or barbed wire fencing shall be permitted in the front yard.

(3) All solid fences shall be so installed so that the better side shall face outward; all bracing shall be on the inside of the fence.

(4) Where walls and fences are required, they shall be of a material compatible with the building architecture.

(5) All required fences and walls shall be maintained and, when necessary, repaired or replaced.

(6) Wooden retaining walls are discouraged.

C. Street Intersections

At the intersection of two (2) or more streets, no hedge, fence or wall which is higher than three (3) feet above curb level, nor any obstruction to vision shall be permitted in the triangular area formed by the intersecting street lines and a line joining each fifty (50) feet distant from said intersection along said street lines.

D. Placement

Fences and all supporting structures must be entirely on the property of the party erecting the fence and shall not encroach upon a public right-of-way.

E. Flood Hazard Areas

No fence shall be erected in a special flood hazard area.

§ 105.0 Floodplain Regulations

Any use of special flood development in any district proposed for land within a special flood hazard area as delineated on the Federal Emergency Management Agency Flood Insurance Rate Maps and Flood Hazard Boundary Maps which have been adopted by the Town Board. The Zoning/Code Enforcement Officer shall make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazard, especially when there appears to be a conflict between a mapped boundary and actual field conditions. Such applications shall be forwarded to the Ontario County Planning Department and the Genesee Finger Lakes Regional Planning Council for review and comment and, in the case that the applicant proposes to alter or relocate a watercourse, to the State A-95 Clearinghouse and to the towns adjacent to the Town that may be affected with evidence of such notification to be submitted to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.

All such uses or special flood development shall be subject to the following additional standards:

A. The special flood development shall not encroach into the regulatory floodway, unless such encroachment would not result in any increase in flood levels within the Town during the occurrence of the base flood discharge, as certified by a registered professional engineer.

B. Any alteration or relocation of a portion of any watercourse as part of the special flood development shall be designed to maintain the flood-carrying capacity of the original watercourse and must be certified as maintaining such capacity by a licensed professional engineer.

C. Any Special Permit use involving a subdivision shall be consistent with the need to minimize flood damage, shall have public utilities and facilities constructed to minimize flood damage and shall have adequate drainage provided to reduce exposure to flood damage. Base flood elevation data shall be provided for all proposals involving more than fifty (50) lots or five (5) acres.

D. The proposed use or building, if intended for the storage, manufacture or use of hazardous substances, shall not encroach into the special flood hazard area.

E. Every Special Permit shall be conditioned upon:

(1) Required Permits

All necessary permits required under federal or state law for the special flood development in question shall be obtained by the applicant before the initiation, excluding planning and design, of any phase of a project, physical alteration of the property, including land preparation, clearing, grading, filling, installation of streets and walkways, excavations for basements, footings, piers and foundations and erection of temporary forms and also including placement on the property of accessory buildings, storage and construction trailers and building materials.

(2) Certification of Elevation

The applicant shall verify the as-built elevation of new structures or substantial improvements in a special flood hazard area by filing a certification of the elevation by a licensed land surveyor or engineer with the Zoning/Code Enforcement Officer.

(3) Certification of Compliance

The applicant shall file with the Zoning/Code Enforcement Officer a Certificate of Compliance from a licensed professional engineer certifying compliance with the following conditions:

(a) All new structures and substantial improvements in special flood hazard areas shall be designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure; shall be constructed with materials and utility equipment resistant to flood damage; and shall be constructed by methods and practices that minimize flood damage.

(b) All new and replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the systems or such systems shall be elevated to or above the base flood elevation.

(c) All new and replacement sanitary sewer systems shall be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters, or such systems shall be elevated to or above the base flood elevation.

(d) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(e) All new residential structures or substantial improvements of residential structures within a special flood hazard area shall have the lowest floor, including the cellar or basement, elevated to or above the base flood level at the location, and all fully enclosed areas below the lowest floor shall be designed so as to permit automatic equalization of hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(f) All new nonresidential structures or substantial improvements within a special flood hazard area shall have the lowest floor, including the cellar or basement, elevated to or above the base flood level and all fully enclosed areas below the base flood elevations shall be designed to automatically allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls.

(g) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(h) Pilings or columns, rather than fill, shall be used for the elevation of structures and substantial improvements within the special flood hazard area, in order to maintain the storage capacity of the floodplain and minimize adverse effects downstream.

(i) In addition, the applicant shall demonstrate compliance of any proposed special flood development with the regulations of the Federal Emergency Management Agency relating to the development within floodplain management areas, as set forth in Title 24, Section 1909 et seq.; and Title 44, Part 59 et seq., of the Code of Federal Regulations.

§ 106.0 Landscaping, Buffers and Screening

A. Landscaping Requirements - General

For purposes of this Section, the landscaped area shall include the area required or permitted, under this Section, to be devoted to landscaping and environmental improvement, which may include existing and new vegetation, berms, lighting, street furnishings and ornamental features which are integrated with the vegetation. The landscaped areas do not include seeded, lawn areas as part of the required lot area. The following standards shall be observed for all projects subject to this Section:

(1) Whenever possible, development plans shall be designed so as to minimize the number of trees (6" caliper and greater) which would have to be removed or would otherwise disturb the forest floor.

(2) The following minimum ground area of the total lot area shall be landscaped;

(a) Multifamily Residential Use – fifteen (15) percent of the site.

(b) Commercial Uses – fifteen (15) percent of the site.

(c) Industrial Use – twenty (20) percent of the site.

(3) In general, landscaped areas shall be located along public streets and sidewalks.

(4) A landscaped area shall have a minimum width of five (5) feet excluding curbs, retaining walls or similar enclosing structures;

(5) Landscaping materials shall be contained so as not to spill or intrude into the public right-of-way;

(6) All trees shall be planted and maintained to grow upright and plumb and the tree pit mulched;

(7) The use of synthetic vegetation (turf, plastic plants, etc.) shall not be allowed for any required landscaping.

B. Plant Sizes and Specifications

(1) The minimum size for a shrub shall be thirty (30) inches in height.

(2) The number of shrubs shall be determined by requiring one (1) shrub for every ten (10) feet of perimeter of the lot.

(3) The minimum size for a tree shall be a two (2) inch caliper.

(4) The number of trees shall be determined by requiring one (1) tree for every 1,000 square feet of the principal building. Trees planted in the right-of-way may count towards this requirement, but trees planted within ten (10) feet of the public right-of-way shall be protected by root guards. An existing tree may be counted towards meeting the requirements of this provision provided that the tree has a caliper of at least three inches and condition of the tree is approved for that purpose by the reviewing agency. Such trees must be depicted on the landscape plan.

(5) Ground covers planted to satisfy the standards of this Section shall have a minimum container size of one (1) gallon.

C. Ground Treatments

(1) Mulch shall be installed and maintained at a minimum depth of three (3) inches on all planted areas except where ground cover plants are fully established.

(2) Turf areas shall be planted with species suitable as permanent lawns in the region. Turf areas may be sodded or seeded. Additional maintenance shall be provided until coverage is complete.

(3) Other ground covers suitable for the soil and climate conditions of the area may be approved within required landscape areas.

D. Screening

(1) Screening shall be required for any nonresidential use where it abuts an area zoned or used residentially. Screening shall be a minimum of 10 (ten) feet in depth and shall contain dense vegetation.

(2) Mechanical equipment and open storage areas shall be screened from public streets, alley, paths, private streets and abutting lots to a minimum height of six (6) feet.

(3) Refuse areas must be completely screened from view of property in any Residential or Agriculture district or public street or walkway with screening that is at least as tall as the dumpster. This provision shall apply to all dumpsters, including those used for the collection and storage of recyclable materials, whether public or private.

E. Landscaping Plans and Additional Information

(1) Guidelines

The following guidelines shall be used in developing all landscaping plans:

(a) Plants selected shall be suited to the climate and region as well as the geologic and topographic conditions of the site. Protection and preservation of native plant materials and natural areas are encouraged.

(b) Water intensive ornamental plant materials shall not exceed ten (10) percent of the total landscaped area.

(c) Decorative water features should use re-circulating water, when possible.

(d) When providing for privacy and screening for adjacent land uses, landscaping shall be used with visual, noise and air quality factors considered.

(e) All plant materials located in snow storage areas shall be selected to withstand the conditions associated with these areas. Additionally, all parking lot landscaping shall be salt tolerant.

(2) Landscape Plan

All landscape plans detailing proposed installation and/or irrigation systems shall be prepared by a Landscape Architect registered in the State of New York or by a landscape designer approved by the Zoning/Code Enforcement Officer. This requirement shall not apply to conceptual landscape plans or Site Plans. Landscaping plans shall be drawn to scale, including dimensions and distances, and shall clearly delineate:

(a) Plant materials, including trees, shrubs, ground cover, turf and other vegetation, shall be shown clearly on the plan. In addition, plants shall be labeled by botanical name, common name, caliper or container size, spacing and quantities in each group;

(b) Property lines and street names;

(c) Streets, driveways, walkways and other paved area;

(d) Pools and water features, lighting fixtures, fences and retaining walls;

(e) Existing and proposed buildings and structures, including elevation, if applicable;

(f) Natural features, including, but not limited to, rock outcroppings, existing plant materials that will be preserved;

(g) Tree staking, plant installation, soil preparation details and all other applicable planting and installation details;

(h) Calculation of the total landscaped area;

(i) Designation of recreation areas, if applicable.

F. Maintenance

All required planting shall be permanently maintained in good condition, and, when necessary, replaced with new plant material to ensure continued compliance with these standards. For the purpose of enforcement, the property owner shall be responsible for maintenance. Maintenance shall include watering, weeding and pruning.

G. Protected Areas During Grading and Construction

During grading and construction, a protected area extending outward to the drip line of each tree shall be provided within which paving, grading, or the storage of dirt, building materials, debris, or any other materials or any other equipment shall not be allowed. Failure to maintain barriers may result in revocation of the building permit.

For projects not requiring a grading permit, the required barriers shall be constructed by the property owner and approved by the Zoning/Code Enforcement Officer prior to issuance of a building permit. Protective barriers shall be maintained until issuance of a Certificate of Occupancy. The Zoning/Code Enforcement Officer may reduce the protected area if they determine a larger area is not necessary to the survival and health of the tree.

§ 107.0 Historic Preservation

Any structure officially listed on the local, state, or national historic registers shall be protected from the encroachment of development which is incompatible with the architectural, aesthetic, or historic features of the listed structure.

Any property abutting or directly across a public or private road from a listed historic structure shall be subject to the following regulations:

A. Setbacks. Setbacks are intended to preserve the historical setting of the lot, buildings and grounds.

(1) Residential Structures: 50 Feet from side property line of historic structure.

(2) Agricultural Structures: 80 Feet from side property line of historic structure.

(3) Commercial Structures: 100 Feet from side property line of historic structure.

(4) All Structures: 100 Feet front yard setback when directly across from parcel containing a listed historic structure.

B. Other Regulations

(1) A buffer of natural native plantings a minimum of 6 Feet in initial height shall be placed along the side lot line to screen all commercial development from an historic structure.

(2) No parking or outdoor display shall be allowed in the required front yard setback for property directly across a public or private road from a listed historic property.

§ 108.0 Lighting

The following lighting design standards are provided to ensure coordinated, safe and functional lighting systems in each development. The site lighting requirements include:

A. Lighting plans shall make reference to standards approved by the International Dark Sky Association and the Illuminating Engineering Society of North America (IESNA).

B. No use shall produce a strong, dazzling light or reflection of a strong, dazzling light or glare that is visible from any point along a lot line.

C. Pedestrian areas, plazas and walk lights shall not exceed fifteen (15) feet in height and should be designed to be harmonious with light fixtures on site.

D. Soft lighting of building faces is encouraged. Building lighting should be indirect in character. Indirect wall lighting or "wall-washing" overhead down lighting or interior illumination that spills outside is encouraged. Architectural lighting should articulate the particular building design and provide required functional lighting for safety and clarity of pedestrian movement.

E. All light fixtures shall be concealed source fixtures except for pedestrian oriented accent lights.

F. Security lighting fixtures shall not project above the façade or roofline of any building and are to be shielded. Lighting shields shall be painted to match the surface to which they are attached. Security lighting fixtures shall not be substituted for parking lot or walkway lighting fixtures and are restricted to lighting only loading and storage locations or other similar areas requiring security lighting.

G. Service-area lighting shall be contained within the service yard boundary. No light spillover shall occur outside the service area; the light source should not be visible from the street.

H. Exterior wall-mounted floodlights shall be prohibited except for security lighting in enclosed service courtyards.

~~I.~~ No overhead wiring is allowed for new construction.

§ 109.0 Off-Street Parking

A. Change in Use or Intensity

(1) Whenever a use existing on the effective date of this Law is changed thereafter to a new use, parking facilities shall be provided as required herein for such new use, except that when any such existing use was deficient in required parking spaces on such effective date, such new use may be established with a deficiency in required parking spaces equal in number to not more than such preexisting deficiency.

(2) Whenever the intensity of use of any building, structure or use is increased parking facilities shall be provided for such increase in intensity of use.

(3) All new or substantially modified development or redevelopment shall submit a report as part of the design review process regarding the potential for and efforts to develop shared or connected parking with adjoining properties as well as shared or combined access from the streets. In no instance shall the proposed site design limit the future potential for shared or connected access and parking between and among adjoining properties.

B. Measurement and Computation

(1) Computation of Required Spaces

(a) When determination of the number of required parking spaces results in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half shall require one parking space.

(b) In stadiums, sports arenas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty (20) inches of such seating facility shall be counted as one seat for the purpose of determining the requirement for off-street parking facilities under this Law.

(c) When parking spaces are required on the basis of the number of faculty staff, students and employees, the maximum number present at any one time shall govern.

(2) Uses Not Specified

For uses not expressly listed in this Section, parking spaces shall be provided on the same basis as required for the most similar listed use, or as determined by the Zoning/Code Enforcement Officer to interpret the provisions of this Law.

C. Required Parking Spaces

For the following uses, the number of off-street parking spaces shall include:

Use	Minimum
RESIDENTIAL	
Single-family detached, semidetached, two-family and attached dwelling	2 per dwelling unit
Multiple Family dwelling	2 per dwelling unit
Senior Housing	Parking Demand Analysis
EDUCATIONAL AND RELIGIOUS	

Use	Minimum
Day care or nursery	1 per 6 persons enrolled
Place of worship	1 per 3 fixed seat
Schools, elementary and intermediate	2 per classroom
School, secondary	1 per 10 students plus 2 per classroom
CULTURAL AND RECREATIONAL	
Amusement Facility	1 per every 5 customers, plus one per employee
Auditorium and Theaters	1 per 4 seats
Bowling alley	2 per lane
Community center	3 per 1,000 SF net floor area
Health clubs and similar facilities	4 per 1,000 SF net floor area
Entertainment	0.5 per allowable occupancy
Library	1 per 1,000 SF net floor area
Museum or art gallery	2 per 1,000 SF net floor area
Private club or lodge	1 per 50 SF net floor area
Skating rink	1 per 1,000 SF of rink area
Stadium or sports arena	1 per 5 seats
Swimming pool	1 per 4 persons design capacity
GOVERNMENT, SAFETY AND HEALTH	
Hospital	1 per 2 beds plus 1 per every 2 employees during largest working shift
Medical clinic, medical office	5 per 1,000 SF net floor area
Nursing home, health-related facility	1 per 3 beds, plus one for every 2 employees during largest working shift
Funeral Home	15 spaces per parlor
MANUFACTURING AND INDUSTRIAL	
All uses	1 per 2 employees
RETAIL	
Food store	6 per 1,000 SF net floor area
Convenience store	1 per 150 SF net floor area
General retail	1 per 250 SF net floor area
Home Occupations	2 for client purposes, 1 per each non-resident employee, plus any dwelling related requirements
Shopping center, planned business development	6 per 1,000 SF net floor area
SERVICES	
Bank	2 per 1,000 SF net floor area
Bed and breakfast	1 per guest bedroom plus 1 for the owner
Beauty parlor, barbershops and the like	1 per chair
Dry Cleaning and Laundromat	2 per 1000 SF net floor area
Hotel and Motel	1 per sleeping unit
Mortuaries and Funeral homes	1 per 100 SF net floor area
Office, professional or business	1 per 200 SF net floor area
Restaurant	1 per every 2 customer seats
VEHICLE RELATED USES	
Automobile Repair	2 per bay, minimum of 6
Motor Vehicle Service Station	1 per every 100 SF net floor area
Vehicle Sales	2 per employee
Vehicle Rental	1 per 1,000 SF net floor area

D. Maximum Number of Parking Spaces

No use shall provide more than one hundred ten (110) percent of any of the above-listed requirements, except through approval of a Special Permit in accordance with Article XIV.

E. Design and Maintenance

Every parking area, parking lot and garage shall be designed, constructed and maintained in accordance with the standards and requirements set forth herein.

(1) Parking - General

(a) Parking shall be located within one-thousand (1,000) feet of the use served.

(b) In all District for residential uses, no parking shall be located in the required front yard setback except in a legal driveway that provides access to the rear yard, a detached or attached garage.

(c) Except in the C-1, C-2 and M-1 Districts, parking shall not be permitted between a building and the sidewalk on the street. Where existing or proposed buildings are set back from the public right of way, the front yard shall not be converted to parking.

(d) Parking shall not be permitted between a building and the sidewalk on the street. Where existing or proposed buildings are set back from the build-to line, the front yard shall not be converted to parking.

(e) Vehicular access to parking shall not be located on the principal pedestrian-oriented street unless there is no other practical alternative.

~~(f)~~ Customer or employee parking for non-residential and agricultural uses shall not be located within the required setbacks.

(g) Parking shall not be located within ten (10) feet of any street frontage, except where a decorative fence or wall of no more than three (3) feet in height is used in conjunction with landscaping.

(h) When the setback is ten (10) feet or more, an earth berm may be used to screen the parking lot. An earth berm may be credited toward the height required. At all intersections and driveways, screening shall be restricted to a maximum height of two (2) feet and trees shall be maintained to a clearance of seven (7) feet above ground to ensure sight lines remain unobstructed.

(i) Parking lots and parking areas shall be screened from abutting residential uses and districts with a minimum height of five (5) feet. An earth berm may be credited toward the required height. At all intersections and driveways, screening shall be restricted to a maximum height of two (2) feet and trees shall be maintained to a clearance of seven (7) feet above ground to ensure sight lines remain unobstructed.

(2) Parking Lot Landscaping

(a) A landscaped area shall have a minimum width of five (5) feet excluding curbs, retaining walls or similar enclosing structures;

(b) Plant materials located in snow storage areas shall be selected to withstand the conditions associated with these areas.

(c) All parking lot landscaping shall be salt tolerant.

(d) Trees located in paved areas shall be provided with adequate tree pits to permit proper watering.

(e) For lots of fifteen (15) or more spaces, a minimum on one (1) landscaped area with a minimum size of two hundred (200) square feet (approximately 10 x 20) shall be provided for every nine (9) parking spaces and developed as islands within the parking surface area.

(f) Parking lot stops shall include permanent material, such as concrete, masonry, metal or rubber. In no case shall wooden stops be used.

(g) All required screening and landscaping shall be maintained and, if required, replaced to comply with the requirements in this Section and any approvals.

(3) Design Standards

(a) All handicapped parking spaces shall comply with the Americans with Disabilities Act (ADA).

(b) The following minimum standards shall apply to the width and length of required parking spaces.

Type of Parking	Angle	Stall Length	Stall Width	Aisle Width
Traditional	90	19'00"	9'00"	24'00"
Traditional	60	21'00"	9'00"	18'00"
Traditional	45	19'10"	9'00"	13'00"
Handicapped	90	19'00"	13'00"	24'00"
Handicapped	60	21'00"	13'00"	18'00"
Handicapped	45	19'10"	13'00"	13'00"

(4) Ingress and Egress

(a) Entrances and exits for a parking lot on an alley may be provided if prior approval is obtained in writing from the Town Engineer.

(b) Every parking garage and parking lot shall be provided with one (1) two-way driveway at least twenty-four (24) feet in width or two (2) one-way driveways, each at least thirteen (13) feet in width.

(c) When ingress and egress are less than twenty (20) feet in width, marked separate entrances and exits shall be provided so that traffic shall flow in one direction only.

(5) Maneuvering Space

(a) Maneuvering space shall be located completely off the right-of-way of a public street, place or court unless otherwise approved by the appropriate authority.

(b) Maneuvering space shall be designed to prevent any vehicles from backing into the public right-of-way except as required off-street parking spaces other than for one- and two-family dwellings.

(6) Surface

(a) Off-street parking lots shall be constructed in such a manner so as to provide an all-weather, durable and dustless surface. Individual stalls shall be clearly identified by markings four to six inches in width.

(b) Parking surfaces shall be graded and drained to dispose of all surface water accumulation in the area without shedding additional water on an adjoining property or right-of-way.

(c) The use of interior catch basins linked to an approved drainage system shall be used.

(d) The Zoning/Code Enforcement Officer shall approve the surface material and drainage system.

(7) Lighting

(a) Illumination shall not be used for the purpose of advertising or attracting attention to the principal use.

(b) Lighting fixtures shall be designed, sized and located so as not to cast direct rays of excessive brightness upon adjoining premises or cause glare hazardous to pedestrians or person using adjacent public streets.

(c) Parking lots used after sundown shall be lighted to give protection to persons using the lot and the lights shall be directed away from the street and adjoining property.

§ 110.0 Off Street Stacking Requirements

The vehicle stacking standards of this Subsection shall apply:

A. Minimum Number of Spaces

In addition to minimum parking requirements established in this Law, the following stacking or queuing areas are required

Activity Type	Minimum Stacking Spaces Per Lane or Stall	Measured From
Automated teller machine	4	Teller
Bank teller lane	5	Teller or Window
Car wash stall, automatic	10	Entrance
Car wash stall, self-service	3	Entrance
Gasoline pump island	2	Pump Island
Pharmacy	4	Window
Restaurant drive-thru	6	Order Box
Restaurant drive-thru	4	Order Box to Pick-Up Window
Oil Change and Quick Lube	3	Per Bay
Other	Determined by Zoning/Code Enforcement Officer	

B. Design and Layout

Required stacking spaces are subject to the following design and layout standards.

(1) The size of a stacking or queuing space shall be twenty (20) feet in length by ten (10) feet in width.

(2) Each lane shall be clearly defined in a manner that is identifiable during all seasons.

(3) Stacking spaces may not impede on- or off-site traffic movements or movements into or out of off-street parking spaces. Queuing distances shall not infringe on the road right-of-way.

(4) Stacking spaces must be separated from other internal driveways by raised medians if deemed necessary by the reviewing agency for traffic movement and safety.

§ 111.0 Outdoor Storage

A. C-1 and C-2 Districts

(1) Outdoor storage shall not be allowed in the front yard.

(2) Outdoor storage shall not occupy more than ten (10) percent of the entire lot area.

(3) All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent Residential Districts.

(4) Screening shall be of sufficient height and density to completely hide the storage from public view.

(5) Screening shall be of sufficient height and density to completely hide storage from major highways, rail-lines and other public access ways.

(6) All screening shall be maintained in such a manner as to present a neat and orderly appearance at all times.

B. M-1 District

(1) Outdoor storage shall not be allowed in the front yard.

(2) All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent Residential Districts.

(3) Screening shall be of sufficient height and density to completely hide the storage from public view.

(4) Screening shall be of sufficient height and density to completely hide storage from major highways, rail-lines and other public access ways.

(5) All screening shall be maintained in such a manner as to present a neat and orderly appearance at all times.

C. Refuse Collection Areas in All Districts

(1) Refuse collection areas for multi-family, commercial and industrial uses shall be subject to the following:

(2) All refuse collection areas shall be in the side and rear of the buildings.

(3) All refuse collection areas should be effectively designed to contain all refuse generated on site and deposited between collections. Deposited refuse should not be visible from outside the refuse enclosure.

(4) Screening shall be of sufficient height and density to completely hide the storage from public view. All screening shall be maintained in such manner as to present a neat and orderly appearance at all times.

(5) Refuse collection areas should be so located upon the lot as to provide clear and convenient access to refuse collection vehicles.

(6) No property shall be used to accept, store or transfer any refuse, garbage, rubbish, debris or other waste materials that was generated off-premises.

§ 112.0 Principal Buildings

There shall be no more than one (1) principal building or use on a lot except for mixed use development or for home businesses, or as otherwise permitted within this law. All articles of this law apply.

§ 113.0 Signs

A. Purpose

The purpose of this Section is to provide standards for the regulations of the height, size, location and appearance of signs to:

(1) Protect and enhance property values and neighborhood character;

(2) Protect public and private investment in buildings and open spaces;

(3) Preserve and improve the appearance of the Town of Seneca as a place to live and work and as an attraction to visitors;

(4) Encourage sound signing practices to aid business and provide information to the public;

(5) Prevent excessive and confusing sign displays;

(6) Reduce hazards to motorists and pedestrians;

(7) Protect the public health, safety and general welfare.

B. Permitted Signs

The following are allowed in any district:

(1) Customary holiday decorations not to exceed 60 days per season;

(2) One (1) prominently displayed building address sign that is pedestrian and automobile-oriented;

(3) Family name signs, decorative flags, no trespassing and similar signs;

(4) Traffic control signs;

(5) No more than two (2) directional and parking signs not exceeding two (2) square feet per face and no taller than three (3) feet high per business;

(6) Signs, flags or emblems erected and maintained pursuant to any government function;

(7) Decorative or architectural features of a building, except letters or trademarks;

(8) Memorial or historic plaques, markers, monuments or tablets;

(9) Safety signs.

(10) Three (3) gasoline price signs attached to a gasoline dispenser and not exceeding one (1) square foot per face;

(11) Up to three (3) political signs not exceeding six (6) square feet per side; all election signs shall be removed within fourteen (14) calendar days following the election;

(12) Two (2) real estate sign not exceeding ten (10) square feet per side;

(13) One (1) construction or renovation sign, twenty (20) square feet per side , erected by a contractor, engineer, architect or

similar professional or business and removed at the termination of the portion of the project activity.

C. Permitted Permanent Signs – Non-Residential Uses

District	Permitted Signs
AG	One sign not exceeding twenty-four (24) square feet identifying any building or use permitted under this Law.
R-1 and R-2	1 (one) sign attached not exceeding fifteen (15) square feet in area.
C-1	A maximum of fifty (50) square feet of signage per lot. Detached signs located in the front yard shall be posted no more than four (4) feet in height from the finished grade of the lot.
M-1 and C-2	Maximum signage area of ten (10) percent of the principal building façade per lot. Detached signs located in the front yard not shall not exceed thirty-two (32) square feet in size per side and be no more than six (6) feet high from the finished lot grade.

D. Sign Location

(1) Upon relocation of a business or service for reasons of an unforeseen disaster (example-due to fire), an off-site sign shall be allowed for a period of six (6) months;

(2) No sign shall be at any location where it interferes with or obstructs the view or free passage of pedestrian or vehicular traffic and shall not be located in the public right-of-way;

(3) No sign shall be painted, placed or constructed directly on or project from a roof;

(4) No sign shall be attached to any tree, utility pole or be painted upon or otherwise affixed to any rock, ledge or other natural feature;

(5) No detached sign shall be closer than twenty five (25) feet to a residential lot line;

(6) Signs parallel to and attached to a building shall not be set out more than ten (10) inches from the building;

~~(7)~~ Any sign that projects from a building shall not project over a public walkway.

E. Design Standards

(1) Signs and awnings should:

(a) Relate through their design, size and height to pedestrians and conform to the surrounding character;

(b) Not materially obscure architectural features or details of buildings.

(2) Sign Area

(a) The area of signs composed of individual letters without a background shall include the area enclosed by a series of lines joined to form a perimeter bounding all parts of the display including all lettering, logo, graphics and trademarks.

(b) The area of an awning or canopy that includes lettering, logo, graphics and trademarks shall be included in calculations for allowed signage;

(3) Lighting

(a) No sign shall consist of strings of lights or contain blinking, flashing, intermittent, rotating, glaring, moving lights or other attention attracting devices;

(b) Any illuminated sign shall employ only lights emitting a light of constant intensity;

(c) Customary holiday lighting is exempted from this provision.

(4) Neon Signs

(a) Neon window signs may be permitted in cases where they are compatible with the building's use, historic and/or architectural character;

(b) Neon window signs shall not exceed twenty-five (25) percent of the window;

(5) Window signs shall not exceed twenty-five (25) percent of the window and shall be included in the calculation of the overall signage allowed for the use;

(6) If more than one tenant is located in a building, individual signs for each will be allowed to be attached to the building as long as the total signage square footage for the development does not exceed the maximum signage for the district.

(7) In commercial or industrial buildings or plazas with two (2) or more occupants, a shared sign is required. Kiosk sign structures are encouraged to advertise for these multi-tenant buildings and plazas. Signage included on the kiosk shall follow the standards outlined in these regulations in terms of colors, lettering, etc.

(8) No sign shall be movable or portable unless defined as a temporary sign.

F. Maintenance of Signs

(1) Every sign shall at all times be maintained in a safe and structurally sound condition. Signs that do not comply with adequate safety standards shall be removed at the property owner's expense.

(2) Signs must be regularly maintained including the replacement of worn parts, painting and cleaning.

(3) The full number of illuminating elements of a sign shall be kept in working condition or immediately repaired or replaced.

G. Abandoned Signs

(1) Except as otherwise provided in this Law, any sign which is located on property which becomes vacant and unoccupied for a period of three (3) months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned;

(2) Abandoned signs are prohibited and shall be removed by the owner of the sign or owner of the premises.

H. Temporary Signs

Temporary signs that conform to the following shall be allowed under the following conditions.

(1) Temporary or portable signs shall be used for activities related to the primary use of the lot and may be associated with, but not limited to the following purposes:

(a) New business enterprises;

(b) Celebration of the anniversary date of a new business enterprise;

(c) Businesses enterprises which have lost the use of an existing sign by reason of fire or other catastrophe; and

(d) Accessory activities in connection with the principal use or activity.

(2) Temporary signs may not exceed twenty (20) square feet in size; no more than one temporary sign shall be permitted per business.

(3) Temporary sign shall be removed within ninety (90) days and will not be renewable for 30 days.

(4) Banners, pennants, ribbons may be permitted as a temporary sign.

(5) Temporary signs shall comply with the location and design standards contained in this Law.

I. Advertising Signs

No off-site signs shall be permitted in the Town of Seneca.

§ 114.0 Site Preparation Activities including Grading, Cutting and Filling

All site grading shall conform to the following requirements:

A. Lot grading will be done in such a way as to preserve or enhance the topographic features and to provide positive drainage. All site grading shall be designed to meet the following standards:

	Minimum Slope (percent)	Maximum Slope (percent)
Planting Areas	2	12
Parking Lot Pavement	2	4
Driveways	2	6
Pedestrian Pavements	1	2
Sidewalks	1	5

B. Where retaining walls are required, they shall be of a material compatible with the building architecture. Wooden retaining walls are prohibited.

C. Berms, channels, swales, etc. shall be graded in such a way as to be an integral part of the grading and paved surface. Such features shall be designed with smooth vertical transitions between changes in percent slope.

D. All structures shall be designed so as to minimize the amount of cutting into the embankment, general grading and removal of vegetative cover. This shall generally mean designing a rectangular-shaped structure that can be placed parallel with all contours, and/or designing a cantilevered structure for maximum exposure above the ground.

E. The location of driveways, walkways and accessory buildings, as well as general grading, shall conform to the same overall objectives stated above.

F. Terracing, sodding, planting and the construction of retaining walls shall be provided as necessary.

Article XII. Review Authorities

§ 115.0 Responsibility for Administration

Direct responsibility for the administration and enforcement of the provisions of this Law shall be vested in the Zoning/Code Enforcement Officer, Town Board, Planning Board and Zoning Board of Appeals, all in accordance with the provisions of this Article.

§ 116.0 Town Board

A. Powers and Duties

In addition to the jurisdiction conferred on it by other provisions of the regulations of the Town, the Town Board shall have the following powers and duties as enabled in NYS Town Law, Article 16.

(1) Text Amendments

The Town Board shall be responsible for reviewing Zoning Law text amendment applications and for taking final action to approve, approve with modifications or deny such applications.

(2) Map Amendments

The Town Board shall be responsible for reviewing map amendment (rezoning) applications and for taking final action to approve, approve with conditions or deny such applications.

§ 117.0 Planning Board

A. Membership

(1) Appointment and Terms

Pursuant to NYS Town Law, Article 16, Section 271 applicable thereto, the Town Board shall appoint a Planning Board consisting of seven (7) regular members for the term of seven (7) years set forth in the Town Law. Said members are hereby vested with powers and duties and made subject to the limitations set forth in the Town Law, as the same may be amended, modified or changed from time to time.

(2) Board Composition

Members of the Planning Board shall be residents of the Town of Seneca and shall not be officers or employees of the Town or any of its agencies or departments.

(3) Vacancies

Permanent vacancies on the Planning Board shall be filled by the Town Board.

(4) Mandatory Training

The members of the Planning Board shall be required to attend at least eight (8) hours of training regarding land use issues during their first year on the Board. For each subsequent year, the Planning Board members shall be required to attend four (4) hours of training. All training shall be relevant to the member's powers or duties on the Planning Board and sponsored by the New York Association of Towns, New York Planning Federation, State of New York or any political subdivision thereof, or any session approved by the Planning Board Chairperson.

(5) Removal

The town board shall have the power to remove, after public hearing, any member of the planning board for cause pursuant to Article 16, Section 271, Part 9. of NYS Town Law. Before any such removal, such member shall be given an opportunity to respond to allegations of such cause in writing to the Town Board. Cause for removal of a member shall include:

(a) Any undisclosed or unlawful conflict of interest;

(b) Any violation of the codes, ordinances or rules applicable to the member's performance of their duties

(c) Any unwillingness or inability to carry out their duties in a prompt, conscientious and competent manner;

(d) Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing their duties or any other specific conduct of the member found by the Town Board to be detrimental to the proper functioning of the Board;

(e) Members may be removed from the Planning Board if they miss thirty three (33%) percent of the meetings during the course of one (1) calendar year, miss three (3) consecutive meetings or do not meet their mandatory training requirements.

(f) No member that has been removed for cause shall be reappointed.

B. Chairperson and Vice Chairperson

(1) The members of the Planning Board shall annually elect one (1) of their members as Chairperson, to preside at all meetings and hearings of the full Board and to fulfill the customary functions of that office, and another of their number as Vice Chairperson.

(2) In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Planning Board.

C. Planning Board Secretary and Public Record

The Planning Board Secretary shall attend all its proceedings and, upon request, the proceedings of any of its Committees.

The Secretary shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board. The Secretary shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

D. Voting Procedures

(1) Quorum

As to any matter requiring a hearing before the Planning Board, no business shall be transacted by the Board without a quorum. The concurring vote of four (4) members shall be necessary for any action by the Board. If less than a quorum is present, the hearing may be adjourned to the next scheduled meeting or to a special meeting as determined by the Board. The Secretary shall notify, in writing, all members of the date of the adjourned hearing and shall also notify such other interested parties as may be designated in the vote of adjournment.

A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard provided they shall first certify on the record that they have reviewed the entire record of any such portion of the hearing or meeting during which they were absent and have fully informed themselves of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

(2) Deliberation

As to any matter not requiring a hearing, the Planning Board may meet and deliberate at any properly called meeting regardless of the presence of a quorum or may continue consideration of such matter to any later meeting. However, no final action shall be taken on any such matter without a quorum.

D. Meetings, Hearings and Rules of Order

(1) Meetings

Regular meetings of the Planning Board shall be held at the call of the Chairperson or as provided by rule of the Board. Special meetings shall be called by the Chairperson at the request of any three (3) members of the Board or at the request of the Town Board.

(2) Hearings

All meetings and hearings of the Planning Board shall be open to the public.

(3) Rules of Order

The Planning Board shall follow Robert's Rules of Order for parliamentary guide for all meetings of the board. Said rules of order shall consist of roll call, public participation, approval of minutes, communications, old business, new business, report of Committees or assigned delegates and miscellaneous matters.

E. Planning Board By-laws

The Planning Board shall prepare and adopt by-laws from time to time outlining meeting times and related procedures.

F. Record and Decisions

(1) Record

The following shall constitute the record:

(a) The transcript of testimony, if any;

(b) The minutes of the Secretary;

(c) All applications, reports, requests, exhibits and papers filed in any proceeding before the Planning Board; and

(d) The supporting factual findings and decision of the Board.

(2) Decisions

The Planning Board may rely on the personal knowledge of its members, testimony during public hearings, on its inspections of the property and on any reports available to it, provided, however, that reliance on such matter shall not be allowed unless the Board shall have made the particular knowledge, inspection or report a matter of record at the public hearing and afforded every party reasonable time to respond to it.

Every decision of the Planning Board upon an application amending this Law, for Cluster Development approval or site plan approval shall be by written resolution which shall set forth the supporting factual findings and recommendation of the Board or shall approve, approve with conditions or deny approval. Every resolution shall expressly set forth any limitations or conditions imposed on any approval or any development, work or use authorized.

(3) Final Decision

The Planning Board shall take no final or binding vote on any decision pertaining to the aforesaid applications unless it shall first state its findings and conclusions as above required at a meeting open to the public.

(4) Failure to Act

In any case where this Law provides that the failure of the Planning Board to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.

Where no decision is made by the Planning Board and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

(5) Notification of Decision

Within five (5) business days following any decision on such applications, the Secretary shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Town Clerk. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.

G. Conflicts

No member of the Planning Board shall participate in the hearing or disposition of any matter in which they have an interest as defined in Article 18 of the General Municipal Law.

H. Appeals

Any person aggrieved by a decision of the authorized board or any officer, department, board or bureau of the town may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules.

I. Jurisdiction and Authority

The Planning Board shall have the following jurisdiction and authority:

(1) To review and recommend on matters relevant to the Comprehensive Plan.

(2) Subject to the provisions of Article XIV, to hear, review and offer its recommendations to the Zoning Board of Appeals for Special Permit approval.

(3) Subject to the provisions of Article XIV, to hear, review and finally decide applications for Cluster Development approval.

(4) Subject to the provisions of Article XIV, to hear, review and finally decide applications for Site Plan approval.

(5) Subject to the provisions of the Town of Seneca Subdivision Law.

§ 118.0 Zoning Board of Appeals

A. Membership

(1) Appointment and Terms

Pursuant to Article 16, Section 267 of NYS Town Law, the Zoning Board of Appeals shall consist of seven (7) members appointed by the Town Board.

Of the members of the Board first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years one for the term of five years, one for the term of six years and one for the term of seven (7) years from and after his/her appointment. Their successors shall be appointed for the term of seven (7) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment of the unexpired term.

(2) Board Composition

Members of the Zoning Board of Appeals shall be residents of the Town of Seneca and shall not be officers or employees of the Town or any of its agencies or departments.

(3) Vacancies

Permanent vacancies on the Zoning Board of Appeals shall be filled by the Town Board, in the same manner as other appointments hereunder.

(4) Mandatory Training

The members of the Zoning Board of Appeals shall be required to attend at least eight (8) hours of training regarding land use issues during their first year on the Board. For each subsequent year, the Zoning Board members shall be required to attend four (4) hours of training. All training shall be relevant to the member's powers or duties on the Zoning Board and sponsored by the New York Association of Towns, New York Planning Federation, State of New York or any political subdivision thereof, or any session approved by the Zoning Board Chairperson.

(5) Removal

Pursuant to Article 16, Section 267 of the NYS Town Law, any member of the Zoning Board of Appeals may be removed for cause by the Town Board at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing. Cause for removal of a member shall include:

(a) Any undisclosed or unlawful conflict of interest;

(b) Any violation of the codes, ordinances or rules applicable to the member's performance of their duties;

(c) Any unwillingness or inability to carry out their duties in a prompt, conscientious and competent manner;

(d) Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing their duties or any other specific conduct of the member found by the Town Board to be detrimental to the proper functioning of the Board.

(e) Members may be removed from the Zoning Board of Appeals if they miss thirty three (33%) percent of the meetings during the course of one (1) calendar year, miss three (3) consecutive meetings or do not meet their mandatory training requirements.

No member that has been removed for cause shall be reappointed.

B. Chairperson and Vice Chairperson

(1) The Town Board shall annually appoint one (1) of the members of the Zoning Board of Appeals as Chairperson, to preside at all meetings and hearings and to fulfill the customary functions of that office. The members of the Zoning Board of Appeals shall annually elect one (1) of their members as Vice-Chairperson.

(2) In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Board.

C. Secretary and Public Record

The Secretary of the Zoning Board of Appeals shall attend all its proceedings and, upon request, the proceedings of any of its Committees.

The Secretary shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board. The Secretary shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

D. Voting Procedures

As to any matter requiring a hearing before the Zoning Board of Appeals, no business shall be transacted by the Board without a quorum. The concurring vote of four (4) members shall be necessary for any action by the Board. If less than a quorum is present, the hearing may be adjourned to the next scheduled meeting or to a special meeting as determined by the Board. The Secretary shall notify in writing all members of the date of the adjourned hearing and shall also notify such other interested parties as may be designated in the vote of adjournment.

A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard provided they shall first certify on the record that they have reviewed the entire record of any such portion of the hearing or meeting during which they were absent and have fully informed themselves of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

E. Meetings, Hearings and Rules of Order

(1) Meetings

Regular meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson or as provided by rule of the Board. Special meetings shall be called by the Chairperson.

(2) Hearings

All meetings and hearings of the Zoning Board of Appeals shall be open to the public.

(3) Rules of Order

The Zoning Board of Appeals shall follow Robert's Rules of Order for parliamentary guide for all meetings of the Board. Said rules of order shall consist of roll call, public participation, approval of minutes, communications, old business, new business, report of Committees or assigned delegates and miscellaneous matters.

F. Zoning Board of Appeals By-laws

The Zoning Board of Appeals shall prepare and adopt by-laws from time to time outlining meeting times and related procedures.

G. Record and Decisions

(1) Record

The following shall constitute the record:

(a) The transcript of testimony, if any;

(b) The minutes of the Secretary;

(c) All applications, reports, requests, exhibits and papers filed in any proceeding before the Zoning Board of Appeals; and

(d) The factual supporting findings and decision of the Board.

(2) Decisions

The Board may rely on the personal knowledge of its members, testimony at the public hearing, on its inspections of the property and on any reports available to it, provided, however, that reliance on such matter shall not be allowed unless the Board shall have made the particular knowledge, inspection or report a matter of record at the public hearing and afforded every party reasonable time to respond to it.

Every decision of the Zoning Board of Appeals shall be by resolution and shall state its factual supporting findings and expressly set forth any limitations or conditions imposed on any relief approved or work or use authorized.

(3) Final Action

In taking final action, the Zoning Board of Appeals shall first state its findings and conclusions at a meeting open to the public and shall, in addition, state the special circumstances warranting such action.

(4) Failure to Act

In any case where this Law provides that the failure of the Zoning Board of Appeals to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision but, on such appeal, shall be entitled to no presumption of correctness.

Where no decision is made by the Zoning Board of Appeals and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

(5) Notification of Decision

Within five (5) business days following any decision of the Zoning Board of Appeals, the Secretary shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Town Clerk. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.

H. Conflicts

No member of the Zoning Board of Appeals shall participate in the hearing or disposition of any matter in which they are interested as defined by Article 18 of the General Municipal Law.

I. Appeals

An appeal from any final decision of the Zoning Board of Appeals may be taken in accordance with Article 78 of the New York Civil Practice Law and Rules.

J. Jurisdiction and Authority

The Zoning Board of Appeals shall have the following jurisdiction and authority:

(1) Subject to NYS Town Law, Article 16, Section 267-a and the provisions of Article XIV hereof, to hear and decide appeals from, and review orders, decisions or determinations made by the Zoning/Code Enforcement Officer.

(2) Subject to NYS Town Law, Article 16, Section 267-b and the provisions of Article XIV hereof, to approve or deny Variances from the requirements of this Law.

(3) Subject to the provisions of Article XIV, to hear, review and finally decide applications for Special Permit approval.

§ 119.0 Zoning/Code Enforcement Officer

A. Powers and Duties

The Zoning/Code Enforcement Officer shall have the following powers and duties:

(1) Submit a monthly report to the Town Board listing all applications received, inspections made, referrals and action taken on each. Copies of this report shall be transmitted to the Board of Appeals and Planning Board at the same time.

(2) Maintain a permanent and current record of all applications for Zoning, Site Plan and Special Permits certificates, his/her action upon the same, any conditions relating thereto, and any other matters considered and action taken by him. Such records shall form a part of the records of his/her office and shall be available for use by Town officials and for inspection by the public.

(3) Cause any plans, buildings or premises to be examined or inspected to determine compliance with the provisions of this Law. In the fulfillment of these duties, they shall be authorized to enter any premise or building at a reasonable time to determine whether or not the same is in violation of this Law.

(4) Issue Zoning, Site Plan and Special Permits certificates to all applicants who fully comply with the provisions of this Law.

(5) Provide the Zoning Board of Appeals, in writing, with all facts pertaining to the refusal to issue zoning permits and certificates when an appeal is made.

(6) For denied zoning permits provide, in writing, the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.

(7) Maintain a current list and/or a map of nonconforming uses to determine if discontinuance or destruction, or change in use or vacancy has taken place.

(8) Maintain a current list and/or a map showing the Variances or Special Permits issued by the Zoning Board of Appeals to determine if the conditions and safeguards placed on Variances and Special Permits are being complied with.

(9) For violations of this Law:

(a) Notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it.

(b) Order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work or discontinuance of any illegal work being done; or

(c) Take any other action authorized by this Law to ensure compliance with or to prevent violation of its provisions.

On the serving of the notice by the Zoning/Code Enforcement Officer to the owner of any property in violation of any of the provisions of this Law, the certificate of zoning compliance for such building or use shall be held null and void. A new certificate of zoning compliance shall be required for any further use of such building or premises.

(10) Issue appearance tickets pursuant to § 150.20 of the New York State Criminal Procedure Law.

Article XIII. Procedures

§ 120.0 Common Review Procedures

A. Initiation of Application

A property owner, or its duly authorized agent, or other persons having a contractual interest shall make an application required under this Law for the subject property.

B. Compliance Required

No application for Site Plan Review, Cluster Development, Special Permit and Variances shall be considered where there are existing violations or delinquent real estate Town taxes assessed against the subject property, except where such application is intended to cure the violations.

Additionally, proof that all local, state and federal regulations and permits have been complied with or obtained shall be submitted as part of the application.

C. Simultaneous Processing

(1) Whenever two or more forms of review and approval are required under this Law, applications for those development approvals may be processed simultaneously.

(2) Where an application requires approval from both the Planning Board and the Zoning Board of Appeals, the boards shall have the option to conduct a joint public hearing.

(3) Pursuant to NYS Town Law, Section 267-b. Stay on Appeal. an appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning/Code Enforcement Officer certifies to the Board of Appeals, after the notice of appeal shall have been filed with the Zoning/Code Enforcement Officer, that by reason of facts stated in the certificate a stay, would, in his/her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

D. Application Forms and Application Filing Fees

Applications required under this Article shall be submitted in a form and in such numbers as required by the Zoning/Code Enforcement Officer. Applications shall be accompanied by the fee amount that shall be established by the Town Board from time to time. Application fees are nonrefundable, unless otherwise expressly stated. The Zoning/Code Enforcement Officer shall have the authority to waive application requirements that are not applicable to a specific project.

~~E.~~ Application

An application shall be considered ready for transmittal to the reviewing body if submitted in the required form, includes all mandatory information, including all exhibits and is accompanied by the applicable fee. Such determination shall be made within five (5) business days by the Zoning/Code Enforcement Officer.

If an application is determined not to be ready for transmittal to the reviewing body, the Zoning/Code Enforcement Officer shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur and no public hearings shall be scheduled until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within thirty (30) days, the application shall be considered withdrawn and the application shall be returned to the applicant.

F. Referral to Ontario County Planning Board

Applications subject to General Municipal Law §239 shall be referred to the Planning Board at Ontario County in accordance with the provisions of General Municipal Law §239.

G. Notification for Public Hearings

(1) Pursuant to NYS Town Law, Article 16, public hearings shall be required for the following:

(a) Zoning Map or Zoning Text Amendments by Town Board;

(b) Special Permit by the Zoning Board of Appeals;

(c) Site Plan Review

(d) Variances by the Zoning Board of Appeals.

(2) Setting Hearing

For all matters properly brought before the Town Board, Planning Board or Zoning Board of Appeals for which a public hearing is required by this Law and pursuant to Article 16 of the NYS Town Law, the body charged with conducting the hearing shall, upon receipt of a completed application, select a reasonable time and place for such hearing, provided, however, that such time shall be not later than sixty-two (62) days following the submission of the subject application, unless the applicant shall agree to some later time.

(3) Mailed Notices

The Board Secretary shall be required to mail the appropriate notices for public hearings. Where notice by mail is required, it shall be given at least ten (10) days in advance of the hearing date by regular US mail.

(4) Published Notice

Pursuant to Article 16 of the New York State Town Law, where published notice is required, it shall be placed in an official paper or a newspaper of general circulation in the Town at least once, not less than ten (10) days before the date of the hearing. The published notice shall include:

(a) The general location of land that is the subject of the application;

(b) The legal description or street address;

(c) The substance of the application, including the magnitude of proposed development and the current zoning district;

(d) The time, date and location of the Public Hearing;

(e) A phone number to contact the Town; and

(f) A statement that interested parties may appear at the Public Hearing.

H. Filing of Approvals

The Town of Seneca Zoning/Code Enforcement Officer shall file all applicable restrictions and other conditions as approved by the Planning Board, Town Board or Zoning Board of Appeals as outlined in the Town of Seneca Zoning Law or other applicable regulations and pursuant to Article 16 of the New York State Town Law. All covenants, deed restrictions, easements and similar restrictions to be recorded in connection with the approval shall provide that they may not be modified, removed or released without the express consent of the authorizing Board and shall provide that they may be enforced by the Town of Seneca. All filing fees and expenses are the responsibility of the applicant.

§ 121.0 Procedures Approved by the Town Board

A. Zoning Text and Map Amendments (Rezoning)

(1) Authority

This Law and the Zoning District Map may be amended from time to time by Law enacted by the Town Board, provided, however, that no such amendment shall be enacted except in accordance with the procedures set out in this Section and pursuant to Section 265 of Article 16 of the New York State Town Law.

(2) Purpose

The Amendment process herein established is intended to provide a means for making changes in the text of this Law and in the Zoning District Map that have more or less general significance or application. It is not intended to relieve particular hardships nor to confer special privileges or rights but is intended as a tool to adjust the provisions of this Law and the Zoning Map in light of changing, newly discovered or newly important conditions, situations or knowledge.

(3) Procedure

(a) Proposal by the Town

Amendments may be proposed by either the Supervisor, Town Board, the Planning Board or the Zoning Board of Appeals by transmitting such proposal, together with such supporting materials as may seem appropriate, to the Zoning/Code Enforcement Officer for processing in accordance with the provisions of this Section.

(b) Application by Owner

When any proposed amendment is initiated by an owner of, or other person having a contractual interest in, real estate to be affected by the proposed amendment, or by the owners of fifty (50) percent or more of the frontage of real estate to be affected by the proposed amendment, the application for such amendment, addressed to the Town Board, shall be filed with the Zoning/Code Enforcement Officer. The Zoning/Code Enforcement Officer may also request such other and further information and documentation deemed necessary or appropriate to a full and proper consideration and disposition of the particular application.

(c) The Town Board shall refer the proposed amendment and all supporting application documentation to the Town Planning Board for review and recommendation.

(d) Action by Planning Board

(i) Within thirty (30) days following the receipt of the application, the Planning Board shall transmit their recommendation to the Town Board.

(ii) The failure of the Planning Board to act within thirty (30) days shall be deemed a recommendation for the approval of the proposed amendment as submitted.

(iii) In making recommendations regarding amendments to the text of the Zoning Law or to the Official Zoning Map, the Planning Board shall consider and make findings on the following matters regarding the proposed amendment:

(A) Consistency with the Town's Comprehensive Plan and any other adopted special area plans.

(B) Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

(C) Suitability of uses proposed by the zoning amendment for the property affected by the amendment.

(D) Availability of public services and infrastructure generally suitable and adequate for uses allowed within the proposed district.

(e) Public Hearing

A public hearing shall be set, advertised and conducted by the Town Board in accordance with Sections 264 and 265 of Article 16 of the New York State Town Law.

(f) Action by Town Board

(i) The Town Board shall table the application and take no action, deny approval of the application, or adopt the proposed amendment, with or without modifications.

(ii) Within five (5) business days of such action, the Town Clerk shall mail notice of the decision to all parties entitled thereto. The Town Board shall file it's action in the office of the Town Clerk.

(iii) Town Board action to adopt the proposed amendment, with or without modifications, shall be filed with the New York State Department of State.

§ 122.0 Planning Board Procedures

A. Cluster Development

(1) Authority

The Planning Board of the Town of Seneca may, as a matter of its original jurisdiction and subject to the procedures, standards and limitations hereinafter set out, may permit, simultaneously with the approval of a subdivision plat, deviations from the zoning requirements established by this Law governing the average density of population permitted in the zoning district where such land lies.

(2) Purpose

Cluster Development procedures are established to provide an administratively uncomplicated method to permit minor modifications of the yard, bulk and space requirements, other than minimum open space requirements, minimum lot area per unit and per bedroom requirements and lot coverage requirements, applicable in the various districts established by this Law. Cluster Development permits the grouping of structures in order to plan more usable open space or to preserve open space or historic or scenic features without exceeding overall density or land coverage requirements.

(3) Cluster Development Standards

(a) Authorized Uses

No use shall be authorized by a Cluster Development permit except uses permitted or permissible in the district in which such development is to be located. Approval of a Cluster Development for a use requiring any special approval shall not excuse the requirement of obtaining such special approval.

(b) Density and Coverage

No permit for a Cluster Development shall authorize any increase in the overall density or intensity of development nor any increase in the overall lot coverage permitted by the district regulations applicable in the district in which such development is to be located. All land devoted to private street purposes shall be excluded from density, intensity and lot coverage calculations.

(c) Approval Criteria

A permit for a Cluster Development shall be granted only if evidence is presented which establishes:

(i) That the proposed development will be in harmony with the general purpose, goals, objectives, standards and implementing strategies of the Comprehensive Plan and this Law.

(ii) That the proposed building or use complies with all applicable regulations of this Law except as modified pursuant to the authority of this Section.

(iii) That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.

(iv) That the proposed Cluster Development will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations.

(v) That the proposed Cluster Development will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

(vi) That the proposed Cluster Development will not result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.

(4) Procedure

(a) Application

An application for Cluster Development shall be submitted in a form and in such numbers as required by the Zoning/Code Enforcement Officer. A nonrefundable fee, as established from time to time by the Town Board to help defray administrative costs, shall accompany each application. The Zoning/Code Enforcement Officer may also request such other and further information and documentation deemed necessary or appropriate to a full and proper consideration and disposition of the particular application.

(b) Action by Planning Board

(i) Within sixty-two (62) days following the conclusion of the public hearing, the Planning Board shall render its decision either granting the application for Cluster Development approval; granting it subject to conditions as specified below; or denying the application. The failure of the Board to act within sixty-two (62) days, or such longer period of time as may be agreed to by the applicant, shall be deemed a denial of the application.

(ii) Within ten (10) business days of such decision or the expiration of such period, the Zoning/Code Enforcement Officer shall mail notice of such decision or failure to act to all parties entitled thereto as provided by §112.0; file such decision in the office of the Town Clerk; and, in the event that a Cluster Development permit is authorized, the Zoning/Code Enforcement Officer shall issue such permit, listing therein any and all conditions imposed by the Planning Board.

(c) Amendments to Cluster Developments

An approved Cluster Development may be amended in the same manner and subject to the same limitations as any other regulation established by this Law, except that Site Plan Review and approval pursuant to this Law shall be required in connection with any such proposed amendment.

(5) Effect of Issuance of Approval

(a) Amendment to Regulations

The issuance of a permit for a Cluster Development shall, upon the filing of a plat of such development with the Ontario County Clerk, constitute an amendment of the bulk, space and yard regulations of this Law applicable to such development, and thereafter such plat shall constitute the bulk, space and yard regulations applicable to such development.

(b) No Development or Construction Authorized

However, the issuance of a permit for a Cluster Development shall not authorize the establishment or expansion of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the Town, including, but not limited to, a permit for a Special Permit, a Certificate of Zoning Compliance and a building permit.

(6) Limitation on Cluster Development

A Cluster Development approval shall become null and void six (6) months after the date on which it was issued unless a building permit is obtained and maintained. If a building permit has not been obtained within six months of the date of approval, the approval shall lapse and be of no further effect.

B. Site Plan Review

(1) Authority

Subject to the procedures, standards and limitation set forth in this Law, the Planning Board shall review and approve, approve with conditions or deny applications for Site Plans.

(2) Purpose

The Site Plan Review process recognizes that some developments and uses, even though generally suitable for location in a particular district, are, because of their design (materials, size, details), character, nature, complexity or other indicia of probable impact, capable of adversely affecting the goals for which this Law is established unless careful consideration has been given to critical design elements. It is the purpose of this Section to provide a vehicle for the review of the applicant's attention to such elements.

(3) Site Plan Review Standards

Site Plan Review in accordance with this Section shall be required in the following cases with the exception of accessory structures not changing land use or density, and projects involving no site or external structure alterations. Site Plan Review shall be required for any development or redevelopment, as specifically listed in this Law, that includes construction, enlargement or addition to any building or site preparation for a site or use that does not include or require a building as outlined in this Section.

(a) A general sketch plan shall be provided with all site plans. The general sketch plan shall show the full build-out potential of the property, including but, not limited to:

1. Building Envelope: That portion of a lot or development site exclusive of the areas required for front, side, and rear yards and other required open spaces; and which is available for siting and constructing a building or buildings.
2. General locations recommended for future buildings and percentage of future building coverage.
3. Potential future infrastructure improvements and percentage of the lot potentially set aside for future infrastructure.
4. Accessory uses and percentage of the lot potentially set aside for accessory uses and structures,
5. Areas reserved for open space and % of the lot proposed to remain as open space at final build-out.
6. Traffic circulation and access management. Show general plan for on and off-site traffic circulation and access should future development be proposed.
7. Existing natural features on the site and proposed future use of the same. Clearly identify areas constrained for development (for example, FEMA flood areas, NYS and Army Corp of Engineers Wetland areas, steep slopes greater than 10%, areas with unique physical characteristics and endangered or protected wildlife)

(b) The following shall also be submitted with all site plans:

1. Application form, notes and other required written information;
2. Title of drawings, including the name of the development, name, telephone number and address of applicant and the name of the person who prepared the drawing;
3. Key plan, north point, professional stamp, scale (1" = 20' or other appropriate scale) and date;
4. Zoning, land use and ownership of surrounding and adjacent properties, including all structures on adjacent and surrounding properties;
5. A boundary survey of the proposed development, plotted to scale and existing topographic features including contours, spot elevations, large trees, buildings, structures, streets, property lines, utility easements, rights of way and land use;
6. Clearly show the areas of the lot to be disturbed and provide the calculations of the same.
7. All lot dimensions including, but not limited to, lot frontage, lot area, building coverage, lot coverage, front yard, side yard, rear yard, building heights and floor area ratio, where applicable;
8. All improvement dimensions, including, but not limited to, access roads, snow removal/storage areas, parking areas, walkways, buildings, etc.;
9. Existing and proposed streets and pedestrian paths immediately adjoining and within the proposed site and the names of all proposed streets;
10. Location and dimensions of all parking, loading and stacking areas with access drive;
11. Paving, including typical cross sections and profiles of proposed streets, pedestrian walkways and bike ways;
12. Location, proposed use, height, building elevations, floor plans and finished floor elevations of all structures;
13. Colors, materials, dimensions, access and roof top plans of all structures;
14. Location and proposed development of all open spaces, including parks, playgrounds, etc;
15. Existing and proposed watercourses, direction of flow and the impact on the watershed;
16. Drainage plan showing existing and finished grades, storm water management plan and the impact on the watershed;
17. Water supply plan, including existing and proposed location of fire hydrants;
18. Sewage disposal method;
19. Landscape plan indicating location, type and size of existing trees and vegetation, identifying those to be preserved or vegetation and amenities to be provided;
20. Location, design and illumination field of lighting, fences and walls;
21. Location and dimension of all signs as required in this Chapter;

22. Garbage screening and enclosures;
23. Size and location of hazardous storage areas;
24. Proposed easements, restrictions, covenants and provisions for home owners associations and common ownerships;
25. Estimated construction schedule and phasing plan for buildings, earth work and landscaping;
26. Tentative budgeting and financing sources.
27. Existing natural features on the site and future use of the same.
    a. Floodplain areas as delineated on the most recent FEMA Flood Insurance Rate Maps.
    b. NYS Department of Environmental Conservation and Federal Wetlands Areas
    c. Any areas identified in the Town of Seneca Inventory of Woodlands, Wetlands and Riparian Corridors, dated December 2003.
28. Areas or features (including sites, buildings or Districts) of historical significance including those listed on the State and National Register and areas or features identified in the local historic property inventory prepared by the Town Historic Preservation Committee. Such areas and features on adjacent properties shall also be identified.

(4) Procedures

(a) Application

Applications for Site Plans shall be submitted in a form and in such numbers as required by the Zoning/Code Enforcement Officer. A nonrefundable fee, as established from time to time by the Town Board to help defray administrative costs, shall accompany each application. The Zoning/Code Enforcement Officer may also request such other and further information and documentation deemed necessary or appropriate to a full and proper consideration and disposition of the particular application.

(b) Action by Planning Board

(i) Within thirty (30) days following receipt by the Planning Board of a completed application or such longer time as may be agreed to by the applicant, the Planning Board shall cause such application and the attached plans to be reviewed for compliance with this Law.

(ii) Immediately upon concluding the review of the application, the Planning Board shall return one (1) copy of the applicant's plans marked to show either approval, approval subject to further specified approvals, approvals with conditions or denial. All conditions shall be clearly and permanently marked on such plans.

(c) Approval or Denial

The decision of the Planning Board shall be final and could include:

(i) Approve the application;

(ii) Approve the application with conditions; or

(iii) On the basis of such findings, deny the application.

In any case where an application is denied, the Planning Board shall state the specific reasons and shall cite the specific provisions of this Law upon which such denial is based.

The Planning Board shall stamp each copy of the application and plans to reflect the action taken and shall return one (1) copy of each to the applicant and shall retain one (1) copy of each in Town records for such period as they may deem necessary or as may be required by law.

(5) Letters of Credit

(a) Each applicant shall be required to provide evidence of the financing plan that the applicant proposes to use to complete the proposed project, which may include a letter of credit, or similar security acceptable to the Town. The letter of credit in favor of the Town of Seneca for the estimated cost of required site improvements shall be unconditional and irrevocable for a period of not to exceed two (2) years. The agreement shall also be irrevocable for a period of two (2) years and shall permit the Town of Seneca to enter the subject property and to install such improvements if the applicant fails to do so within the period of time specified in the agreement.

(b) Such letter of credit or similar security, and the agreement, each in a form satisfactory to the Planning Board, shall be submitted prior to obtaining a building permit as a condition of Site Plan approval.

(c) Should the applicant fail to perform the required site improvements within the agreed period of time, the Zoning/Code Enforcement Officer shall issue a written notice of such failure to the applicant. It shall be sufficient service of such notice if it is mailed to the applicant at the address provided by him in the site plan application. If the applicant fails to perform the required site improvements within fifteen (15) business days of the issuance of such notice, the Zoning/Code Enforcement Officer is authorized to draw upon the letter of credit or to access any other offered security as may be necessary to cover the costs to the Town to perform work which the applicant failed to perform. The applicant may request a hearing before the Zoning/Code Enforcement Officer within five days from the issuance of the notice. The hearing will be held before the expiration of the fifteen (15) business days notice period.

(d) The letter of credit or other security, described in this Subsection, may be waived by the Planning Board where:

(i) No site improvements or alterations to the site are associated with the application for Site Plan approval and no site improvement conditions have been attached to such approval.

(ii) None of the proposed or required site improvements will have any discernible impact on adjacent private property or on the public right-of-way and such improvements primarily affect the user of the property and not adjacent property owners or the general public.

(iii) Evidence of the applicant's satisfactory completion of prior Site Plan Review projects is offered in lieu of a letter of credit.

(iv) Evidence of a satisfactory financing plan that will guarantee completion of the required site improvements.

(6) Effect of Issuance of Site Plan Review

If the Planning Board shall approve the application, or approve it subject to further specified approvals or to modifications which are acceptable to the applicant, such approval shall not authorize the establishment or expansion of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the Town.

The issuance of a Site Plan Approval shall not authorize the establishment or expansion of any use nor the development, construction, relocation, alteration or moving of any building or structure and shall not abrogate the requirements for any additional permits and approvals which may be required by the codes and ordinances of the Town.

No Site Plan Approval shall be valid for a period longer than one (1) year, or as otherwise extended, from the date of issue unless a building permit is issued and construction is actually begun within that period, and is thereafter diligently pursued to completion or an occupancy permit is obtained and a use commenced within that period.

§ 123.0 Zoning Board of Appeals Procedures

A. Special Permit

(1) Authority

As a matter of its original jurisdiction, the Zoning Board of Appeals may, subject to the procedures, standards and limitations hereinafter set out, hear, review and finally decide applications authorizing development of uses listed as Special Permit Uses.

(2) Purpose

Special Permits are those uses having some special impact or uniqueness which requires a careful review of their location, design, configuration and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.

(3) Special Permit Requirements

A permit for any Special Permit shall be granted only if evidence is presented which establishes that:

(a) The proposed building or use will be in harmony with the general purpose, goals, objectives, standards and implementation strategies of the Comprehensive Plan and this Law.

(b) The proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.

(c) The proposed building or use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations.

(d) The proposed building or use will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.

(e) The proposed building or use will not result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.

(4) Procedure

(a) Application

An application for a Special Permit shall be submitted in a form and in such numbers as required by the Zoning Board of Appeals. A nonrefundable fee, as established from time to time by the Town Board to help defray administrative costs, shall accompany each application. The Zoning Board of Appeals may also request such other and further information and documentation deemed necessary or appropriate to a full and proper consideration and disposition of the particular application. In addition, all applications for Special Permit shall comply with all standards imposed on it by the particular provision of this Law, unless the Zoning Board of Appeals may waive the standard, authorizing such use.

(b) Action by Planning Board

(i) Within thirty (30) days following the receipt of the application, the Planning Board shall transmit their recommendation to the Zoning Board of Appeals.

(ii) The failure of the Planning Board to act within thirty (30) days shall be deemed a recommendation for the approval of the proposed amendment as submitted.

(iii) In making recommendations regarding the Special Permit Application, the Planning Board shall consider and make findings on the following:

(A) Consistency with the Town's Comprehensive Plan and any other adopted special area plans.

(B) Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood.

(C) Availability of public services and infrastructure generally suitable.

(c) Public Hearing

A public hearing shall be set, advertised and conducted by the Zoning Board of Appeals in accordance with Article 16 of the New York State Town Law.

(d) Action by Zoning Board of Appeals

(i) Subject to NYS Town Law, Article 16, Section 267, within sixty-two (62) days following the conclusion of the public hearing, the Zoning Board of Appeals shall render its decision that could include:

(A) Approving the application for a Special Permit;

(B) Approving the application with conditions;

(C) Approving the application for a specified time period based on a finding that the proposed use has potential for adverse impacts and that the operation of the use for a specific period will enable the Commission to monitor the use and its impacts.

(D) Denying the application

~~(ii)~~ Failure of the Board to act within sixty-two (62) days shall be subject to the provisions outlined in Article 16, Section 267 of the New York State Town Law.

(iii) Within ten (10) business days of such decision or the expiration of such period, the Zoning/Code Enforcement Officer shall mail notice of such decision or failure to act to all parties entitled thereto, file such decision in the office of the Town Clerk and, in the event that a permit for a Special Permit is authorized, the Zoning/Code Enforcement Officer shall issue such permit, listing therein any and all conditions imposed by the Zoning Board of Appeals.

(iv) Where the district regulations authorizing any Special Permit in a particular district impose additional standards to be met by such use in such district, a permit for such use in such district shall be granted only if evidence is presented to establish compliance with such additional standards.

(e) Conditions on Special Permits

(i) The Zoning Board of Appeals may impose such conditions upon the premises benefited by a permit for a Special Permit as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood. Such conditions may be used as a device to grant a permit for a specific time period in order to ensure compliance with all conditions of the approval and this Zoning Law.

(ii) Such conditions shall be expressly set forth in the resolution authorizing the Special Permit and in any associated permit.

(iii) Violation of such conditions shall be a violation of this Law.

(iv) Such conditions may be required in a specific order.

(v) Such conditions may include but shall not be limited to the following:

(A) Modification of specific features of the Site Plan to improve the safety of the site for the general public;

(B) Location on a site of activities that generate potential adverse impacts on adjacent uses such as noises and glare;

(C) Placement of trash receptacles;

(D) Location of loading and delivery areas;

(E) Lighting location, intensity and hours of illumination;

(F) Placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;

(G) Additional landscaping and buffering;

(H) Height restrictions to preserve light and privacy and views of significant features from public property and rights-of-way,

(I) Access to natural lighting and solar exposure;

(J) Ventilation and control of odors and fumes; and

(K) Dust-control paving.

(5) Amendments to Permits

No expansion of a use that is the subject of a Special Permit shall be permitted, except through the same process as required for initial approval of the Special Permit.

(6) Effect of Issuance of a Special Permit

The issuance of a permit for a Special Permit shall not authorize the establishment or expansion of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the Town, including, but not limited to, a Certificate of Zoning Compliance, a Variances and a Building Permit.

(7) Limitations on Special Permits

A Special Permit shall become null and void six (6) months after the date on which it was issued unless a building permit is obtained and maintained. If a building permit has not been obtained within six months of the date of approval, the approval shall lapse and be of no further effect.

A permit for a Special Permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six (6) consecutive months or more.

(8) Appeal

An appeal from any final decision of the Zoning Board of Appeals as to any matter regarding the Special Permit may be taken within thirty (30) days of the filing of such decision by any person aggrieved or by any authorized officer, department or board of the Town in accordance with Article 78 of the New York Civil Practice Law and Rules.

(9) Inspections.

The Town may require annual inspections of special permitted uses to ensure compliance with conditions of approval.

B. Variance

(1) Authority

The Zoning Board of Appeals shall have authority, in accordance with the procedures hereinafter established and pursuant to the applicable standards of the New York State Town Law, to authorize use, area or other variances within the Town of Seneca.

(2) Purpose

The variance procedure is intended to provide a means by which relief may be granted from unforeseen particular applications of this Law that create unnecessary hardships or practical difficulties. Only when such hardships or difficulties are not appropriate for remedy pursuant to other provisions of this Article is the variance procedure appropriate.

(3) Variance Standards

(a) Use Variance

Use Variance shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations. A Use Variance is only approved subject to specific plans, terms and conditions pursuant to Article 16, Section 267, 267-a, 267-b and 267-c of New York State Town Law.

(b) Area Variance

Area Variance shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner that is not allowed by:

(i) The dimension, such as size, height and setbacks;

(ii) Physical requirements of this Law;

(iii) The expansion, structural alteration or enlargement of a legally existing non-conforming use.

An Area Variance is approved subject to specific plans, terms and conditions pursuant to Article 16, Section 267, 267-a, 267-b and 267-c of New York State Town Law.

(4) Procedure

(a) Application

(i) All applications for variances shall be made in quadruplicate to the Secretary of the Zoning Board of Appeals on forms provided by the said secretary and shall be accompanied by information as may be lawfully required by the Zoning Board of Appeals.

(ii) The Secretary of the Board, after determining the application is in proper form, shall transmit copies of the application and all supporting documents to the Board of Appeals for action thereon.

(b) Action by Planning Board

(i) A copy of the complete variance application and supporting documents shall be submitted to the Planning Board for review and recommendation.

(ii) The Planning Board shall provide a written report to the Board of Appeals within thirty (30) days of receiving the application.

(iii) Failure to submit a written report within thirty (30) days of receiving the application shall constitute approval of said application by the Planning Board.

(c) Public Hearing

A public hearing shall be set, advertised and conducted by the Zoning Board of Appeals in accordance with Article 16 of the New York State Town Law.

(d) Action by the Zoning Board of Appeals shall be pursuant to Article 16 of the New York State Town Law.

(i) Within sixty-two (62) days following the close of the public hearing, the Zoning Board of Appeals shall render its decision, approving or denying the Variance. The failure of the Board to act within sixty-two (62) days shall be deemed a denial of the Variance.

(ii) Within five (5) business days following such decision or the expiration of such period, the Board Secretary shall mail notice of such decision or failure to act to all persons entitled to such notice and file such decision in the Office of the Town Clerk.

(e) Conditions on Variances

Specific conditions and safeguards relating to construction, character, location, landscaping, screening and other matters relating to the purposes and objectives of this Law, may be imposed upon the premises benefited by a Variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution approving the Variance and in the notice informing the applicant thereof and in any zoning permit based thereon. Violation of such conditions and safeguards shall be a violation of this Law.

(f) Approval of Variance Other than Requested Variance

A Variance offering less relief than that requested may be approved when the record supports the applicant's right to some relief but not to the relief requested.

The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(g) Effect of Variance Approval

The approval of a Variance shall not authorize the establishment or expansion of any use nor the development, construction, reconstruction, alteration or moving of any building or structure but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals which may be required by the codes and ordinances of the Town.

(5) Appeal

An appeal from any final decision of the Zoning Board of Appeals as to any matter regarding the Variance may be taken within thirty (30) days of the filing of such decision by any person aggrieved or by any authorized officer, department or board of the Town in accordance with Article 78 of the New York Civil Practice Law and Rules.

Article XIV. Exceptions

§ 124.0 Height

The stated maximum height shall not apply to any of the following structures when lawfully existing, permitted or permissible in the district:

A. Chimneys, spires, belfries, cupolas, domes and silos;

B. Flagpoles, radio or television antennas – located on a building and extending not more than twenty (20) feet above the roof of such building;

C. Elevator and stair bulkheads – provided that such structures do not occupy more than ten (10) percent of the roof area;

D. Solar energy systems not more than one half (1/2) story above the roof of such building;

E. Wind Energy Conversion Systems to a height of one hundred (100) feet;

F. Water towers and tanks;

G. Observation towers;

H. Clock towers.

§ 125.0 Yards

The following may be located within any required setbacks, subject to the specific limitations noted:

A. Awnings and canopies.

B. Decks, except in front yards.

C. Flagpoles.

D. Non-mechanical laundry drying equipment, except in front yards.

E. Patios and terraces.

F. Recreational equipment, except in front yards.

G. Solar collectors.

H. Statuary, arbors, trellised and barbecue stoves.

I. Trees, shrubs, flowers, fences, walls, hedges and other landscape features may be located within any required setback.

J. Bay windows and balconies projecting not more than thirty-six (36) inches from an exterior wall for a distance not more than one-third (1/3) of the length of such wall; provided that such projections shall come entirely within planes drawn from the main corners of the building at an interior angles of twenty-two and one-half (22 ½) degrees within the wall in question.

K. Chimneys, flues, belt courses, leaders, sills, plaster, lintels, ornamental features, cornices, eaves, gutters and the like projecting not more than eighteen (18) inches from an exterior wall.

L. Fire escapes or outside stairways projecting from an exterior wall not more than three (3) feet.

Article XV. Non-Conforming Uses, Structures and Signs

§ 126.0 Purpose

A. This Section regulates and limits the continued existence of uses, structures, lots and signs established prior to the effective date of this Law that do not conform to the regulations of this Law applicable in the zoning districts in which such nonconformities are located.

B. The zoning districts established by this Law are designed to guide the future use of the Town's land by encouraging the development of desirable residential, mixed use and industrial areas with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare.

C. The continued existence of certain nonconformities is frequently inconsistent with the Comprehensive Plan and thus the gradual elimination of such nonconformities is desirable. Other nonconformities may continue to exist and afford adaptive re-use opportunities that can contribute to neighborhood character, diversity and services.

D. The regulations of this Section are intended to restrict further investments that would make nonconformities more permanent in their location in inappropriate districts as well as to afford opportunities for creative use and reuse of those other nonconformities that contribute to a neighborhood and are consistent with the goals of the Comprehensive Plan.

§ 127.0 Nonconforming Use

A. Authority

Authority to continue any lawfully existing nonconforming use may be continued so long as it remains otherwise lawful, subject to the regulations contained in this Section. Ordinary repair and maintenance or replacement, and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed.

B. Structural Alteration or Enlargement

No structure shall be structurally altered or enlarged unless the use thereof shall thereafter conform to the use regulations of the zoning district in which it is located. No parking, yard or space and bulk nonconformity may be created or increased.

C. Damage or destruction

(1) When a structure is damaged or destroyed, by any means not within the control of the owner, to the extent of more than fifty (50) percent of the cost of replacement of the structure new, the structure shall not be restored unless its use thereafter conforms to the use regulations of the zoning district in which it is located. No parking, yard or space and bulk nonconformity may be created or increased.

(2) When a structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of fifty (50) percent or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided, however, that:

(a) No parking, yard or space and bulk nonconformity is created or increased;

(b) A zoning certificate is obtained and restoration is actually begun within one (1) year after the date of such partial damage or destruction and is diligently pursued to the completion.

(3) In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or restored except in accordance with this Section.

D. Moving

No structure or use of land shall be moved in whole or part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and/or use conform to all regulations of the Zoning District in which it is located after being so moved.

E. Expansion of Use

No use shall be expanded or enlarged or increased in intensity. Such prohibited activity shall include, but shall not limited to:

(1) Expansion of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of this Law, or any Amendment hereto which causes such use to become nonconforming.

(2) Expansion of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this Law, or any Amendment to this Law, which causes such use to become nonconforming. Except, a nonconforming use located in a structure not designed for any use permitted in the district in which such structure is located may be extended throughout any part of such structure provided, however, that such expansion shall not be allowed unless off-street parking and loading spaces required for such expansion can be, and are, provided in accordance with the requirements and restrictions of this Law.

(3) An extension of the hours of operation of such use beyond the normal hours of operation shall not be allowed.

F. Change in use

(1) A nonconforming use in a structure designed for a use permitted in the district in which it is located, shall not be changed to any use other than a use permitted in the zoning district in which the property is located.

(2) A nonconforming use in a structure not designed for a use permitted in the district in which it is located shall not be changed to any use other than a nonconforming use of the same or a more restricted classification and of the same or lesser level of intensity and impact or, to a use permitted in the zoning district in which the structure is located.

(3) Once changed to a permitted use or to a more restrictive use in accordance with Subsections 1 and 2 above, the use shall not be changed back to the prior nonconforming use. The use is changed when an existing nonconforming use is terminated and a new use commences and continues for a period of seven (7) consecutive days, including any change of use in violation of this Subsection.

G. Abandonment or Discontinuance

(1) When the active operation of a nonconforming use is discontinued or abandoned for a period of nine (9) consecutive months, regardless of any intent to resume or not to abandon the use, the use shall not be reestablished or resumed. The active operation of a use shall be the typical or normal activities associated with the use. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such structure is located.

(2) Any discontinuance of a use caused by a foreclosure action by a governmental entity shall not be considered in calculating the length of discontinuance of this Section, for the time period that title to the property is held by the governmental entity.

(3) For the purpose of this Section, the following circumstances, which shall not be exclusive, shall contribute towards evidence of discontinuance or abandonment of a use:

(a) Failure to maintain regular business hours, typical or normal for the use (past operations of the use and/or industry standards may be used to determine typical or normal hours); or

(b) Failure to maintain equipment, supplies or stock in trade, which would be used for the active operation of the use; or

(c) Failure to maintain utilities which would be used for the active operation of the use; or

(d) Failure to pay taxes, including, but not limited to sales taxes, workers' compensation taxes, corporate taxes, etc. that would be required for the active operation of the use; or

(e) Failure to maintain required local, state or federal licenses or other approvals that would be required for the active operation of the use. Prior to a determination by the Zoning/Code Enforcement Officer, based upon evidence of any of the above circumstances or other relevant evidence that a nonconformity has been discontinued or abandoned, the owner or operator shall have the opportunity to apply for a Certificate of Nonconformity and, thereby, establish by relevant and credible evidence that the use has not been discontinued or abandoned.

(4) The legality of one or more nonconforming uses located within a property shall not affect the determination that another nonconforming use on the same property has been discontinued or abandoned.

H. Nonconforming Accessory Uses and Structures

No use, structure or sign that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all the regulations of the zoning district in which it is located.

I. Outdoor Activities and Operations

All business operations and all manufacturing or processing activities other than those conducted by a use that is nonconforming on the effective date of this Law or which is rendered nonconforming by any amendment to this Law shall be conducted within a completely enclosed building.

§ 128.0 Nonconforming Buildings or Structures

A. Continuance

Any nonconforming structure which is devoted to a use which is permitted in the zoning district in which it is located may be continued so long as it remains otherwise lawful, subject to the restrictions in this Section.

B. Enlargement, Repair or Alterations

Any nonconforming structure may be enlarged, maintained, repaired or altered provided, no additional nonconformity is created or the degree of the existing nonconformity is increased.

C. Damage or Destruction

(1) In the event that any part of a nonconforming structure which contributed to its nonconformity is damaged or destroyed, by any

means, to the extent of more than seventy-five (75) percent of the cost of replacement of said part new, such part shall not be restored unless it shall thereafter conform to the regulations of the zoning district in which it is located.

(2) When such a part of a nonconforming structure is damaged or destroyed, by any means, to the extent of seventy-five (75) percent or less of the cost of replacement of such part new, no repairs or restoration except in conformity with the applicable zoning district regulations shall be made unless a zoning certificate is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.

D. Moving

No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

§ 129.0 Nonconforming Lots of Record

A. In any district in which single-family dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this Law, a single-family detached dwelling which complies with the yard, space and bulk requirements below may be erected on a nonconforming lot. This includes construction of a single family dwelling on any lot less than forty (40) feet in width, consisting entirely of one (1) tract of land of not less than four thousand (4,000) square feet.

B. In any district in which single-family dwellings are not permitted, a nonconforming lot of record may be used for any use permitted in the district in which it is located if Site Plan approval is granted in accordance with the provisions of this Law.

§ 130.0 Nonconforming Signs

A. Continuance

Subject to the limitations and termination provisions hereinafter set forth, any lawfully existing nonconforming sign may be continued so long as it otherwise remains lawful after the effective date of this Law.

B. Alteration, Expansion, Moving

No nonconforming sign shall be:

(1) Changed or altered in any manner which would increase the degree of its nonconformity;

(2) Expanded;

(3) Changed or altered to prolong its useful life; or

(4) Moved in whole or in part to any other location where it would remain nonconforming.

C. Termination of Nonconforming Signs

(1) Termination by abandonment

Any nonconforming sign, the use of which is discontinued for a period of ninety (90) days, regardless of any intent to resume or not to abandon such use, shall be deemed to be abandoned and shall not thereafter be re-established. Any period of such discontinuance caused by government actions, strikes, material shortages or forces of nature, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this Subsection.

(2) Termination by change of business

Any nonconforming sign advertising or relating to a business on the premises on which it is located shall be terminated upon any change in the ownership or control of such business.

(3) Termination by damage or destruction

Any nonconforming sign damaged or destroyed, by any means, to the extent of thirty-five (35) percent of its replacement cost new shall not be restored but shall be terminated.

Article XVI. Enforcement

§ 131.0 Code Compliance Required

The commencement or continuation of any activity regulated by this Code that is not in compliance with the express provisions of this Code, or that is not in compliance with the express provisions of any permit or approval, including any attached findings or conditions, shall be a violation of this Code, and subject to enforcement under the terms of this Article and New York Law.

§ 132.0 Enforcement Responsibility

The responsibility for the enforcement of this Code is delegated to the Zoning/Code Enforcement Officer.

Whenever a violation of this local law occurs, any person may file a complaint. All such complaints must be filed with the Zoning/Code Enforcement Officer who shall properly record such complaint, immediately investigate to determine the validity of the charge, and take whatever action is necessary to assure compliance with this Zoning Law.

§ 133.0 Penalties

A violation of this Law is hereby declared to be an offense punishable by:

A. A fine not to exceed $350 or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense

B. For a conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine of not less than $350 nor more than $700 or imprisonment for a period not to exceed six months, or both

C. Upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than $700 not more than $1,000 or imprisonment for a period not to exceed six months, or both

Each week's continued violation shall constitute a separate additional violation.

§ 134.0 Accumulated Fines

Accumulated fines or penalties shall not continue to accrue if one of the following occurs:

A. The violation is actively being cured pursuant to a plan, including a clear time frame and deadline, accepted by the Zoning/Code Enforcement Officer. Failure to actively cure the violation shall reactivate the enforcement process.

B. Request by the offender for a hearing.

C. Complete application to the applicable board to bring the violation into conformance.

§ 135.0 Remedies and Enforcement Powers

On behalf of the Town, the Zoning/Code Enforcement Officer may take any one or more of the following actions as a remedy for any violation of this Zoning Law:

A. Issuing and serving on the violator a notice and order for violations;

B. Withholding any approvals or permits required by this Law or order other officials to withhold such approval or permits;

C. Bringing an action for injunction or mandamus to abate a violation;

D. Bringing an action for an injunction (or, in appropriate cases, for mandamus) to prevent the violation and/or to prevent the occupancy or use of any site or structure involved in the violation;

E. Pursuing prosecution of the violation.