CANAJOHARIE

LL1 2004 ADMINISTRATION

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
APR 07 2004
MISCELLANEOUS
& STATE RECORDS

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~
Town
~~Village~~ of Canajoharie

Local Law No. 1 of the year 20 04.

A local law repealing Local Law No. 1 of the year 1984 and providing for the administration and enforcement of the state uniform fire prevention and building code in the Town of Canajoharie.

Be it enacted by the Town Board (Name of Legislative Body) of the

~~County~~
~~City~~
Town
~~Village~~ of Canajoharie as follows:

SECTION 1: PURPOSE AND INTENT

This local law shall provide for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code) in the Town of Canajoharie. This local law is adopted pursuant to Section 10 of Article 2 of the Municipal Home Rule Law. Except as otherwise provided within this law, state law, or within the Uniform Code, all premises regardless of use, are subject to the provisions, which follow.

SECTION 2: INTERMUNICIPAL CONTRACTS

The Town Board may, by resolution, authorize the Supervisor to enter into a contract with other governments to carry out the terms of this local law.

SECTION 3: PARTIAL INVALIDITY

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole ore in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

SECTION 4: CODE ENFORCEMENT OFFICIAL, DUTIES AND POWERS

A. The office of Code Enforcement Official is hereby created and shall be administered by an appointee of the Town Board. The Code Enforcement

construction or fire prevention and shall, within the time constraints proscribed by law, obtain such training, as the State of New York shall require for code enforcement officials.

B. In the absence of the code enforcement official, or in the case of his inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board, to designate a person to act in behalf of the C.E.O. and to exercise all the powers conferred upon him by this ordinance.

C. The Town Supervisor, with the approval of the Town Board, may appoint one inspector or more, as the need may appear, to act under the supervision and direction of the Code Enforcement Official and to exercise any portion of the powers and duties of the Code Enforcement as directed by him.

D. The compensation for the Code Enforcement Official, acting Code Enforcement Official and Inspectors shall be fixed and adjusted as needed by the Town Board.

E. The Code Enforcement Official shall administer and enforce all the provision of the Uniform Code and the provisions of this local law, including receiving building permit applications, reviewing plans and specifications, conducting inspections, issuing permits for the erection, alteration, relocation, addition, repair and/or demolition of buildings and structures, issuing certificates of occupancy, collecting fees as set forth by the Town Board and maintaining and filing all records necessary for the administration of the office to the satisfaction of the Town Board. The Code Enforcement Official is authorized to pursue administrative actions and, in consultation with the Town attorney, legal action as necessary to abate conditions not in compliance with the New York State Uniform Fire Prevention and Building Code, this local law, or other laws, rules or regulations of the Town of Canajoharie or of the State of New York.

SECTION 5: BUILDING PERMIT

A. Permits Required.

1. Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, or install a solid burning heating appliance, chimney or flue in any

dwelling unit, without first having obtained a permit from the Code Enforcement Official.

2. No permit shall be required for:

    a. necessary repairs which do not materially affect structural features;
    b. alterations to existing buildings, provided that the alterations:
        i) cost less than $10,000.00;
        ii) do not materially affect structural features;
        iii) do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
        iv) do not involve the installation or extension of electrical systems; and
        v) do not include the installation of solid fuel burning heating appliances and associated chimneys and flues.
    c. residential storage sheds and other small noncommercial structures less than 140 square feet, which are not intended for use by one or more persons as quarters for living, sleeping, eating or cooking; for example, a small storage building, and
    d. nonresidential farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes.

B. Application for a permit.

1. The application for a building permit, and its accompanying documents, shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code.

2. The form of the permit and application therefore shall be prescribed by the Code Enforcement Official. The application shall be signed by the owner (or his authorized agent) of the building and shall contain at least the following:

    a. full name and address of the owner and, if by a corporation, the name and addresses of the responsible officials;

b. identification and/or description of the land on which the work is to be done.

c. description of use or occupancy of the land and existing or proposed building;

d. description of the proposed work;

e. three sets of plans and specifications for the proposed work;

f. the required fee.

3. The Code Enforcement Official may waive the requirement of plans and specifications when the work to be done involves minor alterations or is otherwise unnecessary.

4. Applicant shall notify the Enforcement Official of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work had been determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Code Enforcement Official and approval shall be received from the Code Enforcement Official prior to the commencement of such change of work.

C. General Requirements.

1. A building permit issued pursuant to this local law shall be prominently displayed on the property or premises to which it pertains.

2. A building permit issued pursuant to this Local Law may suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been misrepresentation or falsification or a material fact in connection with the application for the permit.

3. A building permit pursuant to this Local Law shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy),

whichever occurs first. The permit may, upon written request, be renewed for successive one year periods provided that:

a. The permit has not been revoked or suspended at the time the application for renewal is made;

b. The relevant information in the application is up to date; and

c. The renewal fee is paid.

SECTION 6: FEES

A fee schedule shall be established, and changed as needed, by resolution of the Town Board. Such fees may be charged for the issuance of permits, certificates of occupancy, temporary certificates of occupancy, and for fire safety inspections.

SECTION 7: CERTIFICATE OF OCCUPANCY

A. No building erected subject to the New York State Uniform Fire Prevention and Building Code shall be used or occupied, except to he extent authorized hereunder, until a certificate of occupancy has been issued. No building similarly enlarged, extended, or altered, or upon which work has been performed which requires the issuance of a building permit shall be occupied or used more than 30 days after the completion of the alteration or work unless a certificate of occupancy has been issued. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued. The owner of his agent shall make application for a certificate of occupancy.

B. A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use of which it is intended. A temporary certificate of occupancy shall expire six months from the date of issuance or at an earlier date if so specified. A temporary certificate of occupancy may, at the discretion of the Code Enforcement Official and upon payment of an additional fee as specified for a temporary certificate of occupancy, be renewed. The Code Enforcement Official may place special conditions on Temporary Certificates of Occupancy as necessary to insure safety and to protect the interest of the Town.

SECTION 8: INSPECTION

A. Inspections during construction.

1. Work for which a building permit has been issued hereunder shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the inspector that the work is ready for inspection and to schedule such inspection.

2. If entrance to make an inspection is refused or cannot be obtained, the Town Board, after being notified by the inspector of the situation, may apply for an order to make an inspection to any court of competent jurisdiction.

B. Fire prevention and Safety Inspection.

1. Multiple dwellings shall be inspected for the purpose of determining compliance with fire prevention and housing maintenance requirements of the Uniform Code at least once in every thirty-six (36) months. Inspections of such buildings shall include the common areas such as halls, foyers, staircases, etc. and vacant dwelling units. Where the tenants of occupied dwelling units allow, the inspection may include such units.

2. Fire safety inspections of buildings or structures having areas of public assembly as defined in Part 606 of Title 9 of the Official Compilation of Codes, Rules and Regulations shall be performed at least once in every twelve (12) months.

3. All other buildings, uses and occupancies (except one or two family dwellings) shall be inspected at least once in every twenty-four (24) months.

4. An inspection of a building or dwelling unit may also performed at any other time upon:

a. The request of the owner, authorized agent, or tenant;

b. Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exists; or

c. Other reasonable shall be performed by the Code Enforcement Official.

5. Such inspections shall be performed by the Code Enforcement Official.

SECTION 9: VIOLATIONS

A. Upon determination that a violation of the Uniform Code or this local law exists in, or about any building or premises, the Code Enforcement Official shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code, which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by notification by registered mail.

B. In addition to those penalties prescribed by State law, any person, firm or corporation who or which violates any provision of the Uniform Code or any rule or regulation of this local law, or the terms or conditions of any Certificate of Occupancy issued by the Building and Fire Safety Inspector, shall be liable to a civil penalty of not more than $200.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town Board on its own initiative or at the request of the Code Enforcement Official.

C. Alternatively or in addition to an action to recover the civil penalties provided by subsection (b), the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or condition of any Certificate of Occupancy issued by the Code Enforcement Official.

SECTION 10: STOP WORK ORDERS

Whenever the Code Enforcement Official has reason to believe that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work

and suspend all building activities until the stop work order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by registered mail at the address set forth in the application for the permission of the construction of such building.

SECTION 11: DEPARTMENT RECORDS AND REPORTS

A. The Code Enforcement Official shall keep permanent official records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by him with the consent of the Town Board, and notices and orders issued. All such records shall be public records open for public inspection during Norman business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

B. The Code Enforcement Official shall annually submit to the Town Board a written report and summary of all business conducted by the Building Department, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending or concluded.

SECTION 12: REPEAL.

Local Law No. 1 of the year 1984 is hereby repealed.

SECTION: EFFECTIVE DATE

This Local Law shall take effect on filing thereof with the Secretary of State, as provided by Section 27 of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. ..... 1 ..... of 2024 of the (County)(~~City~~)(Town)(~~Village~~) of ..... CANADAIGUA ..... was duly passed by the ..... TOWN BOARD ..... on APRIL 1 ... 20~~24~~, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. ..... of 20..... of the (County)(City)(Town)(Village) of ..... was duly passed by the ..... on ~~April 1, 2024~~, and was (approved)(not approved)(repassed after
(Name of Legislative Body)
disapproval) by the ..... and was deemed duly adopted on ..... 20....,
(Elective Chief Executive Officer)*
in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ..... of 20..... of the (County)(City)(Town)(Village) of ..... was duly passed by the ..... on ..... 20...., and was (approved)(not approved)(repassed after
(Name of Legislative Body)
disapproval) by the ..... on..... 20.... . Such local law was submitted
(Elective Chief Executive Officer)*
to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on ..... 20.... , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. ..... of 20..... of the (County)(City)(Town)(Village) of ..... was duly passed by the ..... on ..... 20...., and was (approved)(not approved)(repassed after
(Name of Legislative Body)
disapproval) by the ..... on ..... 20.... . Such local law was subject to
(Elective Chief Executive Officer)*
permissive referendum and no valid petition requesting such referendum was filed as of ..... 20.... , in accordance with the applicable provisions of law.

*** Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20---- of the City of ---------- having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on---------- 20----, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. ---------- of 20---- of the County of ---------- State of New York, having been submitted to the electors at the General Election of November ---------- 20----, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph ------1------, above.

Susan W Smith

Clerk of the County legislative body, ~~City~~, Town or ~~Village~~ Clerk
or officer designated by local legislative body

(Seal)

Date: 4/6/04

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Montgomery

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Charles H Clark

Signature

TOWN ATTORNEY

Title

~~County~~
~~City~~
Town
~~Village~~ of Canajoharie

Date: 4/6/04

CANAJOHARIE

LL5 2017 FLOOD DAMAGE PREVENTION

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

FILED
STATE RECORDS
DEC 2 n 2017
DEPARTMENT OF STATE

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Canajoharie

Local Law No. 5 **of the year 20** 17

A local law for Flood Damage Prevention as authorized by the New York State Constitution,
(Insert Title)
Article IX, Section 2, and Envrionmental Conservation Law, Article 36

Be it enacted by the Town Board **of the**
(Name of Legislative Body)

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Canajoharie **as follows:**

Please see attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2017 of the (County)(City)(Town)(Village) of Town of Canajoharie was duly passed by the Town Board of Canajoharie on December 14, 2017, in accordance with the applicable provisions of law.

(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ and was deemed duly adopted

(Elective Chief Executive Officer)*

on _____ 20[ ][ ], in accordance w ith the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.

(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Laura M. Vrooman
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: December 14, 2017

(Seal)

A local law #5 of 2017 for Flood Damage Prevention as authorized by the New York State Constitution,
Article IX, Section 2, and Environmental Conservation Law, Article 36

SECTION 1.0
STATUTORY AUTHORIZATION AND PURPOSE

1.1 FINDINGS

The Town Board of the Town of Canajoharie finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Canajoharie and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;

(4) control filling, grading, dredging and other development which may increase erosion or flood damages;

(5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;

(6) qualify and maintain for participation in the National Flood Insurance Program.

1.3 OBJECTIVES

The objectives of this local law are:

(l) to protect human life and health;

(2) to minimize expenditure of public money for costly flood control projects;

(3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) to minimize prolonged business interruptions;

(5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

(6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7) to provide that developers are notified that property is in an area of special flood hazard; and,

(8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 2.0
DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

"Accessory Structure" is a structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a minimal investment of not more than 10 percent of the value of the primary structure, and may not be used for human habitation.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters;

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means 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 designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural 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" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

(1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(i) by an approved state program as determined by the Secretary of the Interior or

(ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area 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 Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or **"100-year flood"** has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

(1) built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) designed to be self-propelled or permanently towable by a light duty truck; and

(4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water

surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Canajoharie, Montgomery County.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Canajoharie, Community Number 360442, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

(1) Flood Insurance Rate Map Panel Numbers:

36057C0117H, 36057C0118H, 36057C0119H, 36057C0136H, 36057C0137H, 36057C0138H, 36057C0139H, 36057C0141H, 36057C0143H, 36057C0144H, 36057C0280H, 36057C0285H, 36057C0305H, 36057C0310H, 36057C0320H

whose effective dates are January 19, 2018, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

(2) A scientific and engineering report entitled "Flood Insurance Study, Montgomery County, New York, (All Jurisdictions)" dated January 19, 2018.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at:
The Town of Canajoharie Clerk's Office, 12 Mitchell Street, Canajoharie, New York

3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

3.4 SEVERABILITY

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

3.5 PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Canajoharie from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Canajoharie, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

SECTION 4.0
ADMINISTRATION

4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question;

existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of $ 25.00. In addition, the applicant shall be responsible for reimbursing the Town of Canajoharie for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than $500.00 to cover these additional costs.

4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

(1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

(2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permitee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

(3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.

(4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.

(5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

(6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

(7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

4.4-1 PERMIT APPLICATION REVIEW

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

(1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.

(2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

4.4-2 USE OF OTHER FLOOD DATA

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

(2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

(3) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in Section 3.2, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

4.4-3 ALTERATION OF WATERCOURSES

(1) Notification to adjacent municipalities that may be affected and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.

(2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.4-4 CONSTRUCTION STAGE

(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

4.4-5 INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

4.4-6 STOP WORK ORDERS

(1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

(2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

4.4-7 CERTIFICATE OF COMPLIANCE

(1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

(2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.

(3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

4.4-8 INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

(1) Floodplain development permits and certificates of compliance;

(2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;

(4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,

(5) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

SECTION 5.0
CONSTRUCTION STANDARDS

5.1 GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures. in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.1-1 SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(l) Proposals shall be consistent with the need to minimize flood damage;

(2)Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,

(3)Adequate drainage shall be provided to reduce exposure to flood damage.

5.1-2 ENCROACHMENTS

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(ii) the Town of Canajoharie agrees to apply to the Federal Emergency Management Agency (FEMA)for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Canajoharie for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Canajoharie for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with

standard engineering practice that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Canajoharie agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Canajoharie for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Canajoharie for all costs related to the final map revisions.

(3) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Town of Canajoharie shall as soon as practicable, but not later than six months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

5.2-2 CONSTRUCTION MATERIALS AND METHODS

(1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

(i) a minimum of two openings of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade and;

(iii) openings not less than three inches in any direction.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

5.2-3 UTILITIES

(1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation, or at least three feet above the highest adjacent grade in a Zone A without an available base flood elevation, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.2-4 STORAGE TANKS

(1) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement during conditions of the base flood.

(2) Above-ground tanks shall be:

a. anchored to prevent floatation, collapse or lateral movement during conditions of the base flood or;

b. installed at or above the base flood elevation as shown on the Flood Insurance Rate Map enumerated in Section 3.2 plus two feet.

5.3 RESIDENTIAL STRUCTURES

5.3-1 ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

(1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

(2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

(3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 plus two feet (at least three feet if no depth number is specified).

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

(1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:

(i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or

(ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM plus two feet (at least three feet if no depth number is specified), or

(ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)

(3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

(5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

(1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

(i) be on site fewer than 180 consecutive days,

(ii) be fully licensed and ready for highway use, or

(iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home chassis is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the bottom of the frame of the manufactured home chassis is supported by reinforced piers or other foundation elements of

at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

(4) Within Zone AO, the bottom of the frame of the manufactured home chassis shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 plus two feet (at least three feet if no depth number is specified).

5.6 ACCESSORY STRUCTURES INCLUDING DETACHED GARAGES

The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

(1) Within Zones A1-A30, AE, AO, AH, A, accessory structures must meet the standards of Section 5.2-1, ANCHORING,

(2) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, areas below two feet above the base flood elevation shall be constructed using methods and practices that minimize flood damage.

(3) Within Zones AO and Zone A, if base flood elevation data are not available, areas below three feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.

(4) Structures must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters in accordance with Section 5.2-2(3).

(5) Utilities must meet the requirements of Section 5.2-3, UTILITIES.

SECTION 6.0
VARIANCE PROCEDURE

6.1 APPEALS BOARD

(1) The Zoning Board of Appeals as established by the Town of Canajoharie shall hear and decide appeals and requests for variances from the requirements of this local law.

(2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.

(3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.

(4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(5) Upon consideration of the factors of Section 6.l(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

(6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

6.2 CONDITIONS FOR VARIANCES

(l) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.l(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and

(ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(i) the criteria of subparagraphs l, 4, 5, and 6 of this Section are met; and

(ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall only be issued upon receiving written justification of:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

(i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

Be it enacted this 14th day of December, 2017 by the Town Board of the Town of Canajoharie, Montgomery County, New York,

to be effective upon filing with the Secretary of State.

SEAL

ATTEST Laura M. [illegible] CLERK

Attachment A
MODEL FLOODPLAIN DEVELOPMENT APPLICATION FORM

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):_____

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance, and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE)_____ DATE

SECTION 2: PROPOSED DEVELOPMENT (To be completed by **APPLICANT)**

	NAME	ADDRESS	TELEPHONE
APPLICANT			
BUILDER			
ENGI-NEER			

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

ACTIVITY	STRUCTURE TYPE
☐ New Structure	☐ Residential (1-4 Family)
☐ Addition	☐ Residential (More than 4 Family)
☐ Alteration	☐ Non-residential (Floodproofing? ☐ Yes ☐ No)
☐ Relocation	☐ Combined Use (Residential & Commercial)
☐ Demolition	☐ Manufactured (Mobile) Home
☐ Replacement	(In Manufactured Home Park? ☐ Yes ☐ No)

ESTIMATED COST OF PROJECT $_____

B. OTHER DEVELOPMENT ACTIVITIES:

☐ Fill ☐ Mining ☐ Drilling ☐ Grading
☐ Excavation (Except for Structural Development Checked Above)
☐ Watercourse Alteration (Including Dredging and Channel Modifications)
☐ Drainage Improvements (Including Culvert Work), Stormwater Control Structures or Ponds
☐ Road, Street or Bridge Construction
☐ Subdivision (New or Expansion)
☐ Individual Water or Sewer System
☐ Other (Please Specify)_____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by **LOCAL ADMINISTRATOR**)

The proposed development is located on FIRM Panel No._____, Dated_____.

The Proposed Development:

☐ The proposed development is reasonably safe from flooding. Entire property is in Zone B, C or X.

☐ The proposed development is in adjacent to a flood prone area.
100-Year flood elevation at the site is:
_____ Ft. ☐ NGVD 1929/ ☐ NAVD 1988 (MSL)
☐ Unavailable

☐ See Section 4 for additional instructions for development that is or may be in a flood prone area.

SIGNED_____ DATE

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by **LOCAL ADMINISTRATOR**)

The applicant must submit the documents checked below before the application can be processed:

- ☐ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.
- ☐ Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor, openings in foundation for entry and exit of floodwaters.
  Other_____
- ☐ Elevation Certificate
- ☐ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).
- ☐ Plans showing the watercourse location, proposed relocations, Floodway location.
- ☐ Topographic information showing existing and proposed grades, location of all proposed fill.
- ☐ Top of new fill elevation _____Ft. ☐ NGVD 1929/ ☐ NAVD 1988 (MSL)
- ☐ PE Certification of Soil Compaction
- ☐ Floodproofing protection level (non-residential only) ____ ☐ NGVD 1929/ ☐ NAVD 1988 (MSL) For floodproofed structures, applicant must attach certification from registered engineer or architect.
- ☐ Other: _____

_____

_____

SECTION 5: PERMIT DETERMINATION (To be completed by **LOCAL ADMINISTRATOR**)

I have determined that the proposed activity: A. ☐ Is
B. ☐ Is not

in conformance with provisions of Local Law #_____, (yr)_____. This permit is herby issued subject to the conditions attached to and made part of this permit.

SIGNED_____, DATE_____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.
If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

Expiration Date: _____

APPEALS: Appealed to Board of Appeals? ☐ Yes ☐ No
Hearing date:_____
Appeals Board Decision --- Approved? ☐ Yes ☐ No

Conditions: _____

_____

_____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by **APPLICANT** before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered professional engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bottom of lowest structural member of the lowest floor, excluding piling and columns) is: _____ FT.
☐ NGVD 1929/ ☐ NAVD 1988 (MSL).
Attach Elevation Certificate FEMA Form 81-31

2. Actual (As-Built) Elevation of floodproofing protection is _____ FT. ☐ NGVD 1929/ ☐ NAVD 1988 (MSL).
Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by **LOCAL ADMINISTRATOR**)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure compliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE_____ BY_____ DEFICIENCIES? ☐ YES ☐ NO
DATE_____ BY_____ DEFICIENCIES? ☐ YES ☐ NO
DATE_____ BY_____ DEFICIENCIES? ☐ YES ☐ NO

SECTION 8: CERTIFICATE OF COMPLIANCE(To be completed by **LOCAL ADMINISTRATOR**)

Certificate of Compliance issued: DATE:_____

BY: _____

Attachment B

SAMPLE
CERTIFICATE OF COMPLIANCE

for Development in a Special Flood Hazard Area

CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA

(Owner Must Retain This Certificate)

Premises located at: _____

_____

_____

_____

Owner: _____

Owner's Address: _____

_____

_____

_____

Permit No._____ Permit Date:_____

Check One:

___New Building
___Existing Building
___Fill
___Other:

The Local Floodplain Administrator is to complete a. or b. below:

a. Compliance is hereby certified with the requirements of Local Law No.____, (yr) ___.

Signed:_____ Dated:

b. Compliance is hereby certified with the requirements of Local Law No.____, (yr) ____, as modified by variance no. _____, dated _____.

Signed:_____ Dated: _____

CANAJOHARIE

LL1 2001 SUBDIVISION LAW

THE SUBDIVISION LAW

OF THE

TOWN OF CANAJOHARIE

Montgomery County
New York

PLANNING BOARD

Ivor Jones, Chairman
Carol Meka
Wayne Conard
Ivan Easton
Wayne Heiser
John Toomey

TOWN BOARD

Robert McMahon, Supervisor
Herbert Allen
William Armitstead
John J. Toomey, Jr.
Rodney Young

Douglas Landon, Town Attorney
Susan H. Smith, Town Clerk

Local Law No. 1 of 2001
Adopted April 5, 2001

SUBDIVISION LAW OF THE TOWN OF CANAJOHARIE

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SUBDIVISION LAW OF THE TOWN OF CANAJOHARIE: ARTICLE I

ARTICLE I: TITLE, SCOPE AND PURPOSE

A. TITLE

This local law shall be known and may be cited as "The Subdivision Law of the Town of Canajoharie, New York."

B. SCOPE

This local law shall regulate all subdivision of land in the Town of Canajoharie.

C. ENACTING CLAUSE

C.1 This local law is enacted pursuant to Article 16 of the Town Law of the State of New York to promote the public health, safety, and general welfare.

C.2 The Planning Board of the Town of Canajoharie is hereby authorized and empowered to approve plats for subdivisions within the Town of Canajoharie pursuant to Article 16 of the Town Law of the State of New York.

D. PURPOSE

This local law is enacted for the following purposes:

D.1 To provide for the future growth and development of the Town of Canajoharie.

D.2 To insure adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health, and welfare.

D.3 To provide in appropriate cases a park or park lands suitably located for playground or other recreational purposes.

D.4 To provide that future streets and highways shall be of sufficient width and suitable grade and shall be suitably located and properly constructed to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection, and to provide access of fire fighting equipment to buildings.

D.5 To assure that subdivision streets and highways shall be coordinated so as to compose a convenient system, both independently and in relation to the existing street system.

D.6 To assure that adequate provision is made for all necessary utilities, systems, functional requirements, and open space in the development of subdivisions.

D.7 To assure that the land shown on such plats shall be of such character that it can be used safely for building purposes without danger to health, or peril from flood, fire or other menace.

ARTICLE II: TERMINOLOGY

A. TERMS

The present tense shall include the "future" the singular number shall include the "plural" and the plural the "singular". The word "shall" is mandatory.

B. DEFINITIONS

Terms and words used in this law shall have the following meanings:

AGRICULTURAL DATA STATEMENT - An identification of farm operations within an agricultural district which are located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval is proposed, as specified in §305-a of Ag and Markets Law.

ALLEY - A strip of land over which there is a right-of-way, municipally or privately owned, on which no building fronts, serving as a secondary means of access to two or more properties.

BOND - A performance bond duly issued by a bonding or surety company approved by the Town Board after review by the Town Attorney with security acceptable to the Town Board or a performance bond duly issued by the subdivider accompanied by security in the form of cash, certified check or U.S. Government Bearer Bonds deposited with the Town Board in the full amount of the obligation.

BUILDING LINE - A line, generally parallel to the front property line, beyond which the front foundation wall of a building does not extend toward the street on which it faces.

CLUSTER DEVELOPMENT – A subdivision in which the zoning regulations are modified to provide an alternative method for the layout, configuration and design of lots, structures, roads, infrastructure, parks, and landscaping in order to preserve the natural and scenic quality of open lands.

DWELLING-UNIT - Housekeeping accommodations for one or more persons living as a family.

EASEMENT - A right granted to use certain land for a special purpose not inconsistent with the general property rights of the Owner.

TOWN ENGINEER - The duly designated engineer of the Town of Canajoharie or if there be no such official, a licensed professional engineer employed by the Planning Board or the Town Board.

FINAL PLAT - A drawing in final form prepared by a licensed land surveyor showing a proposed subdivision containing all information and detail required by law and by these regulations to be presented to the Planning Board for approval, and which if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

IMPROVEMENTS - Those physical changes to the land necessary to produce usable and desirable lots from raw acreage including grading, pavement, curb, gutter, storm sewers and drains, betterments to existing watercourses, sidewalks, street signs, crosswalks, shade trees, sodding or seeding, street name signs, and monuments.

SUBDIVISION LAW OF THE TOWN OF CANAJOHARIE: ARTICLE II

LOT - A parcel of land intended for transfer of ownership or building development, whether immediate or future.

LOT DEPTH - The mean horizontal distance between the front and rear lines of a lot.

LOT-DOUBLE FRONTAGE - A lot, the generally opposite ends of which both abut on streets or roads.

LOT WIDTH - The width of a lot at the building line.

PLANNING BOARD - The Planning Board of the Town of Canajoharie.

PRELIMINARY PLAT - A plan prepared by a licensed land surveyor, showing existing features of the land and proposed street, utility and lot layout within and adjacent to a subdivision.

RIGHT-OF-WAY - A strip of land between property lines opened for use as a street, alley or crosswalk.

SEQR - New York State Environmental Quality Review Act, and the review process required thereunder (6 NYCRR Part 617).

STATE DEPARTMENT OF HEALTH (DOH) – The New York State Department of Health. Department approval may be required for any subdivision containing five or more lots. Early contact by the subdivider with such department is advised.

STREET - Means and includes streets, roads, avenues, lanes, or other traffic ways, between right-of-way lines.

MAJOR STREET - Means a public street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

COLLECTOR STREET - Means a public street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

MINOR STREET - Means a public street intended to serve primarily as an access to abutting properties.

CUL-DE-SAC - Means a public minor street or portion of a public minor street with only one vehicular traffic outlet.

PRIVATE LANE - a privately owned street intended to serve as access to a public street for no more than four dwelling units without street frontage.

SUBDIVIDER - A person who is the registered owner, or authorized agent of the registered owner, of land proposed for subdivision.

SUBDIVISION LAW OF THE TOWN OF CANAJOHARIE: ARTICLE II

SUBDIVISION - the division of any parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development, except that the division of land for the purpose of transfer of ownership for subsequent agricultural use in which all parcels to be transferred are not less than twenty (20) acres in area and not involving a new street shall not be deemed a subdivision. The term includes resubdivision of any lot of record, combination of substandard lots of record into larger lots, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

MAJOR SUBDIVISION - Any subdivision not classified as a Minor Subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new public street or extension of municipal facilities.

MINOR SUBDIVISION - Any subdivision designated as a minor subdivision by the Planning Board, at its sole discretion, during the Sketch Plan Conference for review of said subdivision, and containing not more than four lots fronting on an existing street or private lane, not involving any new public street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Zoning Law or these regulations.

ZONING LAW - the Zoning Law of the Town of Canajoharie.

ARTICLE III: PROCEDURE

Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider shall have received approval of such proposed subdivision from the Planning Board in accordance with the following procedures.

A. SKETCH PLAN SUBMISSION

The subdivider shall, prior to the subdivision of land, submit to the Planning Board at least ten (10) days prior to a scheduled meeting of the Board, two (2) copies of a Sketch Plan of the proposed subdivision designed to comply with all standards and requirements of this law and the Zoning Law of the Town of Canajoharie.

A.1 Documents to be submitted for Sketch Plan

The Sketch Plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate based map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The Sketch Plan shall include the following information:

A.1.1 The location of that portion which is to be subdivided in relation to the entire tract, and the distance(s) to the nearest existing street intersection(s).

A.1.2 All existing structures, wooded areas, streams, and other significant physical features, within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.

A.1.3 The location and boundaries of all areas which, due to natural features such as wetlands, floodplains, excessive slopes, or other constraints, are not suitable for development purposes.

A.1.4 The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.

A.1.5 The tax map section, block and lot numbers.

A.1.6 The location of all available utilities, and all streets which are either proposed, mapped or built, including access points from the proposed subdivision to the existing street system.

A.1.7 The proposed pattern of lots (including typical lot width and depth), street layout, systems of drainage, sewerage, and water supply within the subdivided area.

A.1.8 Location and plans for development, if any, of land for parks, parkland, playgrounds or other public recreational use.

A.1.9 All existing restrictions on the use of land including easements, covenants, or zoning lines and districts.

B. SKETCH PLAN CONFERENCE

B.1 After submission of the Sketch Plan, the subdivider shall meet with the Planning Board to discuss and explain the proposed subdivision in terms of the following matters, to the extent requested by the Planning Board.

B.1.1 Street layouts, street construction and improvements, traffic patterns and access.

B.1.2 Lot layouts, building locations and sizes, planned building types, configurations, exterior design and related issues;

B.1.3 Public spaces, open spaces, parks or recreation areas, including proposed ownership, access, operations, maintenance and related concerns;

B.1.4 Pedestrian access and amenities, into and within the proposed subdivision;

B.1.5 Storm drainage, storm sewers, impervious areas, downstream drainage facilities, and related concerns;

B.1.6 Sewage disposal, septic systems, leach fields, and related concerns;

B.1.7 Quality and quantity of water supply and its adequacy for the proposed subdivision;

B.1.8 Availability of existing utilities and services, and plans for their construction or extension to serve the proposed subdivision;

B.1.9 Projected impact on public services necessary to serve the population of the proposed subdivision;

B.1.10 Possible impact of the proposed subdivision on areas of environmental concern, including but not limited to rivers, streams, watersheds, aquifers, wetlands, flood areas, prime agricultural lands, views and vistas, critical habitat, or endangered or threatened species;

B.1.11 Such other areas of concern relative to the proposed subdivision about which the Planning Board requests information.

B.2 The following decisions shall be made during the Sketch Plan Conference:

B.2.1 The Planning Board shall, at its sole discretion, determine if the proposed subdivision qualifies as a Major or Minor Subdivision under this law.

B.2.2 The Planning Board shall determine the classification of the proposed subdivision for purposes of SEQR, and instruct the subdivider as to the appropriate Environmental Assessment Form to submit with the Preliminary Plat Application.

B.2.3 The Planning Board shall determine if an Agricultural Data Statement must be submitted. This form is required by New York State Ag and Markets Law if the property to be subdivided is a farm operation located within an Agricultural District, or if it is located within five hundred (500) feet of a farm operation within an Agricultural District.

B.2.4 The Planning Board may waive, when reasonable, any requirements for the approval of a proposed subdivision. Any such waiver may be exercised in the event that such requirements are found not to be necessary in the interest of the public health, safety, and general welfare.

B.2.5 The Planning Board shall approve or disapprove the proposed Modifying Resolution for a Cluster Development pursuant to Article V of this law.

B.2.5.1 Upon approval of the Authorizing Resolution in its final form, it shall serve as additional or substitute design criteria and/or conditions for subdivision review and approval.

B.2.5.2 Approval of the Modifying Resolution by the Planning Board shall not constitute, guarantee, imply or require approval of the Sketch Plan, Preliminary Plat, or Final Plat.

B.2.6 The Planning Board shall determine the necessity for outside consultant services for review of the Preliminary and/or Final Plat. The following factors shall be considered in determining the need for such services:

B.2.6.1 The complexity and scope of the proposed subdivision;

B.2.6.2 Unusual or unique conditions on the site and surrounding property;

B.2.6.3 Such other factors as the Planning Board considers relevant.

B.2.6.4 If the Planning Board determines that the services of an outside consultant are necessary for review of the Preliminary and/or Final Plat, the applicant shall be informed in writing of such determination. The subdivider shall be financially responsible for such costs.

B.3 The Sketch Plan Conference may be recessed by the Planning Board at any time, on its own motion or at the request of the subdivider, in order to acquire additional information or prepare studies, to allow for the preparation of a Cluster Sketch Plan, to allow for modifications or adjustments to the Sketch Plan(s) submitted or the proposed Modifying Resolution, for estimate of the cost for outside consultant fees, or for any other reason consistent with the purposes of this law, in which case the continuation of the Sketch Plan Conference at a later date shall be considered the same Conference.

C. REVIEW OF THE SKETCH PLAN

C.1 Within forty-five (45) days after completion of the Sketch Plan Conference, the Planning Board shall inform the subdivider that the Sketch Plan and data as submitted, or as modified in the Sketch Plan Conference, do or do not meet the purposes and objectives of this local law, and it shall express its reasons therefore.

C.2 If the Planning Board concludes that the Sketch Plan meets the purposes and objectives of this local law, it shall also inform the subdivider of any additional or special information or requirements that must be included in the Preliminary Plat and/or the application for Preliminary Plat approval.

C.3 If the Planning Board concludes that the Sketch Plan does not meet the purposes and objectives of this local law, the subdivider may revise the Sketch Plan consistent with the reasons expressed by the Planning Board, if possible, and begin the Sketch Plan process again.

D. PROCEDURE FOR REVIEW AND APPROVAL OF THE PRELIMINARY PLAT: APPROVAL OR CONDITIONAL APPROVAL

D.1 Three (3) copies of the Preliminary Plat and supplementary material specified, including all SEQR materials, and an Agricultural Data Statement if necessary, shall be submitted to the Planning Board for approval.

D.2 The application for approval of the Preliminary Plat shall not be considered complete until the entire SEQR process has been completed pursuant to 6 NYCRR Part 617, and all fees and reimbursable costs have been deposited by the subdivider with the Town.

D.3 Within forty five (45) days after receipt of the complete Preliminary Plat, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in the official newspaper at least five days before such hearing. Time of submission shall be considered the date on which the Preliminary Plat, all supplemental materials required, and all reimbursable costs and application fees are received by the Planning Board.

D.4 Within forty five (45) days after the close of the public hearing on the Preliminary Plat, the Planning Board shall approve, conditionally approve, with or without modification, or disapprove such Preliminary Plat, and the grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board and provided to the subdivider in writing.

D.5 In those cases where the Planning Board is required to refer the application for Preliminary Plat approval to any outside planning agency for review pursuant to New York State Law, the time within which the Planning Board must take action shall not begin until receipt by the Planning Board of the recommendation of said outside agency or the expiration of the allotted time for such review.

D.6 The time within which the Planning Board must take action on the Preliminary Plat may be extended by mutual consent of the subdivider and Planning Board.

D.7 The Preliminary Plat shall be stamped by a surveyor licensed in the State of New York, unless the survey has been waived by the Planning Board for a single lot Minor Subdivison.

E. PROCEDURE FOR APPROVAL OF FINAL PLAT

E.1 Three (3) paper copies of the Final Plat stamped by a surveyor appropriately licensed in the State of New York (unless the survey has been waived by the Planning Board for a single lot Minor Subdivision) and of all other exhibits required for approval shall be submitted to the Planning Board within six months after approval or conditional approval of the Preliminary Plat, or said approval shall become null and void unless an extension of time is applied for and granted by the Planning Board within said six month period. Time of submission shall be considered the date on which the Final Plat and all required supplementary materials are received by the Planning Board.

E.2 The Final Plat to be filed with the County Clerk shall be printed in ink upon mylar or similar reproducible material with a minimum sheet size of eight and one-half inches by eleven inches (8 ½" x 11"), and a maximum sheet size of thirty-four by forty-four inches (34" x 44") and shall be stamped by a surveyor licensed in the State of New York (unless the survey has been waived by the Planning Board for a single lot Minor Subdivision).

E.3 Application for approval of the Final Plat shall be submitted in writing to the Planning Board. Within forty five (45) days of receipt of the complete application for Final Plat approval including all required copies and exhibits, the Planning Board shall hold a public hearing on the subdivision application, unless the Final Plat conforms to all conditions of the Preliminary Plat approval and the Planning Board waives the requirement for public hearing. Any such hearing shall be advertised in the official newspaper at least five (5) days before such hearing.

E.4 The Final Plat shall conform substantially to the Preliminary Plat as approved or conditionally approved.

E.5 If desired by the subdivider, the Final Plat may constitute only that portion of the approved Preliminary Plat which is proposed to be recorded and developed at that time, provided, however, that such portion conforms to all requirements of these regulations and any conditional approval of the Preliminary Plat.

E.6 Within forty five (45) days after the public hearing, if held, or within forty five (45) days of the receipt of the complete Final Plat by the Planning Board, if no public hearing is held, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plat.

E.7 In those cases where the Planning Board is required to refer the application for Final Plat approval to any outside planning agency for review pursuant to New York State Law, the time within which the Planning Board must take action shall not begin until receipt by the Planning Board of the recommendation of said outside agency or the expiration of the allotted time for such review.

E.8 The time within which the Planning Board must take action on the Final Plat may be extended by mutual consent of the subdivider and the Planning Board.

F. GUARANTEES FOR REQUIRED IMPROVEMENTS FOR MAJOR SUBDIVISONS

The Subdivider shall comply with one of the following alternatives prior to Final Plat approval of a major subdivision, unless this requirement is waived by the Planning Board.:

F.1 The Subdivider shall construct all required infrastructure and improvements and submit certification from the Town Engineer or Town Highway Superintendent that all such improvements have been installed in accordance with the requirements of these regulations and the recommendations of Planning Board given during the Approval or Conditional Approval of the Preliminary Plat, and shall submit as-built or record drawings to the Planning Board showing the precise location, grades and elevations of all such improvements; or

F.2 The Subdivider shall submit certification from the Town Attorney that a bond or certified check has been posted with the Town Clerk, which is available to the municipality, in sufficient amount to assure completion of all required improvements and the provision of one set of as-built or record drawings to the Planning Board showing the precise actual location, grades and elevations of all such improvements.

Such bond shall assure the completion of all required improvements within one year of Final Plat Approval, unless a longer period (not to exceed three years) is determined appropriate by the Planning Board

Such bond shall remain in force for a period of one year after completion of construction and submission of record drawings to the Planning Board, at which time said bond shall be released by the Planning Board upon satisfactory final inspection of all improvements by the Town Engineer or Town Highway Superintendent.

Such bond shall comply with all requirements of the Town Law of the State of New York, and shall be approved by the Town attorney as to form, sufficiency and manner of execution.

ARTICLE IV: REQUIRED PLAT DATA

A. The **PRELIMINARY PLAT AND FINAL PLAT FOR A MINOR SUBDIVISION** only, shall include the following:

A.1 Date, north arrow, map scale, name and address of record owner and subdivider.

A.2 Proposed subdivision name, name of the Town and County in which it is located.

A.3 An actual field survey of the boundary lines of the tract, giving complete description data by bearings and distances, made and certified to by a licensed land surveyor, except that the Planning Board, at its sole discretion, may waive the requirement for a survey in the case of a single lot Minor Subdivision only. The corners of the tract and each lot shall be located on the ground and marked by monuments, and shall be referenced and shown on the Plat.

A.4 All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health, and a note attesting to this shall be stated on the Plat and signed by a licensed engineer. All sanitary facilities shall be shown on the plat.

A.5 A copy of such covenants or deed restrictions as are intended to cover all or any part of the subdivision tract.

B. The **PRELIMINARY PLAT FOR A MAJOR SUDIVISION** shall be prepared at any appropriate scale, and shall include the following:

B.1 Subdivision name or other identifier, scale, north arrow, name of owner and subdivider.

B.2 Site data, including number of residential, commercial and/or industrial lots, typical lot sizes, lineal feet of streets, total acres, park and open space acreage, etc.

B.3 Topographic data on the site with contours of sufficiently small intervals for satisfactory review of street grades, streams, drainage conditions and design, and other engineering questions affected by topographic conditions.

B.4 The proposed layout of streets, their relation to adjacent streets, street right-of-way widths, proposed street names, proposed private lanes and driveway entrance locations, pavement widths, sidewalks, and curbs.

B.5 Drainage system information, including catch basins, storm sewers, drainage ditches, streams, culverts, flood plain and wetland areas, etc. Such information shall include sizing information of sufficient detail for review purposes.

B.6 Utilities on and adjacent to the site.

B.7 Location and general design of all water and sewer service systems and structures, with sufficient data for review purposes.

B.8 Location, dimensions, and purpose of all easements.

B.9 Lot numbers in the order in which development is to take place, if known.

B.10 Proposed setback line on all lots within the site.

B.11 Names of owners of record of the subdivision tract all adjoining real property.

B.12 Location, acreage, and general design of improvements of park or parks, playgrounds, and other recreational areas or uses.

B.13 The endorsement of the Preliminary Plat by a land surveyor licensed in the State of New York.

B.14 Such other information as the Planning Board may require, in its judgment, for adequate review of the proposed subdivision.

C. The **FINAL PLAT FOR A MAJOR SUBDIVISION** shall be drawn at a scale of one hundred (100) feet to one (1) inch or larger (preferred scale of 50 feet to one inch) and shall show the following:

C.1 Title, scale, north arrow and date.

C.2 Topographic data on the tract, with contour intervals no greater than five (5) feet.

C.3 Tract boundary lines with bearings and distances, tract area, right-of-way lines on streets, easements and other rights-of-way, and property lines or residential lots and other sites with accurate dimensions, bearings or deflection angles, radii, and central angles of all curves. The corners of the tract and each lot shall be located on the ground and marked by monuments, and shall be referenced and shown on the Plat.

C.4 Name and right-of-way width of each street or other right-of-way.

C.5 Utilities on and adjacent to the tract locations, size, materials, and invert elevation of sanitary and storm sewers, location, size, and materials of water mains, location of gas lines, fire hydrants, underground utility lines and street lights.

C.6 Location, design, ownership and maintenance information, and other relevant data for any combined public or private water supply or sewage treatment facilities.

C.7 Proposed or installed location for all privately owned individual water supply or sewage treatment facilities.

C.8 Location, dimensions and purpose of any easements.

C.9 Number to identify each lot and block.

C.10 Minimum setback line on all lots and other sites.

C.11 Location and description of all monuments.

C.12 Names of owners of record of adjoining real property.

C.13 Reference to recorded subdivision plats of adjoining land by name, date, and number.

C.14 Certification of title showing that applicant is the land owner.

C.15 Certification by a land surveyor licensed by the State of New York as to accuracy of survey and plat.

C.16 Statement by owner as to dedication of streets, rights-of-way and any sites for parks, playgrounds, open space, recreation, or other public uses.

C.17 Site data, including number of residential lots, typical lot size, lineal feet of streets, acres in parks, etc.

C.18 Approval by the New York State Department of Health of water supply systems and sewage disposal systems proposed or installed.

C.19 Cross Sections and Profiles of streets showing approved grades shall be provided.

C.20 Protective Covenants in form for recording.

C.21 Other data, such other certificates, affidavits, endorsements or permits as may be required by the Planning Board or New York State or local law.

D. REQUIRED DISCLOSURE

In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise, and vibration." This disclosure shall be required as a note on a subdivision plat, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, or letter of notification. This section may also be applied to any commercial development which abuts agricultural land, at the discretion of the Planning Board.

ARTICLE V: CLUSTER DEVELOPMENT

A. MODIFICATION OF PROVISIONS OF LOCAL LAW

A.1. Enabling Legislation

Pursuant to Section 278 of the Town Law of the State of New York, the Town Board hereby authorizes the Planning Board to modify applicable provisions of the Zoning Law, consistent with the following purposes and subject to the procedures and conditions described herein.

A.2 Purpose of Modification Procedure

The purpose of authorization to modify applicable provisions of the Zoning Law and or design standards of this law shall be to enable and encourage flexibility of design and development of land in such a manner as:

A.2.1 To promote the most appropriate use of land;

A.2.2 To facilitate the adequate and economical provision of streets and utilities;

A.2.3 To preserve the natural and scenic qualities of open lands;

A.2.4 To maximize the retention of open lands and the establishment of public recreation areas while permitting reasonable economic return on private investment by permitting increased residential density in developed areas of a proposed subdivision in return for retention or development of open or recreational areas under appropriate circumstances.

A.3 Scope of Modification Procedure

This modification procedure shall be applicable to all lands zoned for residential or agricultural purposes under the Zoning Law of the Town of Canajoharie.

A.4 Conditions of Modification Procedure

The Planning Board may modify applicable provisions of the Zoning Law or design standards of this law, subject to the following conditions:

A.4.1 This procedure may be followed at the discretion of the Planning Board only if, in said Board's judgment, its application would benefit the Town.

A.4.2 This procedure shall be applicable only to lands zoned for residential or agricultural purposes by the Zoning Law.

A.4.3 The application of this procedure shall result in a permitted number of dwelling

units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning applicable to the district or districts in which such land is situated, excluding land unsuitable for development, and conforming to the requirements of this law without modification.

A.4.4 At the discretion of the Planning Board, the dwelling units permitted may be in detached, semi-detached, attached, or multi-story structures.

A.4.5 In the event that the application of this procedure results in a plat showing lands planned for park, recreation, open space, or other public or municipal purposes, then the Planning Board as a condition of plat approval shall establish such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure preservation of such lands for their intended purposes. Such conditions shall be consistent with those described in Article IV of the Zoning Law of the Town of Canajoharie.

A.4.6 Such other reasonable conditions as may be determined by the Planning Board.

B. SUBMISSION OF THE CLUSTER SKETCH PLAN

B.1 Simultaneously with or subsequent to the submission of the Standard Sketch Plan to the Planning Board, the subdivider may request, or any member of the Planning Board may propose, a resolution to authorize modification of provisions of the Zoning Law or the design standards of this Law as applied to the proposed subdivision, pursuant to and consistent with Section 278 of the Town Law of the State of New York and Section A of this Article, to be known as the Modifying Resolution.

B.2 Said Modifying Resolution shall include the following:

B.2.1 A Cluster Sketch Plan in the form of and including all information and documents required for the Standard Sketch Plan pursuant to Section III.A.1 of this law, designed to comply with the purposes and standards of Section A of this Article and Section 278 of the Town Law of the State of New York; and

B.2.2 A general description of the modifications of applicable provisions of the Zoning Law and/or design standards of this law which are proposed; and

B.2.3 A general description of the reasons such modifications are proposed and the relation of such modifications to the purposes described in Section A of this Article.

B.2.4 Such reasonable conditions, if any, as the Planning Board may, in its discretion, deem appropriate for the proposed Modifying Resolution.

ARTICLE VI: DESIGN STANDARDS

A. STREETS

A.1 The arrangement, character, extent, width, grade, and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed uses of the land to be served by such streets.

A.2 The arrangement of streets in a subdivision shall either:

a. Provide for the continuation, if appropriate, of major and connector streets in the surrounding area or

b. Conform to a plan for the neighborhood approved by the Planning Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

A.3 Minor and connector streets shall be so laid out that their use by through traffic will be discouraged.

A.4 Where a subdivision abuts or contains an existing or proposed major street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential and commercial properties and to afford separation of through and local traffic.

A.5 A tangent between reverse curves on major and collector streets shall be no less than 100 feet. A tangent between reverse curves on minor streets shall be no less than 50 feet.

A.6 Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than seventy-five (75) degrees.

A.7 Right-of-Way widths shall be as follows:

A.7.1 Right-of-Way widths for public major and collector streets shall be not less than 60 feet.

A.7.2 Right-of-Way widths for minor streets shall be not less than 50 feet.

A.8 Pavement widths shall be as follows:

A.8.1 Major streets shall have a minimum pavement width of thirty (30) feet.

A.8.2 Collector streets shall have a minimum pavement width of twenty four (24) feet.

A.8.3 Minor streets and cul-de-sacs shall have a minimum pavement width of 18 feet, but the Planning Board may waive the requirement for paving provided:

A.8.3.1 Non-pavement subsurface preparation and surface materials and construction have been approved by the Town Highway Superintendent.

A.8.3.2 A non-paved road design for the minor street location and circumstances proposed has been approved by the Town Highway Superintendent.

A.8.4 Private lanes serving no more than four dwelling units need not be paved.

A.9 Type of pavement construction shall be that specified by the Planning Board, based on the recommendation of the Town Highway Superintendent.

A.10 Cul-de-sac streets shall be provided at the closed end with a turnaround with an outside roadway diameter of at least one hundred (100) feet.

A.11 Private lanes serving no more than four dwelling units without frontage on a public street shall be provided at the closed end with a turnaround with an outside roadway diameter of at least one hundred (100) feet.

A.12 Dead end streets without a turnaround shall not be permitted.

A.13 No street or highway names shall be used which will duplicate or be confused with the names of existing streets in the Town or its Villages. Street names shall be subject to the approval of the Planning Board.

A.14 Street grades for all public streets shall be not less than 0.5 percent nor more than 12 percent. Street grades for private lanes and driveways shall not exceed 3 percent within 60 feet of the right-of-way line of the public street.

A.15 Alleys shall be provided in all commercial and industrial subdivisions, except that the Planning Board may waive this requirement where other definite and assured provision is made for service access, such as off-street loading and unloading, and parking consistent with and adequate for the uses proposed.

A.16 The width of an alley Right-of-Way shall be no less than twenty (20) feet and pavement width, if paving is required by the Planning Board, shall be no less than twelve (12) feet.

B. EASEMENTS

Perpetual easements shall be provided for utilities and stormwater drainage where necessary. Such easements shall be of sufficient width to accommodate the installation and future maintenance of utilities and drainage installed therein as approved by the Town Engineer.

B.1 In no case shall utility easements be less than ten (10) feet in width.

B.2 In no case shall drainage easements be less than twenty (20) feet in width.

B.3 In no case shall water or sewer easements be less than twenty (20) feet in width.

C. BLOCKS

C.1 The lengths, widths and shapes of blocks shall be determined with due regard to:

C.1.1 The type of development proposed.

C.1.2 Density limitations, set back and lot width requirements, and other standards of the Zoning Law.

C.1.3 Need for convenient access, circulation, control and safety of street traffic, with particular attention to limitation of the number and location of points of ingress or egress and adequate sight distance at all intersections.

C.1.4 Limitations and opportunities of topography.

C.2 A pedestrian right-of-way, not less than eight (8) feet wide, shall be provided where deemed necessary by the Planning Board to provide circulation, or access to schools, playgrounds, parks, shopping centers, transportation, or other community facilities.

D. LOTS

D.1 The lot size, width, depth, shape, orientation, and building setbacks shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

D.2 No lot shall have less area or width than the minimum requirements of the Zoning Law applying to the district in which it is located.

D.3 Corner lots for residential use shall have sufficient extra width to permit building setbacks from and orientation to both streets as required by the Zoning Law.

D.4 The subdividing of land shall be such as to provide each lot with frontage on an improved street; however a private lane may serve as frontage access to a public street for not more than four dwelling units.

D.5 Every street shown on the plat that is hereafter filed or recorded in the office of the County Clerk shall be deemed to be a private street until such time as it has been formally offered for cession to the public and formally accepted as a public street by resolution of the Town Board or alternatively until it has been condemned by the municipality for use as a public street.

D.6 Double frontage lots should be avoided.

D.7 Side lot lines shall be substantially at right angle or radial to street lines.

D.8 Off-street parking space shall be required for all uses and shall conform with the requirements for parking described in the Zoning Law.

E. DRAINAGE IMPROVEMENTS

E.1 The subdivider shall carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

E.2 A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The design and size of drainage facilities shall be based on anticipated run-off from a "50-year" storm under conditions of total potential development of the watershed, and shall be subject to review by the Town Engineer or consultant engineer if necessary.

E.3 The subdivider shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision, subject to review by the Town Engineer or consultant engineer. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload any existing downstream drainage facility during a twenty-five year storm, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

E.4 Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

F. PARKS AND PLAYGROUNDS

F.1 The Planning Board may require that a subdivision plat which contains residential units shall include a park or parks suitably located and of adequate size for a playground or other recreational purposes.

F.2 Land for parks, playgrounds or other recreational purposes may be not required until the Planning Board has made a finding that a proper case exists for requiring such park land. Findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular subdivision will contribute.

F.3 If the Planning Board makes a finding that the proposed subdivision presents a proper case for requiring a park, but that a suitable park or parks of adequate size cannot be located within the subdivision tract, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board.

F.4 Any monies required by the Planning Board in lieu of land for recreational purposes pursuant to this section, shall be deposited into a trust fund to be used by the Town exclusively for park, playground, or other recreational purposes, including the acquisition of property.

ARTICLE VII: MINIMUM REQUIRED IMPROVEMENTS

A. GENERAL

Prior to the granting of Final Plat approval for a major subdvision, the Subdivider shall have installed, or shall have furnished an adequate performance bond for installation within a specified time, the required improvements listed and described in this section, unless this requirement is waived by the Planning Board. All of the required improvements shall be made in full compliance with the specifications for each of the various units of work, as required by Town, State, or County authorities, according to the nature of the improvements. Required improvements shall not be considered complete until the Subdivider has provided to the Planning Board one complete set of as-built or record drawings, showing the precise actual location, grades, and elevations of all such improvements.

B. MONUMENTS

The lines of all streets and the property corners of all lots shall be marked with permanent monuments of concrete, stone or cast iron pipe.

C. STREET IMPROVEMENTS

All streets and thoroughfares shall be graded to their full width, including side slopes, and improved in accordance with the minimum standards outlined below:

C.1 Subgrade

C.1.1 Grading

C.1.1.1 All top soil shall be removed along the area 19½ feet on each side of the center line of the street, unless a fill of 3 feet or more is to be placed. All muck, quicksand, organic matter, and other objectionable materials shall be removed. Old foundations and retaining walls shall be demolished to an elevation that is satisfactory to the Town Highway Superintendent. The entire lengths of the roadway, ditches, side slopes, backslopes, sidewalk areas, and highway junctions shall be graded to the required lines and elevations.

C.1.1.2 Where the subgrade foundation is on a transition from excavation to embankment, either longitudinally or transversely, the existing ground slopes shall be benched as directed by the Town Highway Superintendent. During the process of excavating and making embankments, the grades shall be maintained in such condition that there will be adequate drainage at all times.

C.1.1.3 All slopes shall be graded not less than 1 on 2, and shall be covered with top soil and seeded.

C.1.1.4 After grading operations are completed all loose stones, larger than 4 inches in their greatest dimensions shall be removed from the surface of all graded paving areas and disposed of as directed by the Town Highway Superintendent.

C.1.2 Drainage ditches

C.1.2.1 Where curbs, gutters and storm sewer system have not been required by the Planning Board, drainage ditches shall be provided on each side of the streets the center line of which shall be 21 feet from the center line of the street. Ditches shall be adequate for proper drainage, as determined by the Town Highway Superintendent or Town Engineer.

C.1.2.2 The outside area or sidewalk and lawn section shall be graded at least as high as the center line of the street, but no higher than 8 inches above the center line.

C.1.3 Where a curb and storm drainage system is not required, culverts shall be provided as follows:

C.1.3.1 Driveway culverts shall be installed in all driveways, which culverts shall be not less than 12 inches in diameter and not less than 16 feet in length.

C.1.3.2 Intersection culverts shall be installed, which culverts shall be not less than 12 inches in diameter and not less than 36 feet in length.

C.1.3.3 Culvert sizes and locations shall be approved by the Town Highway Superintendent or Town Engineer.

C.2 Surface Construction

After the sanitary sewers, water distribution lines, water and sewer service laterals, and all other underground utilities to be installed within the street right-of-way have been installed and subgrade construction approved by the Town, subbase and pavement construction shall be completed as follows:

C.2.1 The subbase course of twelve (12) inches of compacted foundation material acceptable to the Town Highway Superintendent shall be placed in lifts not to exceed six (6) inches to a width eight (8) feet wider than the required pavement width.

C.2.2 Pavement requirements shall be as follows:

C.2.2.1 If hot mix blacktop has been specified, Type 1 base shall be installed and rolled to a thickness of no less than 3.0 inches followed by Type 6 top installed and rolled to a thickness of no less than 2.0 inches.

C.2.2.2 If cold mix/pug mill blacktop has been specified, not less than 3.0 inches of blacktop material shall be placed and rolled to a thickness not less than 2.0 inches.

C.2.2.3 If oil-and-stone paving has been specified, aggregate shall be No. 1 ST stone and application rates shall be as follows:

Aggregate:	20-30 lbs/sq. yd.
Bituminous Material:	0.40-0.50 gal/sq. yd.

C.2.3 Requirements for non-paved road construction, when paving has been waived by the Planning Board pursuant to Article VI, Section A.8 of this law, shall be as follows:

C.2.3.1 Base course gravel or crushed stone shall be a minimum of 8 inches.

C.2.3.2 Top course of gravel or crushed stone shall be a minimum of 4 inches.

C.2.4 All materials and construction procedures shall be acceptable to the Town Highway Superintendent.

C.3 Curbs and Gutters

C.3.1 Where curbs exist on abutting properties, their extension by the developer will ordinarily be required throughout the proposed subdivision.

C.3.2 Where curbs are not required, adequate drainage ditches shall be graded and protected by seeding or appropriate surfacing.

C.3.3 Concrete curbs generally shall be wall type 6" x 18" and shall comply with current construction and material specifications of the New York State Department of Transportation, and all applicable local laws.

C.3.4 Asphalt concrete or concrete roll-type curbs may be utilized with the approval of the Town Highway Superintendent and Planning Board.

C.4 Sidewalks

C.4.1 The Planning Board shall require sidewalks as necessary to provide for the safety of pedestrians.

C.4.2 Where circumstances and location of the particular subdivision provide sufficient safety for pedestrians, the Planning Board may waive the requirement for sidewalks in all or part of such subdivision.

C.4.3 Where required, sidewalks shall be constructed of concrete at least 4 feet wide and 4 inches thick and shall comply with the current construction and material

specifications of the New York State Department of Transportation, and all applicable local laws. Sidewalks shall be 6 inches thick where driveways cross the sidewalk.

D. WATER SUPPLY

D.1 Where available, the subdivider shall extend public water distribution mains to serve all lots in the subdivision.

D.1.1 Such extension of the public water system shall meet with all requirements and approval of the New York State Department of Health, and shall be completed at the subdivider's expense.

D.1.2 The subdivider shall provide water service laterals to the property line of each lot in the subdivision.

D.2 Where public water supplies are not available, the subdivider shall, to the satisfaction of the New York State Department of Health and the Planning Board, either:

D.2.1 Provide assurance of sufficient quantity and quality of individual water sources for each lot, including adequate separation from existing or future septic systems on the same or nearby lots, or other sources of potential well contamination; or

D.2.2 Design and construct neighborhood water system(s) including water supply and distribution system, water service laterals to all lot lines, and all necessary organizational and legal steps to assure adequate operation and maintenance of the system in perpetuity. Such neighborhood system(s), including all organizational and legal entities created, shall be approved by the New York State Department of Health and/or the Town Board of the Town of Canajoharie, as necessary, and by the Planning Board in all cases.

E. SEWAGE DISPOSAL

E.1 Where available, the subdivider shall extend public sewers to serve all lots in the proposed subdivision.

E.1.1 Such extension of the public sewer system shall meet with all requirements and approval of the New York State Department of Environmental Conservation, and shall be completed at the subdivider's expense.

E.1.2 The subdivider shall provide sewer service laterals to the property line of each lot in the subdivision.

E.2 Where public sewer service is not available, the subdivider shall, to the satisfaction of the New York State Department of Health and/or New York State Department of Environmental Conservation (as appropriate), and the Planning Board, either:

E.2.1 Provide full design of individual on-site sewage disposal systems adequate for each lot, including adequate separation from existing or future public or private water supplies on the same or nearby lots; or

E.2.2 Design and construct neighborhood sewage system(s), including sewage collection and treatment, sewer house laterals to all lot lines, and all necessary organizational and legal steps to assure adequate operation and maintenance of the system in perpetuity. Such neighborhood system(s), including all organizational and legal entities created, shall be approved by the New York State Department of Health and/or Department of Environmental Conservation and/or the Town Board of the Town of Canajoharie, as necessary, and the Planning Board in all cases.

F. STORM DRAINAGE FACILITIES

All culverts, pipes, ditches, stream improvements and other drainage facilities shall be installed in conformance with the Preliminary Plat as approved or conditionally approved.

G. UTILITIES

G.1 Electric service and other available utilities shall be provided by the developer within each subdivision prior to the approval of the Final Plat. All telephone, electrical and other service lines and cable shall be placed underground.

G.2 The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street right-of-way line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

G.3 Where topography is such as to make impractical the inclusion of utilities within the street right-of-way, perpetual unobstructed easements at least 20 feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where necessary.

H. STREET TREES AND MISCELLANEOUS

H.1 Street Trees shall be planted by the subdivider. The location and type of trees shall be approved by the Planning Board.

H.2 Planting Strips: The area between the curb or drainage ditch and the property line shall be seeded by the subdivider and maintained by the owner.

H.3 Street Name Signs: Signs shall be furnished by the Town, and all street names shall be approved by the Planning Board.

ARTICLE VIII: FEES AND REIMBURSABLE COSTS

A. APPLICATION FEES

The Planning Board shall periodically prepare and submit to the Town Board a schedule of fees for subdivision applications. Said schedule of fees shall become effective by resolution of the Town Board, and shall remain in effect until revised in like manner.

B. REIMBURSABLE COSTS

B.1 The full actual costs incurred by the Planning Board for necessary consultant review services or other extraordinary expenses in connection with the review of a proposed Subdivision shall be paid by the subdivider, provided that the necessity of such services and an estimate for such has been determined by the Planning Board at the Sketch Plan Conference.

B.2 The full actual costs incurred by the Town for project inspection fees or other construction phase expenses deemed necessary by the Planning Board shall be paid by the subdivider.

B.3 Such reimbursable costs shall be in addition to the application fee schedule established by the Planning Board.

C. PAYMENT OF FEES AND REIMBURSABLE COSTS

C.1 All fees and the estimated amount for consultant review costs shall be placed on deposit with the Town of Canajoharie by check submitted with the application for Preliminary Plat approval.

C.2 The Preliminary Plat shall not be considered complete nor will review or time periods within which the Planning Board must take action begin until all fees and consultant review costs have been received by the Town.

C.3 Estimated costs for inspection fees and other construction phase expenses shall be deposited with the Planning Board with the application for Final Plat approval.

C.4 The Final Plat shall not be considered complete nor will review or time periods within which the Planning Board must take action begin until estimated inspection fees and other construction phase expenses have been deposited with the Planning Board.

ARTICLE IX: INTERPRETATION AND APPLICATION

A. INTERPRETATION AND APPLICATION

The provisions of this local law have been adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except where specifically provided to the contrary, it is not intended by this local law to repeal, abrogate, annul, or in any way impair or interfere with any rules, regulations, or permits previously adopted or issued, or which shall be lawfully adopted or issued pursuant to law, nor is it intended by this local law to interfere with, or abrogate, or annul any easements, covenants, or other agreements between parties, provided, however, that where this local law imposes a greater restriction upon the use or development of land or requires larger open spaces than are imposed or required by any other statute, local law, rule, regulation, or permit, or by any easement or agreement, the provisions of this local law shall control.

B. SEPARABILITY

If the courts decide that any term, section or provision of this local law is unconstitutional or invalid, the decision shall not affect the validity of the law as a whole or any part other than the part determined to be unconstitutional or invalid.

C. EFFECTIVE DATE

This local law and any amendments thereto shall take effect immediately upon filing with the New York State Secretary of State.

D. REPEALER

This local law shall supercede Local Law No. 2 of the year 1992, the Subdivision Law of the Town of Canajoharie. All provisions of any other local law or ordinance which are inconsistent with the provisions of this local law are hereby repealed.

CANAJOHARIE

LL1 2001 ZONING LAW

THE ZONING LAW

OF THE

TOWN OF CANAJOHARIE

Montgomery County
New York

PLANNING BOARD

Ivor Jones, Chairman
Carol Meka
Wayne Conard
Ivan Easton
Wayne Heiser
John Toomey

TOWN BOARD

Robert McMahon, Supervisor
Herbert Allen
William Armitstead
John J. Toomey, Jr.
Rodney Young

Douglas Landon, Town Attorney
Susan H. Smith, Town Clerk

Local Law No. 1 of 2001
Adopted April 5, 2001

ZONING LAW OF THE TOWN OF CANAJOHARIE

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ATTACHMENTS:

Zoning Map
Personal Wireless Facility Overlay District Map

ZONING LAW OF THE TOWN OF CANAJOHARIE: ARTICLE I

ARTICLE I: TITLE, SCOPE AND PURPOSE

A. TITLE

This local law shall be known and may be cited as "The Zoning Law of the Town of Canajoharie, New York".

B. SCOPE

A local law regulating the use of land and the location, siting, alteration, maintenance, and occupancy of structures in the Town of Canajoharie and for said purposes dividing the Town into districts.

C. ENACTING CLAUSE AND PURPOSES

This local law is enacted pursuant to Article 16 of the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, to promote public health, safety, and the general welfare, specifically including the following additional purposes:

C.1. To allow for reasonable growth and development within the physical limitations of the land so as to assure adequate sites for housing, commercial activity, industry and public uses;

C.2. To facilitate the efficient and adequate provision of public facilities and services;

C.3. To promote pedestrian safety, efficient traffic circulation and adequate parking in order to support business activities in the Town;

C.4. To promote the design and use of land and buildings to maintain the integrity of existing neighborhoods and a sense of community;

C.5. To promote the retention and creation of local employment opportunities;

C.6. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of the land;

C.7. To enhance the appearance of the Town of Canajoharie as a whole;

C.8. To permit the continued operation of non-conforming uses in the least conflicting manner;

C.9. To encourage patterns of development which minimize the demand for energy.

D. RIGHT-TO-FARM

No provision of this Local Law shall be interpreted, administered, or enforced in a manner that unreasonably restricts farm operations within a State Certified Agricultural District established pursuant to Article 25AA of the New York State Agricultural and Markets Law, unless it can be shown that the public health and safety are threatened.

ARTICLE II: ESTABLISHMENT OF LAND USE DISTRICTS

A. ESTABLISHMENT AND NAMES

In order to fulfill the purposes of this Local law, the Town of Canajoharie is divided into the following districts:

R - Residential District
A - Agricultural/Rural Residential District
C - Commercial District
M - Manufacturing District

PWSF - Personal Wireless Service Facilities Overlay District
CE - Critical Environmental Overlay District
SR - Scenic Resources Overlay District

B. STATEMENT OF PURPOSE

The following statements of purpose define the spirit and intent of each land use district, and are to be used as guides in the interpretation and application of these regulations:

B.1. Residential District

The purposes of the Residential District are: to maintain and protect residential and neighborhood qualities while recognizing the importance of meeting the housing needs of Town residents; to provide for and encourage a mixture of housing types and opportunities; to provide for and encourage open spaces; to foster safe pedestrian and traffic circulation by establishing options for the provision of off-street parking; and to recognize the existence of non-conforming uses and to encourage their operation in an unobtrusive fashion.

B.2. Agricultural/Rural Residential District

The purposes of the Agricultural/Rural Residential District are: to maintain and encourage the agricultural endeavors practiced in the rural areas of the Town; to protect, enhance and encourage the preservation of open space, scenic views, wildlife habitat, and other natural resources; and to provide the opportunity for residential development on properly serviced sites while maintaining the rural atmosphere and values of the community.

B.3. Commercial District

The purposes of the Commercial District are: to provide general retail development in areas where appropriate services and transportation are available; to encourage commercial investment and development in appropriate areas; and to assure adequate services, parking, roadways and other services for commercial endeavors.

B.4. Manufacturing District

The purpose of the Manufacturing District is to provide for the special needs of industry for relatively flat land with access to transportation networks and utilities, while protecting the integrity of residential neighborhoods and commercial activity.

B.5. Personal Wireless Service Facilities Overlay District

The purpose of the Personal Wireless Services Facilities Overlay District is to provide a suitable choice of locations for the establishment, construction and maintenance of Personal Wireless Services Facilities, while protecting the integrity of the established neighborhoods of Canajoharie.

B.6. Critical Environmental Overlay District

B.6.1 Purpose

The purpose of the Critical Environmental Overlay District is to protect the residents of the Town and critical environmental areas in the Town. These areas may include, but are not limited to, former public dumps and private commercial/industrial dump sites.

B.6.2 Boundaries

In furtherance of this purpose, the Town may investigate and identify the location of former dump sites in the Town. This section shall not become effective until the Town Board adopts a map entitled "Critical Environmental Overlay District" as part of this Local Law. This map will identify the location of these critical environmental areas in the Town, and delineate the boundaries of the Critical Environmental Overlay District.

B.6.3 Procedure

Construction of new residential structures and wells shall not be permitted on former dump sites identified in the Critical Environmental Overlay District.

B.7. Scenic Resources Overlay District

B 7.1 Purpose

The purpose of the Scenic Resources Overlay District is to preserve the visual assets of the Town, including ridgelines, scenic road corridors, viewsheds and vistas. When new development is proposed in these visually sensitive areas, the Town wishes to ensure that such development is harmonious with the scenic character of the area.

B.7.2 Boundaries

In furtherance of this purpose, the Town may conduct a Scenic Resources Survey to identify scenic resources worthy of preservation. This section shall not become effective until the Town Board adopts a map which delineates the boundaries of this district and which is entitled "Scenic Resources Overlay District" as part of this Local Law.

B.7.3 Procedure

No new structures larger than five hundred (500) square feet in floor area, including single-family homes, and no major exterior modification of existing structures may be constructed within the Scenic Overlay District without first obtaining Site Plan Approval from the Planning Board.

Structures to be built on a tract of land that includes mapped scenic resources shall either be sited to avoid occupying or obstructing public views of lands in the Overlay District, or shall be reviewed for architectural compatibility with the existing landscape and surrounding architectural styles. In order to grant Site Plan approval the Planning Board must find that such structures will not detract from the scenic character of the area, and may require as a condition of approval the establishment of vegetative screening.

C. ZONING MAP

C.1. The boundaries of districts established by this Article are shown on the map entitled "Zoning Map, Town of Canajoharie, Montgomery County, New York", as adopted by the Town Board. The Zoning Map, including all explanatory matter and amendments, are hereby adopted as an integral part of this local law. Regardless of the existence of other printed copies of this map, which from time to time may be made or published, the official map, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town. The map shall be available in the Town Clerk's office for the use and benefit of the public.

C.2. A copy of said Zoning Map is and shall be attached to each copy of this local law.

D. INTERPRETATION OF DISTRICT BOUNDARIES

In applying the provisions of this local law, the following guidelines shall be used to determine the location of district boundaries:

D.1. Where district boundaries are indicated as approximately following the center lines of streets, highways, public utility easements, waterways, or railroad rights-of-way or such lines extended, such center lines shall be construed to be district boundaries.

D.2. Where district boundaries are indicated as approximately following a lot line, such lot line shall be construed to be the district boundary line. In all cases where a district boundary line is located no more than thirty five (35) feet from a lot line, the district boundary shall be construed to coincide with the lot line.

D.3. In all cases where a district boundary line divides a lot which is in one ownership as of the effective date of this law, and such line is more than thirty five (35) feet from a lot line, the regulations prescribed by this law for the majority of the area of said lot shall apply to the entire lot.

D.4. In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the Zoning Board of Appeals, pursuant to Article XI.B.1.2 of this Law.

E. EXEMPTIONS FOR PRE-EXISTING PERMITS AND IMPROVEMENTS

Nothing contained in this local law shall require any change in the plans, construction, or designated use of a building complying with local laws of the Town of Canajoharie in force prior to the effective date of this local law, if the following exist:

E.1. A building permit shall have been issued prior to the date of the first publication of notice of the public hearing on this local law; and

E.2. The owner and/or applicant can demonstrate that substantial improvements have been legally made and/or substantial expense has been incurred pursuant to legally issued permit or permits prior to the effective date of this local law.

ARTICLE III: USE REGULATIONS

A. GENERAL

A.1. After the effective date of this Local Law, no land or structure shall be used, occupied, erected, moved or altered unless in conformance with the Schedule of Use Regulations specified in this Article.

A.2. Pursuant to Section 280-a(4) of the Town Law, the Town Board hereby establishes the R-Residential District and A-Agricultural/Rural Residential District as open development areas. Permits may be issued for structures on lots that have no public or private road frontage and gain access by right-of-way or easement over other lands, under the following conditions:

A.2.1. Such right-of-way or easement providing access to a public street shall not be less than fifty (50) in width.

A.2.2. Such right-of-way or easement shall never serve or provide access to more than four (4) uses or structures.

A.2.3. Such right-of-way or easement must provide safe access for fire, police, and emergency vehicles.

A.3. The appropriate category of use to be applied to any proposed use not specifically identified and/or defined in this law shall be determined by the Code Enforcement and Zoning Officer, subject to Appeal for Interpretation pursuant to Article XI of this law.

A.4. All uses are subject to the requirements of Article IV (Area and Bulk Regulations) and Article VI, Section A.3 (Parking Requirements).

B. SCHEDULE OF LAND USE REGULATIONS

LAND USE	LAND USE DISTRICT			
	R	A	C	M
1. AGRICULTURE/FARM				
1.1 Farm Operation	-	P	-	-
1.2 Accessory Building for Commercial Purposes	-	SU/SP	-	-
1.3 Farm Stand	-	P	-	-
1.4 Manure Storage Facility	-	X	-	-
1.5 Mobile Home as part of a Farm Operation	-	X	-	-
The preceding agricultural uses are permitted in any Land Use District, subject to the same regulations as those in the Ag/Rural Residential District, if the parcel is part of a State Certified Agricultural District, as set forth in the description(s) and map(s) on file with the Montgomery County Clerk and Montgomery County Director of Real Property Tax Services.				
2. RESIDENTIAL				
2.1 Single Family Dwelling (including Double-wide Mobile Homes)	P	P	-	-
2.2 Two-Family Dwelling or Duplex	P	P	-	-
2.3 Multi-Family Dwelling	SP	SP	-	-
2.4 Mobile Home Community	X/SU/SP	X/SP	-	-
2.5 Mobile Home, Temporary Residential	X/SU/SP	X/SU/SP	-	-
2.6 Boarding/Rooming House	SU/SP	SU/SP	-	-
2.7 Campsite or Private Camp	-	X/SU/SP	-	-
3. RESIDENTIAL - ACCESSORY				
3.1 Home Occupation	X/SU/SP	X/SU/SP	X/SU/SP	-
3.2 Customary Accessory Uses/Buildings	P	P	SP	-
4. COMMERCIAL				
4.1 Retail Sales/Service	SU/SP	SU/SP	SP	-
4.2 Personal Services	SU/SP	SU/SP	SP	-
4.3 Bank	-	-	SP	-
4.4 Freestanding Drive-Thru Business	-	-	SP	-
4.5 Professional/Business Offices	SU/SP	SU/SP	SP	-
4.6 Medical or Dental Clinics/Offices	SU/SP	SU/SP	SP	-
4.7 Galleries/Studios	SU/SP	SU/SP	SP	-
4.8 Motel or Hotel	-	-	SP	-
4.9 Bed-and-Breakfast or Tourist Home	SU/SP	SU/SP	SP	-
4.10 Restaurant	-	SU/SP	SP	-

P Permitted
X Permitted Subject to Supplementary Regulations (See Article VI)
SU Permitted with Special Use Permit
SP Permitted Subject to Site Plan Review
- Not Permitted

R Residential District
A Agricultural/Rural Residential District
C Commercial District
M Manufacturing District

LAND USE	LAND USE DISTRICT			
	R	A	C	M
4. COMMERCIAL - CONTINUED				
4.11 Bar/Tavern/Nightclub	-	-	SP	-
4.12 Coin Operated Laundry	-	-	SP	-
4.13 Laundry or Dry Cleaning Plant	-	-	SP	SP
4.14 Funeral Home	SU/SP	SU/SP	SU/SP	-
4.15 Appliance Repairs	-	SU/SP	SP	SP
4.16 Motor Vehicle Repairs	-	SU/SP	SP	SP
4.17 Agricultural Equipment Repairs	-	SU/SP	SP	-
4.18 Gasoline Station	-	-	SP	SP
4.19 New/Used Vehicle Sales	-	-	SP	SP
4.20 Mobile Home Sales	-	-	SP	SP
4.21 Car Wash	-	-	SP	SP
4.22 Animal Hospital or Kennel	-	X/SP	X/SP	-
4.23 Antique, Craft, or Flea Market	-	SU/SP	SU/SP	SU/SP
4.24 Golf Course	-	SP	-	-
4.25 Nursery School/Day Care (less than 10 children) (10 or more children)	 P SP	 P SP	 - -	 - -
4.26 Campground/Recreational Vehicle Camp	-	X/SU/SP	-	-
4.27 Slaughterhouse or Rendering Plant	-	SU/SP	SU/SP	-
4.28 Processing of Agricultural or Food Products	-	SU/SP	SP	SP
4.29 Quarrying/Mining/Topsoil Removal	-	X/SU/SP	-	-
4.30 Private Storage Units	-	SU/SP	SP	SP
4.31 Airport or Landing Strip	-	SU/SP	-	-
4.32 Wholesale/Warehouse	-	SU/SP	SP	SP
4.33 Music or Arts Festival or other Temporary Public Gathering	-	SU/SP	SU/SP	-
4.34 Outdoor Recreational Facility	-	SU/SP	-	-
4.35 Indoor Theater/Auditorium	-	-	SP	-
4.36 Fairgrounds	-	SP	-	-
4.37 Indoor Recreational Facility	-	SP	SP	-
4.38 Farm Market	-	SU/SP	SP	-
4.39 Stable	-	SP	-	-
4.40 Adult Oriented Business	-	X/SU/SP	X/SU/SP	X/SU/SP

P Permitted
X Permitted Subject to Supplementary Regulations (See Article VI)
SU Permitted with Special Use Permit
SP Permitted Subject to Site Plan Review
- Not Permitted

R Residential District
A Agricultural/Rural Residential District
C Commercial District
M Manufacturing District

LAND USE	LAND USE DISTRICT			
	R	A	C	M
5. INSTITUTIONAL				
5.1 Place of Worship	SP	SP	SP	-
5.2 School (public or private)	SP	SP	SP	-
5.3 Nursing Home	SP	SP	SP	-
5.4 Convent/Monastery	SP	SP	SP	-
5.5 Group Home	SP	SP	SP	-
5.6 Rest Home	SP	SP	SP	-
5.7 Parsonage/Rectory	P	P	P	-
6. INDUSTRIAL USES				
6.1 Manufacturing	-	SU/SP	SU/SP	SP
6.2 Research Laboratory	-	SU/SP	SP	SP
6.3 Wholesale/Warehouse	-	SU/SP	SP	SP
6.4 Printing/Binding/Publishing	-	SU/SP	SP	SP
6.5 Truck Terminal/Transfer	-	SU/SP	SP	SP
7. CEMETERY USES				
7.1 Cemetery	-	X	-	-
7.2 Crematorium	-	X/SU/SP	-	X/SP
7.3 Caretaker's House	P	P	-	P

P Permitted
X Permitted Subject to Supplementary Regulations (See Article VI)
SU Permitted with Special Use Permit
SP Permitted Subject to Site Plan Review
- Not Permitted

R Residential District
A Agricultural/Rural Residential District
C Commercial District
M Manufacturing District

ARTICLE IV: AREA AND BULK REGULATIONS

A. GENERAL

A.1. After the effective date of this local law, no use shall be commenced, nor any building or structure or part thereof shall be erected, structurally altered, enlarged, rebuilt or moved except in conformance with the provisions of the Area and Bulk Regulations described in this Article for the District in which such use, building or structure is located.

A.2. The area required for complying with the setback requirements or Density Standard for any Principal Building as defined herein, shall not be counted as providing required open space, land area, or setback for any other use or structure.

A.3. A new lot or lots may be created through subdivision or combination of an existing lot or lots provided that all resulting lots comply with the area and bulk regulations established in this local law and also comply with the Town Subdivision Law, as amended.

A.4. With the exception of Personal Wireless Service Facilities which are specifically regulated under Article VI.C.11 Personal Wireless Services Facilities, all steeples, belfries, radio or television antennae (other than dish antennae) customary to residential uses, cupolas, towers, or similar architectural features, firetowers, chimneys, elevator bulkheads, flagpoles, smokestacks, agricultural structures located within a State Certified Agricultural District, and official police and fire radio antennae shall be exempt from the height requirements of this local law provided they do not constitute a public safety hazard.

B. DENSITY STANDARD

B.1. The Density Standard is the minimum land area required per principal building.

B.1.1. The Density Standard for all uses in the R-Residential Districts shall be three (3) acres per principal building.

B.1.2. The Density Standard for all uses in the A-Agricultural/Rural Residential District shall be three (3) acres per principal building.

B.1.3. The Density Standard for all uses in the C-Commercial Districts shall be one (1) acre per principal building if such buildings are served by municipal water and sewer, three (3) acres per principal building otherwise.

B.1.4. The Density Standard for all uses in the M-Manufacturing Districts shall be one (1) acre per principal building if such buildings are served by municipal water and sewer service, three (3) acres per principal building otherwise.

B.2. The density can be satisfied by either of the following:

B.2.1. A minimum lot size sufficient to meet the density standard for the district in which the use is located independently of any other use or property; or

B.2.2. The commitment of land to an irrevocable conservation easement or land conservation trust, dedication to and acceptance by the state, county, town or any village as publicly owned or park land, or other legally enforceable mechanism that guarantees permanent and irrevocable removal of sufficient land area otherwise suitable for development purposes from any and all future development, such that the average area per principal building is equal to or greater than the density standard.

Such irrevocable removal of land from development shall be subject to the approval of the Planning Board as to form and substance of the legal mechanism, conditions on use of such land, and area and location of such land.

B.2.2.1 If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a subdivision subject to the Town Subdivision Law, said review and approval shall be conducted simultaneously with subdivision review and approval.

B.2.2.2. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to Site Plan Review, said review and approval shall be conducted simultaneously with Site Plan Review.

B.2.2.3. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to neither the Town Subdivision Law nor Site Plan Review, the property owner shall apply directly to the Planning Board for independent review, and approval shall be a condition for issuance of the Certificate of Zoning Compliance pursuant to this law.

B.3. Land irrevocably removed from any and all future development for purposes of satisfying the density standard may be used for any of the following purposes:

B.3.1. Agriculture, farming, pasture, woodlands, or related uses not including buildings or structures.

B.3.2. Active or passive outdoor recreation not including buildings or structures.

B.3.3. Individual or combined septic systems, leach fields or other subsurface sanitary disposal systems.

B.3.4. Unused or vacant land, either maintained or non-maintained.

B.4. A Principal Building is a building in which the main or principal use of the lot is conducted. If more than one (1) principal building per lot is planned, the lot shall be subject to the requirements of Article IX, Site Plan Review, unless said lot is part of a Farm Operation. For the purposes of applying the Density Standards stated in Section B.1 above, the following shall constitute one principal building:

B.4.1. All agricultural use structures and one single-family dwelling or mobile home which are part of a Farm Operation, together constitute and count as one principal building.

B.4.2. A single family dwelling, or mobile home located outside of a Mobile Home Community, constitutes one principal building.

B.4.3. Up to two (2) dwelling units of a two-family or multi-family dwelling, together constitute one principal building.

B.4.4. Up to twelve (12) mobile homes located within a Mobile Home Community together constitute one principal building.

B.4.5. A tourist cabin or similar structure for rent or hire with more than 300 square feet of net floor area constitutes one principal building.

B.4.6. Up to four (4) motel units, hotel units, accommodation units in a tourist home or similar structure, or tourist cabin units for rent or hire in which each individual unit encompasses less than 300 square feet of net floor area, together constitute one principal building.

B.4.7. Up to three (3) campsites for the parking of occupied recreational vehicles or travel trailers or the erection of tents or other shelters for temporary residential use together constitute one principal building.

B.4.8. For each commercial use or structure for the retail sale, rental or distribution of goods, services or commodities, each 5,000 square feet of gross floor space or portion thereof of such commercial use structure constitutes one principal building.

B.4.9. For any industrial or manufacturing use structure, each 8,000 square feet of gross floor area or any fraction thereof shall constitute one principal building.

B.4.10. A structure containing a commercial use which is also used as a single family dwelling constitutes one principal building, provided the commercial use does not exceed 2,500 square feet of net floor area.

B.4.11. Any other structure not defined in this section which exceeds 1250 square feet of floor space constitutes one principal building.

B.4.12. An accessory building or structure in any district, and any agricultural accessory building not used for residential or commercial purposes, does not constitute and shall not count as a principal building.

C. SCHEDULE OF AREA AND BULK REGULATIONS

	MINIMUM LOT WIDTH	MINIMUM FRONT YARD SETBACK (a)	MINIMUM SIDE YARD SETBACK (each side)	MAXIMUM BUILDING HEIGHT
C.1 R-RESIDENTIAL DISTRICTS				
1.1 All Permitted Uses	300 feet (b)	40 feet	20 feet	30 feet
1.2 Use Subject to Special Use Permit	300 feet (b)	40 feet	20 feet	30 feet
C.2 A-AGRICULTURAL/RURAL RESIDENTIAL DISTRICTS				
2.1 All Permitted Uses	300 feet (b)	40 feet	20 feet	50 feet
2.2 Uses Subject to Special Use Permit	300 feet (b)	40 feet	20 feet	30 feet
C.3 C-COMMERCIAL DISTRICTS				
3.1 Without Municipal Water and Sewer Service	300 feet	15 feet	20 feet	40 feet
3.2 With Municipal Water and Sewer Service	100 feet	15 feet	15 feet	40 feet
C.4 M-MANUFACTURING DISTRICTS				
4.1 Without Municipal Water and Sewer Service	300 feet	15 feet	20 feet	40 feet
4.2 With Municipal Water and Sewer Service	100 feet	15 feet	15 feet	40 feet

(a) Front yard setback shall be measured from the right-of-way line of the street on which the building or structure is located.

(b) For flag lots, the minimum lot width at the street line shall be fifty (50) feet for the access leg providing driveway or private lane access to the public. The area of the access leg shall be excluded from area calculations for the lot.

ARTICLE V: NON-CONFORMANCE

A. CONTINUATION

A.1. No use, building or structure which does not conform to all requirements of this local law shall be permitted in the Town of Canajoharie except the following:

a. Any non-conforming use, building or structure, other than signs, existing lawfully on the effective date of this law; or

b. Any lawful use, building or structure, other than signs, which becomes non-conforming because of subsequent amendment of this law;

A.2. Certain non-conforming uses, buildings, and structures are subject to additional standards and limitations as specified in this Article.

B. NON-CONFORMING USES

B.1. Discontinuance or Removal. A non-conforming use which is discontinued or removed for any reason other than fire, flood or other natural disaster for a period of one (1) year or more shall not be re-established. A non-conforming use which is discontinued due to fire, flood or other natural disaster for a period of two (2) years or more, commencing on date of said natural disaster, shall not be re-established. Any subsequent use shall conform to this law. The Zoning Board of Appeals is empowered to extend the two (2) year time period upon receipt of a written request from the owner at least thirty (30) days in advance of the expiration of this time period.

B.2. Changes. No non-conforming use shall be changed except to a conforming use. When so changed, the non-conforming use may not be resumed.

B.3. Extension. No non-conforming use shall be enlarged or extended beyond the area occupied by such use on the effective date of this law. A non-conforming use may be extended throughout any part of a building designed for such use if on the effective date of this law a major portion of the building was used for such non-conforming use.

C. NON-CONFORMING BUILDINGS OR STRUCTURES

C.1. Alterations. A non-conforming building or structure shall not be enlarged, extended or have exterior alterations beyond the limits of the original building or structure, unless such enlargement, extension, or alteration shall be in accordance with the Article IV, Area and Bulk Regulations, for the district in which the building or structure is located.

C.2. Reconstruction. A non-conforming building may be reconstructed to its original dimensions, subject to Site Plan Review pursuant to Article IX of this local law. The purpose of Site Plan Review is to provide the Planning Board the opportunity to reduce the level of non-conformance of the building. In no case, shall the level of non-conformance be increased, nor does this section imply any modification of this Article as to discontinuance, removal, modification or extension of a non-conforming use.

D. NON-CONFORMING SIGNS

D.1. Any sign of a type not permitted, or of a permitted type exceeding the height or area requirements of this local law shall be modified to conform thereto or removed if any of the following occurs:

a. There is a change of use of the property where the original use was advertised by the sign; or

b. There is a change of location of the business being advertised by the sign; or

c. There is replacement of the sign.

D.2. Immediately upon the occurrence of any of the events described in D.1. above, such signs shall be removed or modified to comply with the requirements of this local law or be subject to all penalties and procedures of Article X, Administration and Enforcement.

E. REPAIRS AND MAINTENANCE

Notwithstanding any of the foregoing regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any use or building, or the issuance of a Building Permit for major structural alterations or demolitions necessary in the interest of public safety, and pursuant to other applicable sections of this local law.

ARTICLE VI: SUPPLEMENTARY REGULATIONS

A. GENERAL STANDARDS APPLICABLE TO ALL USES

A.1. General Performance Standards Applicable To All Uses

In any district, the following performance standards shall apply, subject to the limitations on the regulation of Farm Operations contained in Section I:D Right-to-Farm.

A.1.1. No offensive or objectionable vibration, noise, or glare shall be noticeable at or beyond the property line.

A.1.2. No activity shall create a physical hazard by reason of fire, explosion, radiation, or other such cause, to persons or property in the same or an adjacent district.

A.1.3. No material of any nature which may contaminate any water supply shall be discharged into any stream or body of water or any public or private disposal system, or into or onto the ground surface.

A.1.4. There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin, or endangers health.

A.1.5. The emission of smoke, fly ash, dust, or other airborne material which can cause damage to the health of persons, animals, plant life, or to other forms of property is prohibited. This provision is not intended to regulate or prohibit the customary use of residential fireplaces, woodburning stoves, coal burning stoves, or smokehouses.

A.2. Accessory Uses and Structures

A.2.1. No accessory uses or accessory structures except fences, berms, flagpoles, or wellhouses and farmstands shall be located in the established front yard.

A.2.2. In all districts, walls and fences shall be permitted except where they are of such a height or location as to interfere with sight clearances required for traffic safety.

A.2.3. Fences or walls shall be required for the enclosure of outdoor storage areas and trash dumpsters accessory to multiple family, commercial, and industrial or manufacturing uses.

A.3 Parking Requirements

Off-street parking spaces shall be provided subject to the following provisions:

A.3.1 Required Off-Street Parking Spaces:

USE	REQUIRED PARKING SPACES
Single Family Dwelling	Two (2) spaces
Duplex Dwelling	Two (2) spaces per dwelling unit
Multiple Family Dwelling	1.5 spaces per dwelling unit
	A minimum of one (1) space for each . . .
Hotel or Inn	Guest room, plus one space for every three employees for Hotels having over 10 rooms.
Motel	Guest room, plus one space for every three employees.
Church or other place of Public Assembly	3 seats or 50 sq. ft. of seating area where fixed seating is not provided.
School	12 classroom seats or the public assembly requirement above, which ever is greater.
Home Occupation	up to 150 sq. ft. of such use, plus one for each additional 100 sq. ft. or fraction thereof.
Retail Sales and Service	225 sq. ft. of gross floor space.
Offices	400 sq. ft. of gross floor area.
Eating and Drinking places	50 sq. ft. available to patrons.
Funeral Homes	20 sq. ft. of public room area.
Industrial uses	1.5 employees at the largest shift.
Medical Clinic	Employee plus four (4) for each doctor, dentist, or other primary service provider.
Coin Operated Laundry	Two (2) machines for customer use.
Motor Vehicle Repair Facility or Gasoline Station	Employee plus two (2) spaces for each service bay.
Bed-and-Breakfast	Guest Room
Boarding/Rooming House	Guest Room
Nursing Home	Four (4) bed capacity plus one (1) for each 1.5 employees on the largest shift.
Rest Home	Two (2) residents plus one (1) for each 1.5 employees on the largest shift.

A.3.2 Reasonable and appropriate off-street parking requirements for structures and uses not specifically designated in these regulations shall be determined by the Planning Board during Site Plan Review upon consideration of all factors entering into the parking needs of the proposed structure or use.

A.3.3 Areas which may be computed as open or enclosed off-street parking spaces include:

A.3.3.1 any private garage or carport available for parking.

A.3.3.2 a driveway within a front yard for a one or two-family residence may count as one (1) parking space.

A.3.3.3 any parking area under common ownership with the principal use located within 400 ft. of the main entrance of such use. Such vehicle parking area shall be deemed to be required open space associated with the permitted use and shall not be encroached upon.

A.3.4 Each off-street parking space shall be not less than two hundred (200) square feet in area and, if in a parking lot, shall be a minimum of ten (10) feet wide by twenty (20) feet deep and shall be served by an aisle not less than twenty (20) feet wide for a one-way circulation flow. Entrance and exit lanes shall not be computed as parking space, except for driveways of one- and two-family residences, as in Section A.3.3, above.

A.3.5 Except in the case of a one- or two-family residence using the drive-way to provide parking, no parking shall be allowed in the established front yard of any use in the R-Residential District.

A.3.6 Unobstructed access to and from a street shall be provided. Access drives shall be of sufficient width to permit the free flow of cars both entering and leaving the parking area. Access drives for any off-street parking area with a capacity of more than four (4) spaces shall be located in a manner which ensures traffic safety and shall be subject to Site Plan review by the Planning Board. Access drives shall not have a grade in excess of six percent (6%) within twenty-five (25) feet of any street right-of-way line nor ten percent (10%) at any other point.

A.3.7 All parking areas shall be properly drained and all such areas, except for parking spaces accessory to a one- or two-family dwelling, shall be provided with a surface that minimizes dust, such as paving, crushed stone or gravel.

A.3.8 One (1) camping trailer, motor home or boat trailer may be stored on a lot provided the trailer or motor home is not stored between the street line and the building line. A second such vehicle may be stored on the same lot provided it is stored in the rear yard or parking area.

A.3.9 Except for new or used vehicle sale lots where permitted, no more than one (1) vehicle not in current registration shall be stored outdoors, and all such vehicles shall be screened from neighboring properties.

A.4 Off-Street Loading

A.4.1 Off-street loading berths shall be provided for all uses specified herein subject to the following requirements:

- Gross Floor area less than 10,000 sq. ft. none required
- Gross Floor area between 10,000 and 25,000 sq. ft. one (1) berth

- Each additional 25,000 sq. ft. or fraction thereof up 100,000 sq. ft. — one (1) berth
- Each additional 50,000 sq. ft. or fraction thereof over 100,000 sq. ft. — one (1) berth

A.4.1.1. Public library, museum, or other similar quasi-public institution, community center, hospital or sanitarium, nursing home or convalescent home, institution for children or the aged, or school;

A.4.1.2. Buildings with professional, governmental, or business offices, or laboratory establishments;

A.4.1.3. Retail sales and service establishments;

A.4.1.4. Motels, hotels or similar establishments;

A.4.1.5. Manufacturing, wholesale and storage uses, and dry cleaning and rug cleaning establishments and laundries;

A.4.2. Single structures containing multiple dwelling units shall be provided with loading berths as follows:

- Less than 50 dwelling units in one structure — none required
- More than 50 dwelling units in one structure — one (1) berth

A.4.3. Reasonable and appropriate off-street loading requirements for structures and uses which do not fall within the categories listed herein shall be determined by the Planning Board upon consideration of all factors entering into the loading needs of each such use during Site Plan Review.

A.4.4. Each required loading berth shall be at least twelve (12) feet wide, thirty-three (33) feet long, and fourteen (14) feet high.

A.4.5. Unobstructed access, at least ten (10) feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory, except as provided in paragraph f., below. Entrances or exits for any loading area shall be located to assure safe access and shall be subject to Article IX, Site Plan Review. No off-street loading berth shall be located in any established front yard.

A.4.6. Joint Facilities: Permitted or required loading berths may be provided in spaces designed to serve jointly two (2) or more adjacent establishments provided that the number of required berths in such joint facilities shall not be less than the aggregate of those required for participating uses.

A.5. Signs

A.5.1. No new billboards shall be permitted in any district.

A.5.2. All signs shall be placed as to not obstruct the vision of motorists entering or leaving the property or adjoining properties. No sign shall project into or over the public right-of-way.

A.5.3. No sign shall be mounted on or attached to any roof, nor shall any sign extend above the roofline of any building on the site.

A.5.4. If a sign is illuminated, the source of light shall be shielded from view and shall not be visible from the property line.

A.5.2. In all districts non-flashing signs are permitted as follows:

A.5.2.1. One nameplate, identification or professional sign, not to exceed an aggregate of ten (10) square feet of sign area, showing the name or permitted home occupation of the occupant of the premises.

A.5.2.2. One sign not to exceed an aggregate of thirty-two (32) square feet of sign area, during and pertaining to the sale, lease or rental of the land or building.

A.5.2.3. One temporary sign not to exceed an aggregate of thirty-two (32) square feet of sign area, during and pertaining to construction, repairs, or alterations to the property.

A.5.2.4. Institutional, religious, or community announcement signs, not to exceed thirty-two (32) aggregate feet in area.

A.5.2.5. Two (2) farm product signs, each not exceeding thirty-two (32) aggregate feet in area, may be displayed on the property, but only when such products are on sale.

A.5.2.6. A business sign or signs directing attention to a business or profession conducted, or a commodity, service or entertainment offered or sold on the premises shall be permitted. Such sign or signs shall not exceed the aggregate of thirty-two (32) square feet in area for hanging, wall and pedestal signs. In the case of a retail center or other group of related buildings, in addition to the general sign, each individual unit may display an identification sign affixed flat against the building which shall no exceed one (1) square foot of area for each foot of building frontage.

A.6. Protection of Agriculture from Potentially Incompatible Uses

A.6.1. Agricultural Setbacks

The following minimum separation distances between wells and manure sources or manure storage areas shall apply to a farm operation and its neighboring properties:

- Temporary manure piles — one hundred (100) feet from well
- Lined manure storage ponds or fabricated units — one hundred (100) feet from well
- Unlined self-sealing manure storage facilities — three hundred (300) feet from well
- Livestock confinement areas or structures — one hundred (100) feet from well

A.6.2. Required Disclosure

In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise, and vibration." This disclosure shall be required as a note on a subdivision plat or Site Plan, and may also be required to be made through other means reasonably calculated to inform a prospective purchaser, such as by posting, distribution of handbills, or letter of notification. This section may also be applied to any commercial development which abuts agricultural land, at the discretion of the Planning Board.

A.6.3. Agricultural Data Statement

Any application for a Special Use Permit, Site Plan approval, Use Variance, or Subdivision approval requiring municipal review and approval by the Planning Board or Zoning Board of Appeals that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement as defined in Article XIII. The Planning Board or Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the function of farm operations within the agricultural district.

B. GENERAL STANDARDS APPLICABLE TO ALL USES IN THE R-RESIDENTIAL AND A-AGRICULTURAL/RURAL RESIDENTIAL DISTRICTS

B.1. Accessory Uses and Structures

B.1.1. No accessory use or structure except fences, flagpoles, berms, landscape plantings, wellhouses or farm stands shall be located in the established front yard.

B.1.2. An accessory structure may be located in any required side or rear yard, provided:

B.1.2.1. Such a structure does not exceed thirty (30) feet in height;

B.1.2.2. Such a structure shall be set back no less than ten (10) feet from any lot line;

B.1.2.3. All such structures in the aggregate shall not occupy more than thirty (30) percent of the required rear or side yard in which located.

B.1.3. An accessory structure on that portion of a lot not included in any required yard shall conform with the height regulations for the principal structure(s).

B.1.4. No accessory structure or use shall project nearer to the street on which the principal structure fronts than does the principal structure except:

B.1.4.1. Fences, walls, berms or other landscaping devices.

B.1.4.2. Enclosed residential garage structurally and architecturally integrated into the principal structure.

B.1.4.3. Farm stands selling agricultural products predominantly produced on the premises, or by the same farm operation on whose land the farm stand is located.

B.2. Corner Lots

On a corner lot, front yards are required on both street frontages, and one (1) yard other than the front yard shall be deemed to be the rear yard and the other(s), the side yard(s).

B.3. Through Lots

On a through lot, front yards are required at all street lines.

B.4. Exceptions to Yard Requirements

B.4.1. Permitted Obstructions. Cornices or cantilevered roofs may project not more than four (4) feet into a required yard. Belt courses, window sills, and other ornamental features may project not more than six (6) inches into a required yard.

B.4.2. Entries and Porticos. A roofed-over but completely unenclosed projection in the nature of an entry or portico, not more than eight (8) feet wide may project not more than six (6) feet into a required front, side, or rear yard when the building otherwise complies with all yard requirements of this law.

C. USES SUBJECT TO ADDITIONAL STANDARDS

C.1. Home Occupations

Subject to the issuance of a Special Use Permit pursuant to Article VII, individuals may conduct a business, trade or profession in their residences in those Districts where permitted, subject to the following:

C.1.1. The activity shall be incidental to and shall not alter the primary use of premises as a residence. In no way shall the premises be altered nor shall the activity in the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of light, noise, sounds, odors or vibration.

C.1.2. The home occupation shall be conducted in the principal building by the resident. No more than two (2) assistants, not residing on the premises, may be employed in the home occupation.

C.1.3. The home occupation shall be conducted in an area not exceeding thirty percent (30%) of the floor area of the structure in which it is located.

C.1.4. The retail sale of goods or articles not produced on the premises is permitted only if they are necessarily incident to the service provided by the home occupation.

C.1.5. Only equipment which is customary to the home occupation may be used or stored within the structure.

C.1.6. There shall be no outdoor storage of equipment or materials used in the home occupation.

C.1.7. In the Residential Districts, no traffic shall be generated in greater volumes than would normally be expected in a residential neighborhood.

C.1.8. Parking required for the home occupation shall comply with the requirements of Section A.3, Parking, of this Article and shall be met on-site and not in the established front yard.

C.1.9. No more than one sign meeting the requirements of Section VI.A.5 is permitted.

C.2. Mobile Homes and Mobile Home Communities

C.2.1. Mobile Homes are subject to all regulations pertaining to detached one family dwellings, in addition to the following standards:

C.2.1.1. Mobile homes shall be used only as single-family residential dwelling units. They shall not be used as housing for livestock or fowl, or as accessory storage buildings.

C.2.1.2. New double-wide mobile homes shall be permitted in all land use areas which permit single family dwellings.

C.2.1.3 New single-wide mobile homes shall be permitted only in Mobile Home Communities, unless they are part of a Farm Operation as defined in Article XIII.

C.2.1.4. New single-wide mobile homes which are placed on Farm Operations after the effective date of this local law must be removed from the premises within 3 months if the farm is sold for non-agricultural use or discontinued.

C.2.1.5. Existing single-wide mobile homes located outside of mobile home communities may not be replaced with new single-wide mobile homes. They may be replaced with new double-wide mobile homes, manufactured homes or single family dwellings.

C.2.1.5. Mobile homes shall be have a minimum size of 840 square feet of gross floor area.

C.2.1.6. Mobile homes shall be provided with anchors or tie-downs that meet the manufacturer's specifications. These anchors shall be attached to a concrete footing installed below the frost line, or embedded in concrete runners, a concrete slab or a suitable substitute in conformance with the New York State Uniform Fire Prevention and Building Code.

C.2.1.7. Mobile homes shall meet all current U.S. Department of Housing and Urban Development (HUD) standards and shall bear the seal designating this compliance, or shall be inspected by the Code Enforcement and Zoning Officer and approved as structurally sound and free of heating and electrical system hazards, in conformance with the New York State Uniform Fire Prevention and Building Code.

C.2.1.8. Mobile homes shall have skirting or screening securely fastened around the perimeter extending to the ground. Such skirting shall be of masonry or a permanent material similar to that sheathing the mobile home, provide adequate ventilation, have a finished exterior appearance and be capable of withstanding extreme weather conditions over extended periods of time. It shall be installed within four months from date of issuance of occupancy permit for the mobile home.

C.2.1.5. Any woodstove installed or operated in any such mobile home must be approved by Underwriters Laboratories for mobile home installation.

C.2.1.6. Any additions, decks or stairs attached to the mobile home must be built in conformance with New York State Uniform Fire Prevention and Building Code Regulations. They must be built of a permanent material and have a finished exterior appearance.

C.2.1.7. A mobile home must be made habitable and receive a certificate of occupancy within 60 days of installation on the site.

C.2.1.8. A temporary residential mobile home, placed on a building lot during construction of a permanent residence, requires a Special Use Permit, subject to the requirements of Article VII of this local law. It must be removed from the site within 60 days from the date of issuance of the occupancy permit for the permanent residence.

C.2.2. Mobile Home Community

C.2.2.1. Any lot on which two or more mobile homes are located, unless such lot is part of a Farm Operation as defined in Article XIII, shall be considered a Mobile Home Community and is subject to the requirements of Article IX, Site Plan Review.

C.2.2.2. The minimum acreage for a mobile home community is three (3) acres. A maximum of four (4) units per gross acre will be permitted, with a minimum lot size of 6000 square feet per mobile home. All lots within the community shall be pinned by a licensed land surveyor. Individual yard requirements shall be as follows:

Front yard -- twenty (20) feet
Side yard -- fifteen (15) feet
Rear yard -- fifteen (15) feet

C.2.2.3. All mobile homes within the community shall have vehicular access to the interior road system only, not to an existing exterior street. Interior roads must be built to Town road specifications for minor streets, with a right-of-way of fifty (50) feet and a minimum surface width of eighteen (18) feet.

C.2.2.4. Two (2) off-street parking spaces must be provided for each mobile home. Additional off-street guest parking areas shall be provided in the community at the rate of one (1) parking space per unit.

C.2.2.5. Each mobile home lot must have connections for water supply and waste disposal. All water supply and sewage disposal systems must be approved by the New York State Department of Health.

C.2.2.6. Each mobile home lot must have an electrical power source. All electrical wiring and fixtures shall be installed and maintained in accordance with the regulations of the New York State Uniform Fire Prevention and Building Code and the local utility company. Whenever possible, electrical transmission and other utility lines shall be placed below ground. Fuel tanks, where used, shall be placed at the rear of the mobile home at least five (5) feet from any exit, and shall have a safety shut-off at the tank.

C.2.2.7. Open space areas of at least twenty (20) percent of the total land area shall be set aside as green space suitable for recreation and play purposes.

C.2.2.8. Sidewalks, lighting and landscaping shall be in keeping with surrounding development, the unique features of the site, and the health and safety of the residents of the mobile home community.

C.2.2.9. All mobile home communities shall have a vegetative screening strip along public roads and property lines which is of sufficient width and height, once mature, to substantially screen the park, as deemed appropriate by the Planning Board.

C.2.3. Construction Trailers

No more than two (2) construction trailers shall be permitted on the site of construction being pursued subject to a valid Building Permit issued pursuant to this local law, provided:

C.5.3.1. Construction trailers are used only for office space or storage of materials and equipment and related uses; and

C.5.3.2. No construction trailer is used for temporary or permanent residential purposes; and

C.5.3.3. Such construction trailer(s) are removed prior to issuance of a Certificate of Occupancy pursuant to this local law.

C.3. Animal Hospital or Kennel

C.3.1. All animals shall be housed no closer than one hundred (100) feet from the nearest lot line.

C.3.2. No accessory or related structures such as dog runs shall be located within one hundred (100) feet from the nearest property line.

C.3.3. Adequate plantings and bufferings shall be provided and maintained to minimize the impact of inherent nuisances such as noise and odor.

C.3.4. All animal excrement shall be adequately disposed of, and in no case shall any excrement be deposited or stored within one hundred (100) feet of any lot line.

C.4. Radio and Television Antennas, Towers and Dish Antennas

All antennas, towers and dish antennas shall comply with the following regulations:

C.4.1. Any tower or antenna shall be located a distance from any lot line equal to or greater than its height.

C.4.2. No dish antenna larger than 24" shall be located within any established front yard.

C.4.3. Any guy anchorage or similar device shall be at least ten (10) feet from any property line.

C.4.4. No antenna or antenna tower shall be in excess of a height equal to the distance from the base of the structure to the nearest overhead electrical power line which serves more than one dwelling, place of business or parcel.

C.5. Ventilation Equipment

All heating/ventilation/air conditioning (HVAC) equipment, and restaurant ventilation equipment for ovens, grills, and dishwashers shall be located and directed in a manner which will not have an adverse impact upon adjacent properties and the general public. Restaurant ventilation equipment shall be cleaned at regular intervals to eliminate odors and fire hazards.

C.6. Cemetery, Crematoria and Related Uses

C.6.1. All cemeteries, mausoleums, and crematoria shall operate under applicable New York State, Montgomery County and Town statutes and ordinances, and all rules and regulations promulgated pursuant to those statutes and ordinances.

C.6.2. All mausoleums, crematoria, and accessory storage facilities shall be located no closer than 200 feet from any lot line, and shall be subject to Site Plan Review.

C.6.3. An accessory caretaker's house shall conform to the setback regulations set forth in the Area and Bulk Regulation, Article IV, pertaining to single family residences in the District in which it is located.

C.7. Quarrying/Soil Mining

C.7.1. Any quarry or soil mining operation which will extract 1000 tons or more of material within any twelve consecutive months shall operate only under a valid mining permit issued pursuant to the New York State Mined Land Reclamation Law and related regulations. No further mining permit from the Town shall be required.

C.7.2. Any commercial quarrying or soil mining operation which is not subject to the requirements of the New York State Mined Land Reclamation Law and related regulations shall apply to the Zoning Board of Appeals for a Special Use Permit pursuant to Article VII of this law. The issuance of such Special Use Permit shall be subject to the following requirements:

C.7.2.1. A time schedule for completion of either the entire operation, or, if excavation is to occur in stages, of each stage of the operation shall be submitted for approval as part of the Special Use Permit Application.

C.7.2.2. An operations plan, including the number and types of trucks and other machinery to be used on the site, shall be submitted for approval as part of the Special Use Permit Application.

C.7.2.3. A restoration and rehabilitation plan showing both existing contours and proposed final contours after operations are completed shall be submitted for approval as part of the Special Use Permit Application.

C.7.2.4. A performance bond to assure complete restoration and rehabilitation shall be posted in an amount satisfactory to the Planning Board.

C.7.2.5. A buffered area of not less than two hundred (200) feet shall be established between the operation and any residential land use within 1000 feet and shall be planted to evergreen trees.

C.7.2.6. Such Special Use Permit shall be restricted to an active working area not to exceed ten (10) acres and to a time not to exceed five (5) years.

C.8. Campsite or Private Camp

C.8.1. Any campsite or private camp which is to be occupied for a period of more than 14 days shall require prior issuance of a Special Use Permit.

C.8.2. Such Special Use Permit shall be issued for a period not to exceed thirty (30) days, and shall be issued for no more than two non-consecutive periods in any one calendar year.

C.8.3. Such campsite or private camp shall be so located that adequate surface drainage will be provided during the period of operation.

C.8.4. Any toilet facilities or privy shall be:

C.8.4.1. Adequate to serve the number of persons to use the campsite, assuming full capacity for the period of the Special Use Permit.

C.8.4.2. Located so as to be conveniently available.

C.8.4.3. Constructed and maintained so as not to be offensive or unhealthful.

C.8.4.4. Located, constructed, and maintained so it will not pollute a water supply, surface water, adjacent ground surface, or permit access of flies or rodents to the privy fault or holding tank.

C.8.5. All temporary structures, mobile homes, trailers, tents, and recreational vehicles shall be removed upon expiration of such Special Use Permit, except for one privy structure, which is subject to the following conditions:

C.8.5.1. The privy structure shall be located such that is screened from view from public streets and adjacent properties.

C.8.5.2. The privy vault contents shall be emptied, limed and covered with at least two (2) feet of topsoil, or otherwise adequately disposed of.

C.9. Campground/Recreational Vehicle Campground

C.9.1. No campground or recreational vehicle camp shall be established, located, used, or occupied without prior Site Plan Review pursuant to Article IX of this law.

C.9.2. No campsite shall be closer than one hundred fifty (150) feet to any street line or fifty (50) feet to any lot line.

C.9.3. All campsites and parking areas shall be visually screened from all street and lot lines by landscape plantings, wooded areas, or fences.

C.10. Swimming Pools

All swimming pools shall comply with the following requirements:

C.10.1. No pool shall be located in any established front yard.

C.10.2. Any pool shall be enclosed on all sides by a fence or a wall at least four (4) feet in height. An above-ground pool, with walls at least four (4) feet in height and having retractable stairs which can be locked in place or otherwise secured, does not require a fence or wall.

C.10.3. Provisions shall be made so that draining of said pool shall be accomplished without the use of any public sanitary sewer.

C.11. Personal Wireless Service Facilities

All Personal Wireless Service Facilities shall comply with the following requirements in addition to all requirements of the underlying zoning districts.

PWSF - Personal Wireless Service Facilities Overlay District

C.11.1. Purpose and Intents:

The PWSF is an overlay district intended to provide a suitable choice of locations for establishment, construction and maintenance of Personal Wireless Service Facilities.

C.11.2. Permitted Uses:

All new Personal Wireless Service Facilities, and all additions and/or modifications to currently existing Personal Wireless Service Facilities, shall be allowed only in the Personal Wireless Service Facilities Overlay District. The Personal Wireless Service Facilities Overlay District shall apply to all property within the following zoning districts: A-Agricultural/Rural Residential; C-Commercial; M-Manufacturing. The Personal Wireless Service Facility Overlay District is excluded from R-Residential district and for 1000' beyond any R-Residential boundary line. In no event shall any Personal Wireless Services Facility be allowed within any zoning district without completing the procedural and other requirements of the Personal Wireless Service Facilities Overlay District.

C.11.3. Underlying Zoning Regulations:

The requirements of the underlying zoning districts shall apply within the Personal Wireless Service Facilities Overlay District unless the provisions set forth in this Section are deemed more stringent than the underlying requirements in which event the provisions set forth in that section shall apply. All structures and facilities accessory to Personal Wireless Service Facilities, including but not limited to equipment sheds, parking areas, anchors, bases and pads, shall comply with the existing setback and dimensional requirements established for principal structures in the underlying zoning district, except for the height of a proposed tower or monopole.

C.11.4. Data Requirements:

Applicants for Site Plan Approval shall file with the Town Clerk six (6) copies, and with the Planning Board, seven (7) copies of the following documents:

C.11.4.1. Site Plan

A Site Plan, in conformance with applicable site plan submission requirements and procedures contained in Article IX of the Zoning Law. The Site Plan shall show elevations, height, width, depth, type of materials, color schemes, and other relevant information for all existing and proposed structures, equipment, parking, and other improvements. The Site Plan shall also include a description of the proposed Personal Wireless Service Facilities, and such other information required by Article IX or which the Planning Board may require.

C.11.4.2. Environmental Assessment Form

A completed Environmental Assessment Form (EAF), including the Visual EAF Addendum. Particular attention shall be given to visibility from key viewpoints identified in the Visual EAF Addendum, existing treelines and proposed elevations.

C.11.4.3. Landscape Plan

A Landscape Plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, buffers, screening elevations of fences and materials used. For towers or monopoles, the Landscaping Plan shall address the criteria set forth herein.

C.11.4.4. Documentation of Proposed Height

Documentation sufficient to demonstrate that the proposed height is the minimum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Town.

C.11.4.5. Statement Regarding Co-Location

For new Personal Wireless Service Facilities, a statement by the applicant as to whether construction of the Facility will accommodate co-location of additional Facilities for future users.

C.11.4.6 Structural Engineering Report

A report prepared by a New York State licensed professional engineer specializing in structural engineering as to the structural integrity of the Personal Wireless Service Facility. In the case of a tower or monopole, the Structural Engineering Report shall describe the structure's height and design including a cross section of the structure, demonstrates the structure's compliance with applicable structural standards and describes the structure's capacity, including the number of antennas it can accommodate and the precise point at which the antenna shall be mounted. In

the case of an antenna mounted on a existing structure, the Structural Engineering Report shall indicate the ability of the existing structure to accept the antenna, the proposed method of affixing the antenna to the structure, and the precise point at which the antenna shall be mounted.

C.11.4.7. Engineering Analysis of Radio Emissions

An engineering analysis of the radio emissions, and a propagation map for the proposed Personal Wireless Service Facilities. The analysis shall be prepared and signed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio-communication facilities. The results from the analysis must clearly show that the power density levels of the electromagnetic energy generated from the proposed Facility are within the allowable limits established by the Federal Communications Commission (FCC) which are in effect at the time of the application. If the proposed Personal Wireless Service Facilities would be co-located with an existing Facility, the cumulative effects of the Facilities must also be analyzed. The power density analysis shall be based on the assumption that all antennas mounted on the proposed Facility are simultaneously transmitting radio energy at a power level equal to the maximum antenna power rating specified by the antenna manufacturer.

C.11.4.8. Map of Proposed Coverage and Existing Facilities

A map showing the area of coverage of the proposed Facility and listing all existing Personal Wireless Service Facilities in the town and bordering municipalities containing Personal Wireless Service Facilities used by the applicant, and a detailed report indicating why the proposed Personal Wireless Service Facilities is required to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the Town by co-location and otherwise.

C.11.4.9 Performance Bond or other Security

Prior to Site Plan Approval, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the Personal Wireless Service Facility upon abandonment of said facility shall be determined by an estimate of the Town's designated engineer. Any such security must be provided and maintained pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under NYS Town Law Section 277, Subsection 9(c) I-V.

C.11.5. Criteria for Site Plan Applications:

Applicants for Site Plan Review for the establishment of construction of Personal Wireless Service Facilities shall meet all of the following criteria:

C.11.5.1. Necessity

The proposed Personal Wireless Service Facility is required to provide service to locations which the applicant is not able to serve with existing Facilities which are located within and outside the Town by co-location and otherwise.

C.11.5.2. Co-location

The co-location of existing Personal Wireless Service Facilities only within the Personal Wireless Service Facilities Overlay District shall be strongly preferred to the construction of a new Personal Wireless Service Facilities. If a new site for a Personal Wireless Service Facilities is proposed, the applicant shall submit a report setting forth in detail (a) an inventory of existing Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District which are within a reasonable distance from the proposed Facility with respect to coverage, (b) an inventory of existing Personal Wireless Service Facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve, and (c) a report on the possibilities and opportunities for co-location as an alternative to a new site. The applicant must demonstrate that the proposed Personal Wireless Service Facilities cannot be accommodated on a existing Facility within the PWSF Overlay District or on an existing Facility in another municipality due to one or more of the following reasons:

(a) The proposed equipment would exceed the existing and reasonably potential structural capacity of existing and approved Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District, considering existing and planned use for those Facilities.

(b) The existing or proposed equipment would cause interference with other existing or proposed equipment which could not reasonably be prevented or mitigated.

(c) Existing or approved Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District or in neighboring municipalities do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and the applicant has not been able, following a good faith effort, to reach an agreement with the owners of such Facilities.

(d) Other reasons make it impractical to place the proposed equipment on existing and approved Personal Wireless Service Facilities within the Personal Wireless Service Facilities Overlay District on existing Facilities in other municipalities.

(e) Service to the locations to which the applicant seeks to provide service cannot be provided by existing facilities within or outside the Town.

C.11.5.3. Minimum Lot Size

The minimum lot size for a tower or monopole shall be three (3) acres, or the minimum lot size required by the underlying zoning district, whichever is greater.

C.11.5.4. Setbacks

Unless the FCC promulgates rules to the contrary, all Personal Wireless Service Facilities shall be separated from all residential dwellings by a distance of no less than five hundred (500) feet. All lot line (including lease areas) shall be at least 1000' from the road right-of-way. The setbacks from the lot lines shall equal the height of the Personal Wireless Service Facility. Setbacks from towers or monopoles shall be measured from the base of the structure.

C.11.5.5. Security Fencing

Security fencing, showing the location, materials and height, shall be provided around each tower or monopole to secure the site. Access to the structure shall be through a locked gate.

C.11.5.6. Architectural Compatibility

Where a Personal Wireless Service Facility is to be attached to an existing building or structure, such facility shall be integrated into such existing building or structure in such a manner which blends with the architectural characteristics of the building or structure to the maximum extent practicable.

C.11.5.7. Placement

Unless wall-mounted on a existing roof-mounted mechanical enclosure or similar appurtenance, all antennas mounted on a roof shall be located so that visibility of the antenna is limited to the greatest extent practicable. Antennas wall-mounted on a roof mounted mechanical enclosure or similar appurtenance shall not exceed the height of the appurtenance at the point of installation.

C.11.6. Design Guidelines:

The proposed Personal Wireless Service Facility shall meet the following applicable design guidelines:

C.11.6.1. Finish/Colors

Towers or monopoles not requiring Federal Aviation Administration (FAA) painting or marking shall either have a galvanized finish or be painted gray or blue gray above the surrounding treeline and gray, green or tannish brown below the surrounding treeline.

C.11.6.2. Illumination

No signals, lights or illumination shall be permitted on Personal Wireless Service Facilities unless required by the FAA or other federal, state or local authority.

C.11.6.3. Landscaping for Towers or Monopoles

For towers or monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities. At a minimum, screening shall consist of one row of native evergreen shrubs or evergreen trees capable of forming a continuous hedge. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements. Additional screening may be required to screen portions of the structure from nearby residential property or important views. All landscaping shall be properly maintained to ensure good health and viability.

C.11.6.4. Visibility

All Personal Wireless Service Facilities shall be sited to have minimum adverse visual effect on residential areas, parks or major roadways.

C.11.6.5. Signage

Signage shall be prohibited on Personal Wireless Service Facilities except for signage to identify the Facility which is located along the right-of-way frontage. Except as specifically required by a federal, state or local authority, no signage shall be permitted on equipment Mounting Structures or Antennas.

C.11.7. Construction and Maintenance:

C.11.7.1. Time Limit for Completion

A building permit must be obtained within six(6) months after approval of a Site Plan for a Personal Wireless Service

Facility and construction of such Facility must be completed within twelve (12) months of such approval. The Site Plan Approval shall automatically expire in the event that the Code Enforcement and Zoning Officer has not granted such permit and construction of the Facility is not completed with the periods set forth above.

C.11.7.2. Annual Inspections

(a) Unless otherwise preempted by Federal or State Law, Personal Wireless Service Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicants expense for structural integrity, and a copy of the inspection report shall be promptly transmitted to the Code Enforcement and Zoning Officer. The structural inspection shall be performed by a New York State licensed professional engineer specializing in structural engineering. The structural inspection report shall describe the structural integrity of the Personal Wireless Service Facility, maintenance issues and repairs need or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied within the time reasonably set by the Code Enforcement and Zoning Officer.

(b) Unless otherwise preempted by Federal or State law, Personal Wireless Service Facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for radio emissions, and a copy of the inspection report shall be promptly transmitted to the Code Enforcement and Zoning Officer. Radio emission inspection shall be performed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radiocommunication facilities. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the Facility, including the cumulative effects of co-located antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the Facility are above the allowable limits stated within applicable FCC or ANSI standards or other applicable state or federal guidelines in effect at the time of the inspection, the applicant shall cease all use of the Facility until such time as it proves to the satisfaction of the Code Enforcement and Zoning Officer that the power density levels of the electromagnetic energy to be generated at the Facility are below the applicable standards.

3.11.7.3. Abandonment

In the event that the use of any Personal Wireless Service Facility has been discontinued by all operators on such facility for a period of one hundred eighty (180) consecutive days or more, the Facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Code Enforcement and Zoning Officer, who shall have the right to request documentation from the owner/operator of the Facility regarding usage threat. Upon such abandonment, the owner/operator shall remove the Facility at its own expense, and failing prompt removal, the Town may remove the Facility at the owner/operator's expense. All Site Plan Approval variances and approvals of any nature granted by the Town shall automatically expire as of the date of abandonment of the Facility.

C.11.8. Alteration of an Existing Antenna:

Alteration of an existing antenna which results in an increase in the size or height of the antenna shall be permitted only after application to the Planning Board which shall review the matter as if the alteration were an entirely new application for a Site Plan Approval.

C.11.9. Waivers:

The Town of Canajoharie Planning Board reserves the right to waive any section or sections based on factors related to a specific proposal(s). Factors that would be considered are (but are not limited to) co-location, height, location, etc.

C.11.10. Exemption from PWSF:

The following are exempted from the provisions of the Personal Wireless Services Facility Overlay District:

C.11.10.1. Machines and equipment designed and marketed as consumer products, such as walkie-talkies, ham radios not used commercial purposes, remote control toys, and cellular phones;

C.11.10.2. Hand-held, mobile, marine and portable radio-communication transmitters and/or receivers;

C.11.10.3. Two-way radios utilized for temporary or emergency service communications;

C.11.10.4. Two-way radios utilized for government service communications;

C.11.10.5. Back-up wireless transmitters connected to an alarm monitoring service that transmits to a remote monitoring center in the event of an emergency when the telephone lines are inoperable, and

C.11.10.6. Over-the-air receive only devices in compliance with FCC rules and standards.

C.12 Manure Storage Facilities

All new Manure Storage Facilities shall be designed and sited according to the recommendations and criteria contained in Natural Resources Conservation Service (NRCS) Conservation Practice Standard No. 313, Waste Storage Facility. Copies of this standard are available from the Town Clerk.

C.13 Adult Oriented Businesses

C.13.1 Adult Oriented Businesses have secondary effects that can have a significant impact on the neighborhood and community in which they are located, particularly when concentrated in any one area. The special regulations deemed necessary to regulate these secondary effects are set forth below. The primary purpose of these regulations is to preserve the community character and quality of life in the Town of Canajoharie. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the contact of any communicative materials, or to deny access by adults to Adult Oriented Businesses.

C.13.2 No Adult Oriented Business shall be located within five hundred (500) feet of the property line of the parcel of land upon which any residence is located.

C.13.3 No Adult Oriented Business shall be located within one thousand (1,000) feet of the property line of the parcel of land upon which any school, child care facility, church or other place of religious worship, public or private park, playground or playing field, bike path, youth center or library, is located.

C.13.4 No Adult Oriented Business shall be located on the same parcel as another Adult Oriented Business, or within one thousand (1,000) feet of the property line of the parcel of land upon which any other Adult Oriented Business is located.

C.13.5 Any building or structure in which an Adult Oriented Business is located may have one exterior sign limited to text to identify the name and purpose of said business, and conforming to all sign regulations in Article VI.A.5 of this local law. In addition, no interior sign, display or advertising of any kind shall be visible from the exterior of such building.

ARTICLE VII: SPECIAL USE PERMITS

A. SPECIAL USE PERMITS

A.1. Purpose of Special Use Permits

It is the policy of the Town of Canajoharie to allow a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environment, or the rural character of the Town. Many of the uses listed in Article III.B, Schedule of Land Use Regulations are therefore permitted only upon issuance of a Special Use Permit, in order to ensure that these uses are appropriate to their surroundings.

A.2. No Certificate of Zoning Compliance or Building Permit shall be issued for any use for which a Special Use Permit is required by Article III of this law without prior issuance of a Special Use Permit by the Planning Board.

A.3. No Special Use Permit shall be issued without Site Plan review and approval by the Planning Board pursuant to Article IX.

A.4. No such Special Use Permit shall be granted by the Planning Board unless it finds that the use for which such permit is sought will not be injurious to or incompatible with the surrounding neighborhood or area, or otherwise detrimental to the public welfare. In order to grant a Special Use Permit the Planning Board shall reach a specific finding that:

A. 4.1. The use for which the permit is sought will comply with the land use standards in Article VI, and will be consistent with the purposes and requirements of the land use district in which it is located, as specified in Article II.

A.4.2. Under the circumstances of the particular case and in the location for which the permit is sought, the use will not be injurious, undesirable, incompatible with the surrounding area, or unattractive in appearance.

A.4.3. The use for which the permit is sought is appropriately located with respect to transportation routes, water supply, waste disposal, fire and police protection, and related services.

A.4.4. The number of off-road parking spaces is adequate to serve the proposed use.

A.4.5. Neighborhood character and surrounding property values and land use are reasonably protected.

A.4.6. The use for which the permit is sought will not cause undue traffic congestion or create a traffic hazard.

A.4.7. The use for which the permit is requested will not result in density of development beyond the density limits defined by this local law.

A.5. The following standards shall apply to all uses for which a Special Use Permit is required:

A.5.1. The location of all stored materials, equipment, equipment under repair, rubbish, dumpsters and related items shall be behind buildings unless screened from the public roads by fencing or landscaping.

A.6. In authorizing the issuance of a Special Use Permit it shall be the duty of the Planning Board to attach such conditions and safeguards to the Special Use Permit as it deems necessary, helpful, or appropriate to accomplish items A.4.1 to A.4.7 above, inclusive.

B. PROCEDURE

Application for a Special Use Permit shall be made to the Planning Board. All Special Use Permits require Site Plan Review, therefore the procedure for a Special Use Permit shall be the same as that specified for Site Plan Review, Article IX, except that a public hearing is mandatory. Site Plan and Special Use Permit Review should be conducted jointly to save time, effort and repetition of information.

C. APPLICATION, REVOCATION, AND ENFORCEMENT

C.1 A Special Use Permit shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Special Use Permit, and does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by a Special Use Permit shall require the granting of a new Special Use Permit or a Special Use Permit amendment.

C.2 A Special Use Permit may be revoked by the Planning Board if the permittee violates any conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit.

C.3 Any violations of the conditions of the Special Use Permit shall be deemed a violation of this Local Law, and shall be subject to enforcement action as provided in Article X:D Violations.

ARTICLE VIII: PLANNED DEVELOPMENT DISTRICT

A. SCOPE AND PURPOSE

A Planned Development District (PDD) shall be treated as an amendment to this Zoning Law. The PDD is intended to accommodate large scale commercial, manufacturing or mixed uses that will be of benefit to the community but which could not have been anticipated, or the location of which could not have been anticipated, at the time of adoption of this Local Law. The PDD shall not be utilized for the development of solely residential uses.

B. PROCEDURE

B.1. Application for Planned Development District

The applicant for a Planned Development District shall submit the following materials to the Planning Board:

B.1.1. All materials and information required for Site Plan Review pursuant to Article IX of this law.

B.1.2. A written explanation of the character and purpose of the Planned Development including the type and density of any housing proposed, commercial or manufacturing uses proposed, open space to be provided, the water and sewage disposal system proposed, a general statement of proposed financing, and an indication of the expected timetable for development.

B.2. Review of Application

B.2.1. Review by Planning Board

The Planning Board shall utilize the procedure for Site Plan Review as described in Article IX of this Local Law until review of the Preliminary Site Plan has been completed, and the Preliminary Site Plan has been approved, approved with modifications, or disapproved.

B.2.2. Recommendation to Town Board

Within thirty (30) days of completion of Preliminary Site Plan review of the Planned Development District pursuant to Article IX of this law, the Planning Board shall recommend to the Town Board approval or disapproval of the PDD.

B.2.2.1. Such recommendation shall be in the form of a proposed local law amending the Zoning Law and Zoning Map to create the PDD.

B.2.2.2. Such proposed local law shall include recommended conditions, covenants and/or type and amount of performance guarantees which should be provided by the applicant as conditions of PDD approval.

B.2.2.3. One such recommended condition shall be, in all cases, Final Site Plan Review and approval by the Planning Board.

B.2.2.4. Said proposed local law shall have as its effective date that date on which the Planning Board issues a finding that all conditions specified in said local law as enacted have been satisfied.

B.3. Approval by Town Board

Within forty five (45) days after receipt from the Planning Board of the proposed local law creating the PDD, the Town Board shall hold a public hearing on the proposal, subject to the notice requirements of Section 264 of the Town Law and Article XIV of this law. Within thirty (30) days of the completion of the public hearing, the Town Board shall approve or disapprove the proposed PDD.

B.3.1. Town Board approval of the PDD, if issued, shall constitute a fully enacted local law amending the Zoning Law and Zoning Map pursuant to the New York State Municipal Home Rule Law.

B.3.2. Upon enactment of the local law creating the PDD, the location of the PDD and the conditions attached to its enactment shall be noted on the Zoning Map, and said local law shall be filed with the Secretary of State pursuant to law.

B.3.3. The effective date of said local law shall be the date on which the Planning Board issues a finding that all conditions for the PDD included in the local law as enacted have been satisfied.

B.4. Referral back to Planning Board

Upon enactment of the local law creating the PDD by the Town Board, said local law shall be referred back to the Planning Board for review as to compliance with the conditions included therein.

B.5. Final Review by Planning Board

B.5.1. Upon receipt of the local law as enacted by the Town Board, the Planning Board shall utilize the procedures for Final Site Plan review pursuant to Article IX of this law.

B.5.2. For purposes of the time periods within which the applicant and the Planning Board must take actions during Final Site Plan submission and review, the date of Preliminary Site Plan Approval shall be considered to be the first regularly scheduled Planning Board meeting following enactment of the local law creating the PDD by the Town Board.

B.6. Planning Board Findings

B.6.1. Planning Board review of the PDD after enactment shall be limited to determining whether all conditions included in the local law have been satisfied.

B.6.2. Upon written Finding by the Planning Board that all conditions included in the local law creating the PDD have been fully satisfied and filing thereof with the Town Clerk, said local law shall become effective.

C. DEVELOPMENT GUIDELINES

In reviewing proposals for Planned Development Districts, the Planning Board will be guided generally by the following standards:

C.1. No PDD shall be approved which includes solely residential uses. Residential use shall only be permissible in a PDD when it is an integral portion of an overall PDD plan which also includes commercial or manufacturing use.

C.2. The proposed PDD shall have minimum area as follows:

C.2.1. For a commercial PDD, the minimum area shall be three (3) acres.

C.2.2. For a manufacturing PDD, the minimum area shall be ten (10) acres.

C.2.3. For a mixed use PDD, the minimum area shall be ten (10) acres.

C.3. The overall density of any residential areas within a mixed use PDD shall be no more than four (4) dwelling units per acre.

C.4. At least 30 percent of the gross area of the district shall be devoted to open space and/or recreation areas.

C.5. Proposed non-residential uses shall be appropriate in size and suitably located and shall not create any detrimental effects inside or outside the boundaries thereof.

C.6. The proposed PDD shall conform to all requirements and standards of Article IX, Site Plan Review, of this law.

C.7. Such other standards as are deemed appropriate by the Planning Board.

ARTICLE IX: SITE PLAN REVIEW

A. APPLICABILITY

A.1. No Certificate of Zoning Compliance or Building Permit for any use subject to Site Plan Review shall be issued unless and until a Site Plan has been approved by the Planning Board in accordance with the standards and procedures of this Article.

A.2. No Special Use Permit shall be issued by the Planning Board unless and until a Site Plan has been approved in accordance with the standards and procedures of this Article.

A.3. The Planning Board shall not issue a recommendation for approval, with or without conditions or modifications, of any Planned Development District proposal to the Town Board unless and until the Preliminary Site Plan has been approved by the Planning Board in accordance with the standards and procedures of this Article.

B. PROCEDURES AND STANDARDS

B.1. Sketch Plan Conference

A Sketch Plan Conference shall be held between the Planning Board and applicant to review the basic site design concept, to determine the information required for inclusion on the Preliminary Site Plan, and to settle certain procedural questions relative to site plan submittal and review.

B.2. The following information shall be provided by the applicant for consideration at the Sketch Plan Conference:

B.2.1. An area map showing the parcel subject to site plan review, and all properties, subdivisions, streets and easements within two hundred (200) feet of the boundaries thereof. Such area map shall be oriented to the nearest highway intersection.

B.2.2. The general slope of the parcel under consideration and a notation giving the estimated percentage of slope on the parcel.

B.2.3. A written statement and sketch plan describing the proposed development of the site, including any legal steps or mechanisms to remove land from future development in order to comply with the Density Standard of this law.

B.2.4. Such additional information as needed for other reviews or submittals required under state, federal, or local laws and regulations.

B.3. The following shall be determined by the Planning Board at the Sketch Plan Conference:

B.3.1. The general acceptability of the proposed Site Plan pursuant to the requirements of this law.

B.3.2. The information from the requirement check list to be included on or with the Preliminary Site Plan to constitute a complete submittal.

B.3.4. Whether an outside consultant is needed for review of the Preliminary and/or Final Site Plan:

B.3.4.1. The following factors shall be considered in determining the need for such services:

a) the complexity and scope of the proposed project;

b) unusual or unique conditions on the site and surrounding property;

c) whether the Preliminary and Final Site Plans are to be prepared by a landscape architect, architect, professional engineer, or surveyor licensed in the State of New York;

d) such other factors as the Planning Board considers relevant.

B.3.4.2. If the Planning Board determines that the services of an outside consultant are necessary for review of the Preliminary and/or Final Site Plan, the applicant shall be informed in writing of such determination and of the estimate of reimbursable costs for such services.

B.3.5. If requested by the applicant, whether the Sketch Plan as submitted is sufficient to meet the requirements for the Preliminary Site Plan and shall be accepted and/or approved as the Preliminary Site Plan application.

B.3.6. The classification of the proposed site plan/project for purposes of SEQR, and the necessary Environmental Assessment Form and supplemental environmental information to be submitted with the Preliminary Site Plan Application.

B.3.7. Other reviews, referrals, submittals or notifications required pursuant to federal, state or local laws or regulations.

B.4. In order to provide for appropriate site visits by its members or consultants, to determine the necessity and/or cost of reimbursable consultant services, or to gather or receive additional information, the Planning Board may recess the Sketch Plan Conference. In such cases, the reconvening of said conference shall be considered a continuation of the same Sketch Plan Conference.

C. PRELIMINARY SITE PLAN

C.1. Pursuant to Sections 7209 and 7307 of the NYS Education Law, the Preliminary Site Plan shall be stamped by an architect, landscape architect, professional engineer or land surveyor licensed in the State of New York unless:

C.1.1. The proposed structure is a farm building to be used directly and solely for agricultural purposes; or

C.1.2. The proposed structure is a residential building of gross floor area of fifteen hundred (1500) square feet or less, not including garages, carports, porches, cellars, or uninhabitable basements or attics; or

C.1.3. The proposed project is an alteration to an existing structure, costing twenty thousand dollars ($20,000) or less, which does not involve changes affecting the structural safety or public safety thereof.

C.2. The Preliminary Site Plan shall include or be accompanied by such information from the following checklist as deemed necessary by the Planning Board at the Sketch Plan Conference.

C.2.1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;

C.2.2. North arrow, date and written and graphic scale;

C.2.3. Boundaries of the property plotted to scale;

C.2.4. Existing watercourses, flood prone areas as described by the Federal Emergency Management Administration mapping, and New York State regulated wetlands;

C.2.5. Description of existing vegetative cover and location of all existing trees over 8" in diameter;

C.2.6. Location of other significant natural or man-made features of historical, cultural or environmental importance or interest which exist on the site;

C.2.7. Location of existing uses and outlines of structures, drawn to scale, on the site and within one hundred (100) feet of the lot line;

C.2.8. Location and description of other existing development on the site, including fences, landscaping and screening;

C.2.9. Grading and drainage plan, showing existing and proposed contours at an appropriate interval to be specified by the Planning Board and referenced to USGS datum elevations;

C.2.10. Location, proposed use and height of all structures;

C.2.11. Location, size, and planned improvements, if any, of portions of the site to be devoted to open space or recreation areas;

C.2.12. Location, design and construction materials of all parking and truck loading areas, with access and egress drives thereto;

C.2.13. Provisions for pedestrian access and sidewalks;

C.2.14. Location of outdoor storage, if any;

C.2.15. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;

C.2.16. Description of the location of all existing and proposed methods of sewage disposal;

C.2.17. Description of the location of all existing and proposed methods of securing water;

C.2.18. Location of fire and other emergency zones and services, including the location of fire hydrants and other sources of water for fire purposes;

C.2.19. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;

C.2.20. Location, size, design and construction materials of all proposed signage;

C.2.21. Landscape planting plan showing planting areas and specifying plant types;

C.2.22. Location, design and specification and proposed hours of outdoor lighting, if any;

C.2.23. Illustrations or sketches of proposed street furniture, if any;

C.2.24. Proposed financing and/or financial plan, schedule for development, tenure of buildings or structures after construction, and necessary political or legal steps necessary to complete the project including the proposed legal documents or agreements necessary to remove land from future development in order to comply with the Density Standard of this law.

C.2.25. Other information as deemed necessary by the Planning Board.

D. PLANNING BOARD REVIEW OF PRELIMINARY SITE PLAN

The Planning Board shall review the Preliminary Site Plan and determine whether the applicant has met the following criteria for approval. Where necessary, the Planning Board shall require such modifications of the Site Plan as are determined necessary to meet the criteria for approval.

D.1. Adequacy of layout and design of vehicular and pedestrian access and circulation including intersections, road widths, pavement surfaces, traffic controls, walkway structures, and overall pedestrian convenience.

D.2. Adequacy of layout and design of off-street parking, loading, lighting, signage, and general relationship with proposed and existing structures.

D.3. Adequacy of stormwater and drainage facilities, water supply, and sewage disposal facilities.

D.4. Adequacy of type and use of trees, shrubbery and other landscape elements for aesthetic, screening or buffering purposes and the relationship with existing trees and vegetation, which shall be incorporated to the maximum possible extent.

D.5. Adequacy of provision of open space and recreational areas, when appropriate.

D.6. Adequacy of protection of adjacent properties from noise, glare, unsightliness or other objectionable features.

D.7. Adequacy of provisions for emergency vehicular zones and fire fighting access.

D.8. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, slippage, and/or erosion.

D.9. For new construction, the layout and location of underground cables, such as electric, telephone, cable T.V., etc.

D.10. Adequacy and appropriateness of legal mechanisms proposed to remove land from future development in order to comply with the Density Standard of this law.

E. SEQRA COMPLIANCE

Upon receipt of application materials it deems to be complete, the Planning Board shall initiate the New York State Environmental Quality Review process. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this Local Law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to NYCRR Section 617.8(b)(1) or the issuance of a negative declaration.

F. CONSULTANT REVIEW

The Planning Board may consult with the Code Enforcement and Zoning Officer, Fire Chief, the Superintendent of Highways, the Town Attorney, the Town Board, other Local and County Officials and/or the Board's designated private consultants, in addition to representatives of federal and state agencies, including, but not limited to the Soil Conservation Service, NYS Department of Transportation, NYS Department of Environmental Conservation and NYS Office of Parks, Recreation, and Historic Preservation to assist in the review of the Preliminary Site Plan. If a consultant is retained by the board, the applicant shall agree to pay his/her fees, as specified in Article IX.K Reimbursable Costs.

G. PUBLIC HEARING

The Planning Board, if it deems appropriate, may conduct a public hearing on the Preliminary Site Plan. Such public hearing shall be conducted within thirty (30) days of the receipt of the complete Preliminary Site Plan and application for its approval and shall be advertised in the official newspaper of the Town at least five (5) days before the public hearing.

G.1. Time of submission shall be the date on which the Preliminary Site Plan, all supplemental materials required by the Planning Board, the final determination and finding pursuant to SEQR, the payment due on the estimated amount of reimbursable costs and all applicable fees are received by the Planning Board.

G.2. In those cases where the Planning Board is required to refer the application for Site Plan approval to any outside planning agency for review pursuant to New York State Law, the time within which the Planning Board must take action(s) shall not begin until receipt by the Planning Board of the recommendation of said outside agency or the expiration of the allotted time for such review.

H. PLANNING BOARD ACTION ON THE PRELIMINARY SITE PLAN

H.1. Within sixty (60) days of said public hearing, if held, or from the date of receipt of the complete Preliminary Site Plan and application for approval, the Planning Board shall approve, approve with modifications, or disapprove the Preliminary Site Plan.

H.2. If no action is taken on the Preliminary Site Plan within the prescribed time period, the completed Preliminary Site Plan shall be considered approved as submitted.

H.3. If the Preliminary Site Plan is disapproved, the Planning Board shall state in writing and for the public record the reasons for such denial. In such case, the Planning Board may recommend further study of the Site Plan and resubmission to the Planning Board after revision or redesign.

H.4. If the Preliminary Site Plan is approved with modifications, the inclusions of all such modifications in the Final Site Plan shall be considered a condition of approval, and no Final Site Plan shall be considered for approval without inclusion of such modifications.

I. FINAL SITE PLAN

After approval of the Preliminary Site Plan by the Planning Board, the applicant shall submit a Final Site Plan subject to the following requirements:

I.1. The Final Site Plan shall be submitted no more than six (6) months after approval of the Preliminary Site Plan. If the prescribed time period has elapsed or conditions have changed substantially in the interim, the Planning Board may, at its sole discretion, require resubmission of the Preliminary Site Plan for further review and revision prior to accepting the Final Site Plan for review.

I.2. The Final Site Plan shall conform substantially to the Preliminary Site Plan as approved, and shall incorporate all modifications that may have been required by the Planning Board as conditions of approval. All such required modifications shall be clearly indicated on the Final Site Plan.

I.3. The following information, in addition to that included in or as conditions of approval of the Preliminary Site Plan, shall be included in the complete Final Site Plan submitted for approval:

a. Record of application for and approval status of all necessary permits from State and County Officials;

b. Detailed sizing and final material specifications of all required improvements;

c. An estimated project construction schedule.

I.4. If the Preliminary Site Plan is approved as submitted and without modifications required and if it includes all additional information required for a complete Final Site Plan, the Planning Board may, at its sole discretion, accept the approved Preliminary Site Plan as the Final Site Plan for their review.

J. REFERRAL TO COUNTY PLANNING BOARD

J.1. Pursuant to General Municipal Law, Article 12B, Sections 239-m and 239-m, upon receipt of application materials it deems to be complete, the Planning Board shall refer to the Montgomery County Planning Board any application for a Site Plan review affecting real property within 500 feet of any municipal boundary, the boundary of any existing or proposed county or state park or any other recreation area, the right-of-way of any existing or proposed county or state roadway, the existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines, the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, or the boundary of a farm operation located in an Agricultural District as defined in Article 25AA of Agriculture and Markets Law.

J.2. No action shall be taken on Site Plans referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Board's review.

J.3. A majority-plus-one vote of the Planning Board shall be required approve any Site Plan which receives a recommendation of disapproval from he County Planning Board because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

K. PLANNING BOARD ACTION ON FINAL SITE PLAN

K.1. Within sixty (60) days of receipt of the complete Final Site Plan and application for approval, the Planning Board shall approve or disapprove the Final Site Plan.

K.2. The prescribed time period for Planning Board action may be extended with the mutual agreement of the Planning Board and applicant or if other reviews, referrals, submittals, or notifications required under federal, state, or local laws or regulations have not been completed.

K.3. If no decision is made within the prescribed time period or extensions thereto, the Final Site Plan shall be considered approved as submitted.

K.4. If the Final Site Plan is disapproved, the Planning Board shall present the reasons for disapproval in writing to the applicant and for the public record.

K.5. Upon Planning Board approval of the Final Site Plan and payment by the applicant to the Town of all fees and reimbursable costs, the Planning Board shall forward one copy of the Final Site Plan with its approval to the Zoning Board of Appeals, Code Enforcement and Zoning Officer, and/or the Town Board, as appropriate.

L. REIMBURSABLE COSTS

L.1. Costs or fees incurred by the Planning Board for necessary consultant services or other extraordinary expenses in connection with the review of any application for a Special Permit, Site Plan approval, or State Environmental Quality Review, shall be paid by the applicant. Such costs may include staff costs or consultant fees covering planning, engineering, environmental analysis, legal review, and other technical services required for a proper and thorough professional review of the application.

L.2. An estimate of these fees shall be provided to the applicant at the beginning of the project. Such reimbursable costs shall be in addition to any application fee schedule established by the Planning Board.

L.3. The Planning Board may require that the applicant pay the estimated fees in advance into an escrow fund established to cover the reasonable costs of reviewing such application.

L.4. The project applicant must pay all bills for reimbursable costs and estimated fees within 30 days of receipt. The Planning Board will not proceed with the review process if the applicant fails to pay outstanding bills within this deadline.

L.5. No Certificate of Zoning Compliance or Building Permit shall be issued for any proposed construction for which fees or reimbursable costs are lawfully due to the Town and unpaid.

ARTICLE X: ADMINISTRATION AND ENFORCEMENT

A. CODE ENFORCEMENT AND ZONING OFFICER

The position of Code Enforcement and Zoning Officer is hereby created. The Town Supervisor shall appoint the Code Enforcement and Zoning Officer, subject to approval of the Town Board, to administer and enforce the provisions of this Local Law.

The Code Enforcement and Zoning Officer shall have the following powers and duties:

A.1. Rules, Regulations, Forms and Fee Schedules

The Code Enforcement and Zoning Officer, subject to the approval of the Town Board, shall have the authority to make and adopt such rules, regulations, forms and fee schedules as deemed necessary for the proper enforcement and administration of this Local Law and to secure its stated purposes and intent. Such rules, regulations, forms and fee schedules shall not be in conflict with the provisions of this Local Law or any other Local Law of the Town of Canajoharie nor shall they have the effect of waiving any provisions of this Local Law or any other Local Law. Such rules, regulations, forms and fee schedules shall be submitted to the Town Board by the Code Enforcement and Zoning Officer, which shall move to approve, reject, or modify such rules, regulations, forms, and fee schedules within thirty (30) days after submission. Failure to act within the prescribed time period shall be construed to constitute approval. The rules, regulations, forms and fee schedules as submitted to and approved by the Town Board shall be on file and available to the public.

A.2. Issuance of Permits

The Code Enforcement and Zoning Officer shall issue the following certificates and permits upon fulfillment of the requirements of this local law and of applicable federal, state or other local laws:

A.2.1. Certificates of Zoning Compliance, pursuant to this Article;

A.2.2. Building Permits, pursuant to this Article;

A.2.3. Certificates of Occupancy, pursuant to this Article;

A.2.4. Such other permits as may be established by amendment to this local law.

A.3. Inspections

The Code Enforcement and Zoning Officer or his duly authorized representative shall have the right to enter any building or enter upon any land at any reasonable hour as necessary in the execution of his duties, provided that:

A.3.1. The Code Enforcement and Zoning Officer shall notify, or attempt to notify, the owner and/or tenant before conducting any inspection;

A.3.2. The Code Enforcement and Zoning Officer or his duly authorized representative shall display identification signed by the Town Clerk upon commencing an inspection;

A.3.3. Inspections shall be conducted in the presence of the owner or his representative or tenant, unless it is deemed to be an emergency by the Code Enforcement and Zoning Officer, or the owner or his representative cannot or will not meet with the Code Enforcement and Zoning Officer.

Nothing in this section is meant to supersede any constitutional consideration.

A.4. Records

The Code Enforcement and Zoning Officer shall maintain files, open and available to the public at the Town Office Building, of all applications for Certificates of Zoning Compliance, Building Permits, Certificates of Occupancy and other permits, along with any and all plans submitted, as well as final certificates and permits. The Code Enforcement and Zoning Officer shall also maintain records of every complaint of a violation of the provisions of this Local Law and action taken as a result of such complaints.

A.5. Reports

The Code Enforcement and Zoning Officer shall submit to the Town Board at least quarterly, for insertion into the Board minutes, a written report summarizing all permits or certificates which have been issued, all permits and certificates which have been denied, and the number of violations recorded by him.

B. PERMITS AND CERTIFICATES

B.1. Certificate of Zoning Compliance

Each Certificate of Zoning Compliance issued shall state that the proposed structure and land use comply with all provisions of this local law.

B.1.1. In all Districts, a Certificate of Compliance is required whenever:

B.1.1.1. Any structure coming under the provisions of this local law is erected, reconstructed, structurally altered, moved, or demolished, except that an accessory structure may be demolished without permit;

B.1.1.2. Any change in use occurs in an existing building;

B.1.1.3. Any change in use occurs in a non-conforming building;

B.1.1.4. Any vacant land is changed in use or a use is established.

B.1.2. Nothing in this provision shall be interpreted to supersede the requirements of any local law enacted by the Town Board to administer the NYS Uniform Fire Prevention and Building Code.

B.1.3. All applications for a Certificate of Zoning Compliance shall be accompanied by:

B.1.3.1. Such sketch plans and supporting documentation as the Code Enforcement and Zoning Officer may require to determine compliance with this local law; and

B.1.3.2. Payment of the fee required for such certificate by the fee schedule established or to be established pursuant to Section A.1. of this Article.

B.1.4. No less than (7) nor more than thirty (30) days after receipt of the complete application, the Code Enforcement and Zoning Officer shall either issue or deny the Certificate of Zoning Compliance. If the Certificate of Compliance is denied, the Code Enforcement and Zoning Officer shall notify the applicant in writing of the reasons for denial.

B.1.5. If both a Certificate of Zoning Compliance and a Building Permit are required, application for each may be made simultaneously.

B.2. Building Permit

B.2.1. In all Districts, a Building Permit issued by the Code Enforcement and Zoning Officer or his duly authorized representative shall be required to erect, reconstruct, restore, structurally alter or demolish any structure, to add additional residential or commercial units or area, or to commence site work or excavation in preparation therefore, except that an accessory structure may be demolished without permit. Normal maintenance of any structure shall not require a Building Permit.

B.2.2. No Building Permit shall be issued unless:

B.2.2.1. The proposed construction, restoration, alteration, demolition, or addition conforms fully with all provisions of this local law or has received a variance from the Board of Appeals; and

B.2.2.2. A Certificate of Zoning Compliance has been issued pursuant to this local law; and

B.2.2.3. The proposed construction, restoration, alteration, demolition, or addition conforms with the requirements of the NYS Building Code, and other applicable federal, state and local laws and regulations.

B.2.3. Every application for a Building Permit shall contain all information as required, and must be accompanied by:

B.2.3.1. A plot plan showing the exact measurement from the street and lot lines to the foundation or structure;

B.2.3.2. Complete plans for the proposed construction, restoration, alteration, demolition, or addition.

B.2.3.3. Payment of the fee required for such permit by the fee schedule established or to be established pursuant to Section A.1. of this Article.

B.2.4. The Building Permit application and all supporting documentation shall be submitted in such a number of copies as may be required by the Code Enforcement and Zoning Officer by general rule. Upon issuance of a Building Permit, the Code Enforcement and Zoning Officer shall return one copy of all filed documents to the applicant.

B.2.5. No less than seven (7) nor more than thirty (30) day after receipt of the completed application, the Code Enforcement and Zoning Officer or his duly authorized representative shall issue or deny the Building Permit. If the permit is denied, the Code Enforcement and Zoning Officer shall notify the applicant in writing of the reasons for its denial.

B.2.6. If both a Certificate of Zoning Compliance and a Building Permit are required, application and publication may be made simultaneously.

B.3. Conditions for Issuance of Permits:

B.3.1. No Building Permit or Certificate of Zoning Compliance shall be issued for the construction or alteration of any building upon a lot without access to a street or highway, except in the A-Agriculture/Rural Residential District subject to the conditions of Article III, Section A.2 of this law.

B.3.2. A Building Permit or Certificate of Zoning Compliance for any structure subject to Site Plan Review shall be issued only in strict conformity with the plans approved by the Planning Board.

B.3.3. A Building Permit or Certificate of Zoning Compliance issued for any structure permitted subject to a variance granted by the Board of Appeals shall be issued only in strict accordance with all conditions prescribed by the Board of Appeals.

B.4. The Building Permit shall be posted conspicuously and continuously on the work site until the construction project is substantially complete.

B.5. Every Building Permit shall expire if the work authorized has not commenced within six (6) months after the date of issuance, or has not been completed within eighteen (18) months from such date for construction costing less than one million dollars ($1,000,000) and has not been completed within twenty four (24) months from such date for construction costing in excess of such amount.

B.6. If no amendments to the Zoning Law or to other codes or regulations affecting the property have been enacted in the interim, the Code Enforcement and Zoning Officer may authorize in writing the extension of either of the above periods for an additional six (6) months, following which no further work is to be undertaken without a new building permit application and issuance.

B.7. Certificate of Occupancy

In all districts, no building or structure for which a Building Permit has been issued, shall be occupied or used unless the Code Enforcement and Zoning Officer issues a Certificate of Occupancy. The Certificate of Occupancy shall state that the building or structure fully complies with the requirements of the NYS Building Code, this local law, the terms of any variance or site plan approval granted in accordance with this local law, and other applicable federal, state or local laws.

C. REQUIRED INSPECTIONS

During the course of construction of any project subject to a Building Permit under this local law, the Code Enforcement and Zoning Officer or his authorized representative shall make on-site inspections of work in progress at least as follows:

C.1. As soon as the foundation of a building or of any addition to an existing building is staked or marked, and before the foundation is laid, inspection sufficient to ascertain that said structure complies with the area and Bulk Regulations of Article IV of this law or any variance issued by the Board of Appeals.

C.2. At such times during the course of construction as will permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air conditioning systems, fire protection and detector systems, and exit features;

C.3. At such other times and for such other purposes as required to comply with the NYS Building Code and its implementing regulations and other applicable federal, state or local laws and regulations.

C.4. Upon substantial completion of the entire project and prior to issuance of a Certificate of Occupancy.

D. VIOLATIONS

D.1. Complaints

Any person may file a complaint with the Code Enforcement and Zoning Officer regarding a violation of this local law.

D.1.1. All such complaints shall be in writing.

D.1.2. All such complaints shall be investigated by the Code Enforcement and Zoning Officer and a written report prepared thereon within ten (10) days.

D.1.3. One copy of such report shall be forwarded to the Board of Appeals and one copy shall be maintained in the files of the Code Enforcement and Zoning Officer and shall be available for public inspection.

D.2. Notice of Violation

Where a violation of this local law is determined to exist, the Code Enforcement and Zoning Officer shall serve a Notice of Violation in person or by certified mail, return receipt requested, on the owner, agent or contractor of the building or lot where such violation has been committed or shall exist, and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or shall exist; and on the agent, architect, contractor or any other such person who takes part or assists in such violation or who maintains any building, structure, or lot in which any such violation shall exist.

D.2.1. Such Notice of Violation shall include the following:

D.2.1.1. The specific violation;

D.2.1.2. The time period during which such violation must be corrected;

D.2.1.3. If, in the judgment of the Code Enforcement and Zoning Officer, circumstances require it, a Stop Work Order.

D.2.2. Such Notice of Violation shall require the removal of the violation within no less than seven (7) days nor more than thirty (30) days after service of the notice.

D.2.3. In cases where the removal of the violation within thirty (30) days would be manifestly impossible, the Code Enforcement and Zoning Officer shall apply to the Board of Appeals for determination of a reasonable period of time within which such violation shall be removed.

D.2.4. If those persons notified shall fail to remove such violation within the allotted time period, the Code Enforcement and Zoning Officer shall charge them with violation of this law before the appropriate court of law.

D.3. Stop Work Order:

D.3.1. If, in the judgment of the Code Enforcement and Zoning Officer, work in progress is in violation or will result in violation of the NYS Building Code, this local law, or terms or conditions of any permit, variance, or site plan approval issued pursuant to this local law, and continuation of such work in progress will or may result in increased violation, irreparable harm, or structures or conditions impossible or unlikely to be removed or corrected, the Code Enforcement and Zoning Officer

shall serve a Stop Work Order on the owner, agent, architect, contractor, and/or any other person involved or assisting in such work in progress and shall post a copy of said Stop Work Order in a conspicuous place on the subject work site.

D.3.2. Upon service or posting of such Stop Work Order, all further work on the subject work site shall cease, except such as is necessary to secure the site and materials, until the violation causing such order has been corrected or removed and the Code Enforcement and Zoning Officer has served notice in writing that the Stop Work Order has been lifted.

D.3.3. No person shall remove a Stop Work Order posted on a work site unless and until the Code Enforcement and Zoning Officer has served notice in writing that such Stop Work Order has been lifted.

D.3.4. Continuation or resumption of work on a work site subject to a Stop Work Order lawfully served and/or posted by the Code Enforcement and Zoning Officer shall constitute a separate violation of this local law and shall be subject to all penalties described in this Article.

D.3.5. In the case of an Appeal for Interpretation to the Zoning Board of Appeals intended to resolve questions of alleged violations giving rise to a Stop Work Order, the Zoning Board of Appeals may hear the appeal within seventy-two (72) hours of application for said appeal, and shall render a decision within forty-eight (48) hours of the completion of said hearing.

D.4. Appearance Ticket

The Code Enforcement and Zoning Officer shall, where appropriate, issue an appearance ticket as provided by the Penal Law of the State of New York.

D.5. Fines

Persons found guilty of violation of this local law shall be subject to fine not to exceed three hundred fifty dollars ($350) for the first violation. Subsequent violations within a period of five years shall be subject to fine or imprisonment or both pursuant to Section 268 of the Town Law. Each and every week such violation continues after the allotted period of time for its removal shall be deemed a separate and distinct violation.

D.6. Other Remedies:

In addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, demolition, moving, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or lot, or to prevent an illegal act, conduct, business or use in or about such premises.

ARTICLE XI: BOARD OF APPEALS

A. CREATION, APPOINTMENT AND ORGANIZATION

A.1. Creation

Pursuant to Section 267 of the Town Law, the Town Board shall appoint a five (5) member Board of Appeals to interpret and judge the application of provisions of this local law and to grant or deny variance requests.

A.2. Term of Office

A.2.1. Pursuant to Section 267 of the Town Law, the term of each member of the Zoning Board of Appeals shall be five (5) years, expiring at the end of the official year.

A.2.2. Vacancies shall be filled by appointment by the Town Board for the unexpired term.

A.2.3. The Town Board shall designate the Chairperson of the Board of Appeals.

A.3. Organization

A.3.1. General Operations

A.3.1.1. Subject to Town Board approval, the Board of Appeals shall make, promulgate and adopt written rules, procedures, and forms necessary for the proper execution of its duties and for securing the intent of this local law.

A.3.1.2. The Board of Appeals may employ the clerical or other staff necessary for the proper function of the Board.

A.3.1.3. The Town Board shall provide operating expenses for the Board of Appeals. Board of Appeals expenditures shall not exceed the amount of appropriations.

A.3.2. Meetings

A.3.2.1. The Board of Appeals shall hold meetings at the call of the Chairperson or at other times the Board may determine.

A.3.2.2. All meetings shall be subject to the open meetings law.

A.3.2.3. The Chairperson or acting Chairperson in the absence of the Chairperson, has the power to administer oaths and compel the attendance of witnesses

A.3.3. Minutes

A.3.3.1. The Board of Appeals shall keep proper minutes of its meetings and records of its examinations and other official actions.

A.3.3.2. The minutes shall show how each member voted on every question. The minutes shall also indicate if a member is absent or fails to vote.

A.3.3.3. The Board of Appeals shall file a record of all determinations with the Town Clerk for the public record.

B. POWERS AND DUTIES

The Board of Appeals shall have all the powers and duties prescribed by law and more particularly specified by this local law. None of the following provisions shall be deemed to limit any power of the Board that is conferred by law.

B.1. Appeal for Interpretation

Upon appeal from a decision, order, requirement or determination made by the Code Enforcement and Zoning Officer, the Board of Appeals shall have the power to decide any of the following questions:

B.1.1. The meaning of any portion of the text of this local law or of any condition or requirement specified or made under the provisions of this local law.

B.1.2. The exact location of any district boundary shown on the Zoning Map.

B.1.3. The appropriate category of use to be applied to any use or proposed use not specifically identified and/or defined in this law.

B.2. Appeal for Variance

Upon appeal from a decision of the Code Enforcement and Zoning Officer, the Board of Appeals shall have the power to vary or modify the application of any of the regulations or provisions of this local law relating to the use, construction or alteration of structures, or the use of land, so that the spirit of the local law shall be observed, public safety and welfare secured, and substantial justice done. Variances shall be granted only under the following circumstances:

B.2.1. For Area Variances

The appellant shall demonstrate the presence of exceptional physical conditions whereby strict application of the requirements of Article IV, Area and Bulk Regulations, would result in practical difficulties.

B.2.1.1. Conditions which may demonstrate practical difficulties include an exceptionally irregular, narrow, shallow, or steep lot.

B.2.2.2. Such conditions shall be peculiar to the land or structure for which the Area Variance is requested.

B.2.2.3. Such conditions shall not have resulted from any act of the applicant.

B.2.2. For Use Variances

The applicant shall conclusively demonstrate that strict application of requirements of Article III, Use Regulations or Article VI, Supplementary Regulations would impose unnecessary hardship in such a way as to deprive the owner of any and all use of the land or structure for which the Use Variance is requested.

Demonstration of unnecessary hardship must include all of the following elements established on the public record before the Board of Appeals:

B.2.2.1. That the applicant is deprived of all economic use or benefit from the property or structure if used only for a purpose allowed in that zoning district without variance, which deprivation must be established by competent financial evidence;

B.2.2.2. That the use to be authorized by the variance will not alter the essential character of the locality;

B.2.2.3. That the alleged hardship relating to the property is due to unique circumstances and not to general conditions in the neighborhood; and

B.2.2.4. That the conditions creating the unnecessary hardship shall not have resulted from any act of the appellant or owner nor shall the owner have acquired the land or structure with actual or constructive knowledge that the desired use was not permitted without variance.

B.2.3. For All Variances

In granting any variance the Board of Appeals shall be governed by the following considerations:

B.2.3.1. No variance shall be granted if the Board determines that the harm caused by such a variance is greater than the benefit to the community.

B.2.3.2. No variance shall be granted solely for reasons of additional financial gain to the owner of the land or building involved. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded, or in disrepair, or the fact that the property is then unimproved, shall not be deemed to make the plight of the property unique or to contribute thereto.

B.2.3.3. The variance, as granted by the Board of Appeals, shall be the minimum variance that will accomplish the purpose applied for.

B.2.3.4. The variance, as granted by the Board of Appeals, shall not substantially alter the essential character of the locality, or constitute a grant of special privilege which is inconsistent with the limitations on other properties in the district.

B.2.3.5. The Board of Appeals shall attach such conditions and safeguards to any variance granted as may be required in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of this local law.

B.2.3.6. The Board of Appeals shall prescribe any and all additional conditions that it deems to be necessary or desirable.

B.2.3.7. Where the Board of Appeals finds the zoning classification of a particular property to constitute deprivation of the reasonable use of the land or buildings and finds the same condition applies generally to other land or buildings in the same neighborhood or zoning district, the Board shall immediately call this condition to the attention of the Town Board.

B.2.3.8. Unless a complete application for a Certificate of Zoning Compliance and Building Permit has been submitted within ninety (90) days of the date of the granting of a variance, such variance shall become null and void.

B.3. Procedure

The powers and duties of the Board of Appeals shall be exercised in accordance with Section 267 of the Town Law, the procedures specified by this local law, and their own By-Laws.

B.3.1. All appeals and applications made to the Board of Appeals shall be in writing in a form prescribed by the Board of Appeals and shall be accompanied by a fee as set forth in the fee schedule established by resolution of the Town Board on recommendation of the Board of Appeals, payable to the Town Clerk, for not less than the actual and necessary costs of advertising and holding a public hearing. The Board of Appeals may, in its discretion, recommend to the Town Board a refund to the applicant for part or all of the fee paid in the event that an appeal under Section B (1), Appeal for Interpretation, is partially or wholly successful. The fee filed in connection with application under, Section B(2), Appeal for Variance, shall not be returnable regardless of the disposition of the case by the Board.

B.3.2. The Board of Appeals shall not decide upon any appeal for variance or interpretation of this local law without first holding a public hearing, notice of which shall include the property location for which the variance or interpretation is requested and the nature of the request for variance or interpretation and shall be given by publication in the official newspaper of the date, time and place of the

hearing. In addition to the published notice, the Board of Appeals shall notify by mail at least five (5) days before the hearing all owners of property which lie within two hundred (200) feet of the property for which relief is sought and to such other owners as the Board of Appeals may deem advisable.

B.3.3. The Board of Appeals shall schedule a hearing on each appeal for variance or interpretation within forty-five (45) days from receipt of the appeal. The Board of Appeals shall render its decision on each appeal within sixty-two (62) days following the public hearing.

B.3.4. Fifteen (15) days prior to the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a notice of the hearing.

B.3.5. Expedited Review

Only in the case of an Appeal for Interpretation intended to resolve questions giving rise to a Stop Work Order, the Board of Appeals shall expedite review as follows:

B.3.5.1. The Board of Appeals may, at its discretion, hear the appeal without formal public hearing or published notice and without notifying property owners within 200 feet, but shall give notice to the extent practical.

B.3.5.2. The Board of Appeals shall hear the appeal within seventy-two (72) hours of receipt of the application for appeal by its chairperson.

B.3.5.3. The Board of Appeals shall render a decision within forty-eight (48) hours of the completion of the appeal hearing.

B.3.5.4. Under no circumstances can a variance of any kind be granted under expedited review procedures.

B.4. Referral to Montgomery County Planning Department: In accordance with Section 239 (1) and (m) of Article 12 B of the General Municipal Law, unless modified by written agreement between the Town Board and the Montgomery County Planning Department, the Board of Appeals shall refer any Appeal for Variance to the Montgomery County Planning Board when the action affects property located within 500 feet of:

- Municipal boundary,
- Boundary of any existing or proposed county or state park or any other recreation area,
- Right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway,

- Existing or proposed right-of-way of any stream or drainage channel owned by the county, or for which the county has established channel lines,

- Existing or proposed boundary of any county or state-owned land on which a public building or institution is situated, or

- (If a Use Variance) the boundary of a farm operation located in an agricultural district, as defined by Article 25AA of Agriculture and Markets Law.

Such referral shall be made at least fifteen (15) days prior to the date of the public hearing.

If within thirty (30) days the Montgomery County Planning Department recommends modification or disapproval, the Board of Appeals may act contrary to the recommendation only by a vote of a majority plus one of the entire Board and by adopting a resolution fully setting forth reasons for such contrary action.

In addition, the Board of Appeals shall send notification of any pending Appeal for Variance for any property located within 500 feet of a municipal boundary to the Clerk of that municipality not later than ten (10) days prior to the date of the public hearing.

B.5. Relief from decisions of the Board of Appeals - An appellant aggrieved by any decision of the Board of Appeals may apply to the New York State Supreme Court for relief under Article 78 of the Civil Practice Law and Rules of New York State, pursuant to Section 267 of the Town Law.

ARTICLE XII: PLANNING BOARD

A. CREATION, APPOINTMENT AND ORGANIZATION

A.1. Creation

Pursuant to Section 271 of the Town Law, the Town Board shall appoint a seven (7) member Planning Board, which shall be responsible for continuing long-range planning activities and for such duties as are specified in this local law.

A.2. Term of Office

Pursuant to Section 271, the term of each member of the Planning Board shall be seven (7) years, expiring at the end of the official year.

Vacancies shall be filled by appointment by the Town Board for the unexpired term.

The Town Board shall designate the Chairperson of the Planning Board, or upon failure to do so, the Planning Board may select a Chairperson from its membership.

A.3. Organization

A.3.1. General Operations

A.3.1.1. The Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under Article 16 of the Town Law, under the Subdivision Law or Zoning Law of the Town of Canajoharie or any other statute, subject to approval by resolution of the Town Board when so provided by the Town Law.

A.3.1.2. The Planning Board may employ the clerical or other staff necessary for proper function of the Board.

A.3.1.3. The Town Board shall provide operating expenses for the Planning Board. Planning board expenditures shall not exceed the amount of the appropriations.

A.3.2. Meetings

A.3.2.1. The Planning Board shall hold meetings at the call of the Chairperson or at other times the Board may determine.

A.3.2.2. All meetings shall be subject to the Open Meetings Law.

A.3.3. Minutes and Records

A.3.3.1. The Planning board shall keep proper minutes of its meetings and records of its examination, official actions, advisory reports, and general studies.

A.3.3.2. The minutes shall show how each member voted on every question. The minutes shall also indicate if a member is absent or fails to vote.

A.3.3.3. The Planning Board shall file a record of all determinations with the Town Clerk for the public record.

B. Powers and Duties

The Planning Board shall have all the powers and duties prescribed by law and more particularly specified by this local law. None of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

B.1. Master Plan

The Planning Board may prepare and change a comprehensive master plan for the Town pursuant to Section 272-a of the Town Law. The master plan and all modifications shall be on file in the office of the Planning Board, and the Planning Board shall file certified copies in the offices of the Town Clerk and the Code Enforcement and Zoning Officer.

B.2. Investigations

The Planning Board shall have the full power and authority to make investigations, maps and reports, and all resulting recommendations of all matters relating to the planning and development of the Town, pursuant to Section 275 of the Town Law.

B.3. Site Plan Review

The Planning Board shall be responsible for the proper implementation of Article IX, Site Plan Review, of this local law.

B.4. Special Use Permits

The Planning Board shall be responsible for the proper implementation of Article VII, Special Use Permits, of this local law.

B.5. Subdivision Approval

The Planning Board shall be responsible for the review and approval of subdivision plats in accordance with the Town Subdivision Law and this local law.

B.5. Report on Specific Referrals from the Board of Appeals and the Town Board.

The Planning Board shall conduct a review of any matter referred to it and shall submit a written report to the referring body as required by the provisions of this Law or the Town Law.

B.6. Periodic Review of Land Use Regulations

At intervals of not more than five (5) years, the Planning Board shall re-examine the provisions of this local law and the location of district boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or welfare.

ARTICLE XIII: DEFINITIONS

Unless otherwise expressly stated, the following terms shall for the purpose of this local law have the meaning herein indicated. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot." The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged, or designed to be occupied or used". The word "shall" is mandatory and not optional. All other words used in this local law shall carry their customary meanings.

Accessory Building or Use:
A building or use clearly incidental or subordinate to, and customary in connection with, the principal building or use on the same lot.

Adult Home: see Rest Home.

Adult Oriented Business:
Whenever used in this local law, the words "Adult Oriented Business" or "Adult Oriented Businesses" apply to the following types of establishments, and any others which exclude or restrict minors by reason of age:

Adult Bookstore or Video Store:
An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides or video tapes and which establishment excludes or restricts minors by reason of age.

Adult Entertainment Cabaret:
A public or private nightclub, bar, restaurant, or similar establishment which presents topless or bottomless dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes or restricts minors by reason of age.

Adult Motel:
A motel which excludes or restricts minors by reason of age, and which makes available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theatre would exclude or restrict minors by reason of age.

Adult Theatre:
A theater that customarily presents motion pictures, films, videotapes or slide shows, and that excludes or restricts minors by reason of age.

Massage Establishment:
Any establishment having a fixed place of business where massages are administered, including but not limited to massage parlors, sauna baths and steam baths, and which excludes or restricts minors by reason of age. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or massage therapist, or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

Peep Show:
A theatre which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, and which excludes or restricts minors by reason of age.

Agricultural Data Statement:
An identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval is proposed, as provided in Section 305-a of Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant, a description of the proposed project and its location, the name and address of any owner of land within the agricultural district whose land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed, and a tax map or other map showing the site of the proposed project relative to the location of the farm operations identified in the Agricultural Data Statement.

Agriculture:
The raising of crops, animals or animal products, horticultural or nursery products for gain, including the sale of farm produce and agricultural products at the premises where produced.

Animal Hospital:
Premises for the medical and/or surgical care of sick or injured animals with or without accessory boarding accommodations for convalescence. The term animal hospital shall also include veterinary clinic.

Alteration:
Any change, rearrangement or addition to a building, or any modification in construction or in building equipment, excluding normal maintenance and repairs.

Antenna:
A device used in communications which converts radio frequency electrical energy to radiated electromagnetic energy and vise versa in a transmitting station, an antenna is the device from which radio waves are emitted.

Apartment: See Dwelling, Multiple.

Applicant:
The person, persons, corporations, etc. who is the owner(s) of the property, or their designated agent.

Automobile Repair Shop: See Motor Vehicle Repair Facility.

Bar: See Tavern/Nightclub.

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

Bed-and-Breakfast, Tourist Home:
An owner-occupied private dwelling in which at least one (1) room, but not more than six (6) rooms are offered for rent for the accommodation of transient guests. In addition, meals may be served.

Billboard:
Any sign which exceeds thirty-two (32) square feet in area, and which directs attention to a business, commodity, service, entertainment, or attraction, sold, offered, or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally upon such lot.

Boarding or Rooming House:
A private dwelling in which at least three (3) but not more than six (6) rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained.

Building:
Any structure of more or less permanent construction, which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing, protection, or enclosure of persons, animals, property or business activity.

Building Line:
A line drawn at the front main wall of a building, excluding steps, porches, patios, eaves, cornices or other projections, and extending from lot line to lot line.

Campground/Recreational Vehicle Camp:
A property providing four (4) or more sites for the parking of occupied travel trailers and/or recreational vehicles, or the erection of tents or other shelters serving as temporary residences, as defined by Part 7 of the NYS Sanitary Code, and all buildings and facilities pertaining thereto.

Campsite or Private Camp:
The temporary residential use of land on which no permanent structure or mobile home is constructed, placed, or located, and not more than three (3) temporary structures, mobile homes, tents or recreational vehicles are located for a period of more than fourteen (14) days, for recreational, vacation, or hunting use.

Car Wash:
Premises regularly used for washing, cleaning or polishing motor vehicles for compensation.

Cellar:
Any space in a building the structural ceiling level of which is less than four (4) feet above the average finished grade.

Coin Operated Laundry:
Premises equipped with individual clothes washing and drying and/or dry cleaning machines which are operated by the customers themselves.

Co-location:
The mounting of Personal Wireless Service Facilities used by two or more persons, firms or corporations on the same equipment mounting structure.

Commercial Laundry or Dry Cleaners:
Premises equipped with machines for washing and drying and/or chemically cleaning and pressing clothes. Commercial laundry or dry cleaners also include premises which serve only as customer drop-off and pick-up locations, and which send customer's clothes off premises for cleaning and pressing.

Conservation:
The protection or management of land in a natural state, including management practices such as clearing and re-planting, stream channel maintenance, and erosion control, among others.

Coverage:
The area covered by all buildings on a lot, expressed as a percentage of the total lot area.

Drive-In:
Premises constructed to cater to the motoring public, whether or not serving pedestrians as well as the automobile trade, and providing curb and/or window counter service.

Drive-In Movies:
An open lot, together with appurtenant facilities, where motion pictures are shown to paying customers seated in automobiles or on outdoor seats.

Dwelling:
A building containing one or more dwelling units capable of being used for long-term, year-round human habitation. The term dwelling shall not include boarding house, hotel, nursing home, hospital, camp, etc., designed, planned or used for relatively transient occupancy.

Dwelling, Duplex:
A one-family dwelling separated by a party wall from only one (1) adjacent dwelling unit.

Dwelling, Multi-Family:
A building or portion thereof containing three (3) or more dwelling units, sharing common sewer and water services.

Dwelling, Single Family:
A detached building containing one (1) dwelling unit only, in which no more than one (1) room is offered for rent.

Dwelling, Row or Attached:
A multi-family dwelling structure with party walls separating individual dwelling units from adjacent units, each unit having separate water and sewer service.

Dwelling, Two-Family:
A detached building containing two (2) dwelling units only.

Dwelling Unit:
A building or an entirely self-contained portion thereof, containing complete housekeeping facilities for only one (1) family, including any domestic servants employed on the premises, having no enclosed space (other than vestibules, entrance, or other hall ways or porches) or cooking or sanitary facilities in common with any other dwelling unit and in which no more than one (1) room is offered for rent to other than family members. A boarding or rooming house, convalescent home, fraternity or sorority house, dormitory, hotel, inn, lodging, nursing, or other similar homes, or other similar structure, shall not be deemed to constitute a dwelling unit.

Equipment Mounting Structure:
Any structure used primarily to support reception or transmission equipment including, but not limited to, antenna support structures, towers and monopoles.

Family:
One (1) or more persons occupying a dwelling unit as a single housekeeping unit.

Farm Operation:
The land and on-farm buildings, equipment, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

For the purposes of Article VI.C.2 "Mobile Homes and Mobile Home Communities" a Farm Operation shall not include any farm having less than $10,000 gross sales in the year preceding the date on which the owner applies for a building permit to erect a mobile home as an accessory use. In addition the occupant of a mobile home as an accessory use must be a full-time employee of the Farm Operation whose total documented compensation including salary, lodging, board, etc. is not less than $10,000 per year.

Farm Market:
A market outlet, located off-site of a farm operation, for the sale of produce, plants, food products, and related items to the general public.

Farm Stand:
A structure, either temporary or permanent and either attached to the ground or movable, intended for the sale to the general public of agricultural products predominantly produced on the premises, or by the same farm operation on whose land the farm stand is located.

Fence:
An unroofed enclosing structure erected for the purpose of preventing passage or view.

Flag Lot:
A lot with access from the main portion of the building lot to the public street along a narrow strip of land, or access leg, on which an access drive or private lane is or will be constructed, said access leg to remain in the private ownership of one or more owners.

Flag Lot Access Leg:
The narrow strip of land along which an access drive or private lane is or will be constructed to provide access from a public street to the building area of the flag lot, the area of said access leg to be excluded from calculations of lot area and setbacks for purposes of this local law.

Floor Area, Gross:
The sum of the gross horizontal area of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings or uses.

Floor Area, Net:
The actual square footage of an area used for gathering people together, not including accessory or other areas used for different purposes or the thickness of walls. Such area is normally enclosed by walls or other dividers.

Frontage:
The horizontal distance between the side lot lines measured along the street line.

Fuel Oil Storage:
Premises used for the storage of fuel oil, kerosene, or other combustible fuel in tanks for the sale by motor vehicle or other means of conveyance to purchasers at some other location, and excluding gasoline storage tanks used at gasoline stations for retail sales, or tanks used by individuals when fuel is not sold.

Garage:
Premises used for storage, display, sale, rental, service or repair of motor vehicles.

Garage, Private:
An accessory garage used by the occupants of a principal structure for storage of one or more vehicles or boats and within which no business, occupation, service or industry is conducted for profit.

Gasoline Station:
A commercial establishment which includes the sale and delivery of gasoline or other fuel for the propulsion of motor vehicles. A gasoline station may include accessory sale and installation of oil or other substances, tires, batteries, and other motor vehicle accessories. A gasoline station may also conduct minor vehicle repairs. A gasoline station may also include a quick stop retail store provided the store is an integral part of the gasoline station.

Gross Floor Area: See Floor Area, Gross.

Group Home:
A dwelling or facility which is occupied by unrelated persons who may be handicapped, developmentally disabled, or emotionally disturbed, or in need of special services, conditions, or circumstances for day-to-day living, and which is supervised by paid or volunteer live-in staff.

Home Occupation:
A profession or occupation conducted within a dwelling or accessory structure thereto for profit by persons residing therein.

Hotel:
A structure, whether owner-occupied or not, in which at least seven (7) rooms are offered for rent for the overnight accommodation of transient guests. Such hotel may or may not serve meals to such guests or include restaurant, tavern or meeting facilities.

Illumination, Direct:
Illumination which incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent material or electricity or radio-activated or gaseous material or substance.

Illumination, Indirect:
Illumination with an artificial light which is separated from and is not an intrinsic part of the sign itself.

Junk Yard:
A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal or other scrap or discarded material; or for the collecting, dismantling, storage, or salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof. A junk yard shall mean and include a "junk yard" within the meaning of General Municipal Law Section 136.

Kennel:
Premises used for the sale, harboring, breeding, or care of dogs for compensation.

Landscape Planting:
The functional and aesthetic planting and maintenance of trees, shrubbery and flowers in relationship to man-made structures and the existing natural landscape elements.

Laundromat: See Coin Operated Laundry.

Livestock:
Animals including, but not limited to, domestic animals such as sheep, goats, cattle, swine and horses which are kept on a farm.

Lot:
Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its accessory buildings, together with the required open spaces appurtenant to such building or group of buildings.

Lot, Corner:
A lot at the junction of, and abutting on, two (2) or more intersecting streets, where the interior angle of intersection does not exceed one hundred thirty-five (135) degrees. A lot abutting a curved street shall be deemed to be a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than one hundred thirty-five (135) degrees.

Lot Depth:
The minimum distance from the street line of a lot, or in the case of a flag lot the front lot line excluding the access leg, to the rear lot line of such lot. (See Yard).

Lot, Flag: See Flag Lot.

Lot Line:
Any boundary of a lot other than a street line.

Lot Line, Rear:
The lot line generally opposite to the street line; if the rear lot line is less than ten (10) feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the street line not less than ten (10) feet long lying farthest from the street line. (See Yard).

Lot Width:
The dimension measured along the required front yard setback line at substantially right angles to the depth of the lot. (See Yard).

Manufacturing:
The fabrication, alteration, processing, finishing, handling or assembly of raw materials and packaging, warehousing, and storage of articles in quantity.

Manure Storage Facility:
A waste impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure to store animal and or other organic waste.

Massage Establishment: See Adult Oriented Business.

Medical Clinic:
Any structure or group of structures occupied by medical practitioners, including but not limited to Doctors, Dentists, Chiropractors, Opticians, Optometrists, etc. and related services for the purpose of providing health services to people on an outpatient basis.

Minor:
A person less than seventeen (17) years of age.

Mobile Home:
A one-family dwelling on a permanent chassis, transportable in one or more sections, which is equipped for year-round occupancy and contains the same plumbing, heating and electrical systems as immobile housing. A "single-wide" mobile home consists of one self-contained unit. A "double-wide" mobile home consists of two sections which are designed to be joined into one integral unit at the site.

Mobile Home, Temporary Residential:
Any trailer or mobile home placed temporarily on an approved residential lot for residential use during construction of a permanent residence for which a building permit has been issued.

Mobile Home Community:
A parcel of land which has been planned and improved for the placement of two or more mobile homes for non-transient use.

Manufactured Home:
A structure made of prefabricated sections manufactured at another location, transported to the site, and assembled on a foundation to form a permanent dwelling unit, and which meets all New York State requirements concerning factory-manufactured housing. A manufactured home is constructed using building materials and techniques which are similar to conventional housing. Manufactured homes include panelized homes, modular homes, and pre-cut homes. Manufactured homes differ from mobile homes in that they are not transportable after installation and do not have a permanent axle. For the purposes of this local law, manufactured homes shall be considered to be single family dwellings.

Motel:
Any building or group of buildings containing rooms or apartments that are rented or hired out for sleeping purposes for compensation primarily to a transient clientele, and which rooms have direct outside access (the term "outside access" to include access to open or screened porches); including groups designated as motor inn, tourist cabins, or roadside hotel.

Motor Vehicle Repair Facility:
A commercial establishment which repairs or replaces motor vehicle engines, body parts, or electrical or mechanical systems, including but not limited to:

- body reconstruction or repair, welding, spray painting, or interior alterations or repairs;
- repair or replacement of all or part of clutch, transmission, differential, axle, springs or frame;
- repair or replacement of engines or radiator.

Motor Vehicle Sales Lot:
Premises used for the display of new or used automobiles or trucks or related automobile equipment for sale.

Non-Conforming Building:
A building which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for: lot area, width, or depth; front side or rear yard dimensions; maximum height; lot coverage; or minimum habitable floor area per dwelling unit.

Non-Conforming Use:
A use, whether of a building or tract of land or both, lawfully existing on the effective date of this local law which does not conform to the use regulations or supplementary regulations of the District in which it is located.

Non-Profit Organization:
Any corporation or association which is organized or conducted exclusively for religious, charitable, hospital, educational, moral or mental improvement of men, women or children, or cemetery purposes, or for two or more such purposes, or which is organized or conducted exclusively for bible tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, museum, environmental and conservation, patriotic, or historical purposes, for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association, or by another such corporation or association.

Nuisance:
Any thing or act that annoys or disturbs unreasonably, hurts a person's use of his or her property, or violates the public health, safety, or welfare.

Nursery School:
A premises licensed by New York State and operating under the applicable provisions of the NYS Education Law and the Social Services Law for the organized care and supervision of pre-school children. The term nursery school includes kindergarten, day care center, day school, home day care center, and the like. It shall not however, be construed to include informal child care in the home, whether for compensation or not.

Nursing Home:
A facility in which persons not related to each other are housed, fed, and furnished with long-term nursing care, medical services, and related therapeutic services necessary to maintain their health, and such care is normally provided within the facility by persons paid to provide such care.

Occupant:
The person in occupancy, in possession or in control of premises, or using premises.

Owner:
Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of such building or premises.

Owner/Operator:
Person, persons, corporation, etc. that owns and/or operates the business or facility.

Parking Lot:
Land which is open or semi-enclosed by structures and which is used to provide off-street parking.

Parking Space, Off-Street:
A space which is out of the public right-of-way and adequate for parking one motor vehicle.

Passive Recreation:
Outdoor activities for individual relaxation and enjoyment not requiring special playing surfaces or in-place equipment. Passive recreation includes such activities as hiking, fishing, picnicking, etc.

Peep Show: See Adult Oriented Business.

Personal Service:
Establishments to provide services related to personal care. A barber shop, beauty salon, masseur, shoe repair or tailor would be examples of personal service establishments.

Personal Wireless Service:
Commercial mobile services, wireless telecommunication services using duly authorized devices which do not require individual licenses (excluding the provision of direct-to-home satellite services), and common carrier wireless exchanges including cellular radiotelephone, specialized mobile radio system and personal communication services.

Personal Wireless Services Facility:
A facility for the provision of Personal Wireless Services. A Personal Wireless Service Facility includes but is not limited to, an Antenna Equipment Mounting Structure and accessory buildings and equipment. For the purposes of the Zoning Law, a Personal Wireless Service Facility shall not be included within the definition of a "Public Utility" Station or structure as specified in the Zoning Law, since Personal Wireless Service Facilities, although they are facilities operated by public utilities with certain rights under the laws of the United States and the State of New York are exclusively regulated as such by Article VI.3.11 of the Zoning Law.

Pets:
Animals including customary household companions such as dogs, cats, and birds.

Professional Office:
Premises used as a work place by an architect, or landscape architect, doctor, accountant, lawyer, engineer, or similar professional. A real estate broker, insurance agents or similar business person is included within this category.

Principal Building:
A building in which the main or principal use of the lot on which said building is located is conducted.

Public Utility Station or Structure :
A facility other than a Personal Wireless Service Facility for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage, collection of other such services to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include offices or administration buildings. For purposes of the Zoning Law, Personal Wireless Services Facility, defined separately in the Zoning Law, shall not be governed by the Zoning regulations which apply to the broader definition of Public Utility station or structures but shall be governed by the regulations of the Personal Wireless Services Facilities Overlay District which specifically regulates this category of public utilities.

Public Water, Public Sewer:
Sewage disposal and water supply systems owned and maintained by a municipal corporation, public sewer district, or public water district.

Recreational Vehicle:
A vehicle or portable structure standing on wheels, whether or not self-propelled, and used as temporary living and sleeping accommodations for travel, camping or recreational purposes. The term recreational vehicle also includes travel trailer.

Residence:
A structure or portion thereof used as a dwelling unit.

Rest Home or Retirement Home:
A facility in which no more than fifteen (15) persons not related to each other are housed and fed by persons paid for providing such services, and where nursing care and medical services are not normally provided within the facility.

Restaurant:
Premises in which food is prepared and served to seated customers. While alcoholic beverages may also be served, the primary business of the establishment is the preparation of meals.

Retail:
Sale of goods, wares, commodities or services to ultimate customers for direct consumption and not for resale.

Right-of-Way:
The property subject to an easement permanently established for the passage of persons or vehicles.

Screening:
A properly maintained combination of fences, rows of trees, hedges and other means to block the view and buffer noise generated by activities on a lot from other properties in the vicinity and from the street.

Sign:
Any structure or part of a structure, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, graphics, marking, or representing an announcement, direction, or advertisement. Excluded from this definition are signs which are solely devoted to prohibiting trespassing, hunting or fishing.

Sign Area:
The area of the surfaces within which all the elements of the sign displayed can be framed or outlined, but excluding structural members used only for support.

Sign, Illuminated:
A sign which is lit directly or indirectly by light of a constant intensity.

Stable:
Premises used primarily for the sale, care, boarding, and/or training of horses belonging to persons other than the property owner or tenant, or for trail rides, riding lessons, horse shows, riding demonstrations or other equestrian activities for compensation.

Story:
That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and level of the next higher finished floor, or, if there be no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

Story, Half:
Any space partially within the roof framing, where the clear height of not more than fifty (50) percent of such space between the top of the floor beams and the structural ceiling level is seven foot (7') six inches (6") or more.

Street:
A street is one of the following: an existing Town, County or State highway or street; a street shown on an approved subdivision final plat; a street shown on the Official Map of the Town; any other right-of-way legally designated for public use for passage of motor vehicle traffic.

Street Line:
The boundary of the right-of-way of the public street or of the private lane, right-of-way, or easement, or of the flag lot access leg extended as indicated by dedication or deed of record.

Structure:
Any combination of materials forming any construction, except where entirely underground so as to permit the use of the ground above the same as if no building was present; the term "structure" shall include the term "building" as well as the following:

(a) Signs,
(b) Fences,
(c) Wall, other than retaining walls projecting above the ground not more than three (3) feet at the higher ground level and not more than six-and one-half (6½) feet at the lower ground level,
(d) Radio and television receiving and transmitting towers and antennae, except for such antenna installed on the roof of a "building" and extending not more than twenty (20) feet above the highest level of the roof of such "building" and
(e) Porches, outdoor bins, and other similar "structures".
(f) Pools, tanks, and other containment vessels for liquid storage or use.

Swimming Pool:
Any outdoor water containment vessel in or above the ground and open to the sky holding water to a depth greater than eighteen (18) inches, having a surface area greater than one hundred (100) square feet, and used or intended to be used for swimming or bathing. Ponds or lakes, either natural or artificial, are not swimming pools.

Tavern/Nightclub:
A premises licensed under the laws of New York State for sale of alcoholic beverages and their consumption on the premises. Live entertainment may also be provided on a regular basis. The availability of food is incidental to the principal activity of selling alcoholic beverages.

Through Lot:
An interior lot having frontage on two approximately parallel, or converging streets - not a corner lot.

Usable Open Space:
All unenclosed portions of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than twenty-five (25) percent is roofed for shelter purposes only, the minimum dimension of which is forty (40) feet, and which is available and accessible to all occupants of the building or buildings on the said lot for purposes of active or passive outdoor recreation.

Use, Accessory:
A use customarily incidental and supplemental and clearly subordinate and secondary to the principal use located on the same lot.

Use, Permitted:
A use allowed as a matter of right in a district.

Use, Principal:
The primary or predominant use of a lot or parcel.

Variance:
A modification of the use and/or bulk regulations of this local law in an individual case where, due to specific facts and conditions relating to a particular property, literal application and strict enforcement would result in unnecessary hardship or practical difficulty that would deprive the owner of the reasonable use of the land or structures.

Variance, Area:
A variance of the requirements of Article IV - Area and Bulk Regulations - to authorize the commencement on a particular lot of a permitted use due to practical difficulties which could not feasibly be established without relief from the dimensional requirements pertaining to the district.

Variance, Use:
A variance of the requirements of Article III, Use Regulations, or Article VI, Supplementary Regulations, to allow the establishment of a use not permitted in the district without variance.

Town:
The Town of Canajoharie, Montgomery County, New York.

Wholesale:
Sale of relatively large quantities of goods, wares, commodities or services to retailers for resale and not for direct consumption.

Yard, Front:
An unoccupied ground area, open to the sky, between the street line and a line drawn parallel thereto along the front wall of the building, extending from lot line to lot line.

Yard, Line:
A line drawn parallel to a street or lot line at a distance there from equal to the respective yard dimension required by this local law.

Yard, Rear:
An unoccupied ground area, open to the sky, between the rear lot line and a line drawn parallel thereto along the rear of the building, extending from lot line to lot line.

Yard, Side:
An unoccupied ground area, open to the sky, between any lot line other than a street or rear lot line, and a line drawn parallel thereto along the side of the buildings, between and not including any portion of the front and rear yards.

Yard, Required:
Any yard measured between a line drawn parallel to a street or lot line at a distance therefrom equal to the respective yard dimension required by this local law.

ARTICLE XIV: AMENDMENTS

A. GENERAL

In accordance with Sections 264 and 265 of the Town Law, this local law or any part thereof, may be changed, amended, supplemented or repealed, from time to time, by the Town Board upon its own motion, upon public petition, or upon recommendation by the Planning Board or Board of Appeals.

B. PROCEDURE

The procedure for amending this local law shall be as follows:

B.1. All petitions for any amendments to the text of this local law or to district boundaries designated on the official zoning map shall be filed with the Town Clerk in writing and in a form required by the Town Board.

B.2. Proposed amendments are actions subject to SEQR. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status, and environmental significance or nonsignificance in accordance with Article 8 of the NYS Environmental Conservation Law.

B.3. Unless the amendment proposed is initiated by the Town Planning Board, the Town Board shall refer all such proposals and all pertinent information to the Planning Board no less than forty five (45) days prior to the required public hearing for report and recommendations, to be considered by the Town Board prior to its public hearing. A full statement of the reasons behind the recommendations shall accompany the Planning Board's Report, specifically including:

B.3.1. For a proposed amendment to, or change in, the text of this local law:

B.3.1.1. Whether the change is consistent with the goals and principals embodied in the Town Master Plan, as may be in force and effect at the time, and/or in local law as to the particular districts concerned;

B.3.1.2. Which areas, land uses, buildings, and establishments in the Town will be directly affected by such change and in what way they will be affected;

B.3.1.3. The indirect implications of such change and its effect on other regulations; and

B.3.1.4. Whether such proposed amendment is consistent with the aims of the development policies of the Town, as enunciated in this local law, and with any Master Plan as prepared by the Planning Board.

B.3.2. For a proposed amendment involving a change in the Zoning Map:

B.3.2.1. Whether the uses permitted by the proposed change would be appropriate in the area concerned;

B.3.2.2. Whether adequate public facilities and services, including schools, roads, water service, sewer service, and drainage facilities exist or can be reasonably expected to be created, to serve the needs of any additional uses likely to be constructed as a result of such change;

B.3.2.3. Whether the proposed change is in accord with any existing or proposed plans in the vicinity; and

B.3.2.4. The effect of the proposed amendment upon the growth of the Town as envisaged by the development policies of the Town.

B.3.3. If the Planning Board fails to make a recommendation within forty-five (45) days of receiving the report, the Town Board may act without the Planning Board's report. The forty-five (45) day period may be extended by agreement of the Planning Board and the Town Board.

B.4. By resolution adopted at a meeting of the Town Board, the Town Board shall fix the time and place of a public hearing on the proposed amendment, and cause notice to be given in accordance with provisions of Section 264 of the Town Law. All notices of public hearing shall specify the nature of any proposed amendment, the land or district affected, and the date when and the place where the public hearing will be held. At least ten (10) days notice of the time and place of such hearing shall be published in the official newspaper.

B.5. All proposals within the criteria of Section 239 (l) and (m) of the General Municipal Law shall be referred by the Town Clerk to the Montgomery County Planning Department no less than forty five (45) days prior to the scheduled public hearing for report and recommendation to be considered by the Town prior to the public hearing, unless such requirement for review is modified by written agreement between the Town Board and the Montgomery County Planning Department.

If the Montgomery County Planning Department recommends modification or disapproval, the Town Board may act contrary to the recommendation only by a vote of a majority plus one of the entire Board and by adopting a resolution fully setting forth reasons for such contrary action.

C. PROTEST BY OWNERS

Pursuant to Section 265 of Town Law, if a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged, by the owners of twenty percent (20%) or more of the area of land included in the proposed amendment, or the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by owners of twenty percent (20%) or more of the area of land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, the amendment shall require the approval of at least three-fourths (¾) of the members of the Town Board.

D. EFFECTIVE DATE

In accordance with the procedure set forth in Section 27 of Municipal Home Rule Law, this local law or any amendments thereto shall take effect immediately upon filing with the New York State Secretary of State, unless a different time shall be prescribed therein.

ARTICLE XV: INTERPRETATION AND APPLICATION

A. INTERPRETATION AND APPLICATION

The provisions of this local law shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except where specifically provided to the contrary, it is not intended by this local law to repeal, abrogate, annul, or in any way to impair or interfere with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings, structures, shelter, or premises, nor is it intended by this local law to interfere with, or abrogate, or annul any easements, covenants, or other agreements between parties, provided, however, that where this local law imposes a greater restriction upon the use of a building or premises or requires larger open spaces than are imposed or required by any other statute, local law, rule, regulation, or permit, or by any easement, or agreement, the provisions of this local law shall control.

B. SEPARABILITY

If the courts decide that any term, section or provision of this local law is unconstitutional or invalid, the decision shall not affect the validity of the local law as a whole or any part other than the part decided to be unconstitutional or invalid.

C. VIOLATIONS

Violations of this local law or of any rules, regulations or procedures established pursuant to this local law shall be subject to the provisions of applicable law, and to the provisions of Article X, Section D, of this Local Law.

D. EFFECTIVE DATE

In accordance with the procedure set forth in Section 27 of the Municipal Home Rule Law, this local law or any amendments thereto shall take effect immediately upon filing with the New York State Secretary of State, unless a different time shall be prescribed therein.

E. REPEALER

This local law shall supercede Local Law No. 3 of the year 1992, the Zoning Law of the Town of Canajoharie. All provisions of any other local law or ordinance which are inconsistent with the provisions of this local law are hereby repealed.