

LOCAL LAW NO. 2000-1
OF THE TOWN OF FENNER

A LOCAL LAW TO AMEND
THE TOWN OF FENNER
LAND USE LOCAL LAW NO. 1997-1

Section I.

The purpose and intent of this local law is to provide for the establishment of a new zoning district under the Town of Fenner Land Use Local Law, as previously amended and enacted as Town of Fenner Local Law 1997-1 (hereinafter referred to a "Local Law 1997-1"), to define an area of the Town where commercial wind-powered electricity generation facilities may be developed in a manner hereby deemed to be compatible with, and in furtherance of the general health, welfare and safety of the residents of the Town of Fenner.

Section II.

Section 201, subsection "B" of Local Law 1997-1 is hereby amended to read as follows:

B. DISTRICT B. (SECTION 302)

District B shall consist of all lands within the Town of Fenner which are not contained in District A or in District C.

Section III.

Section 201 of Local Law 1997-1 is hereby further amended to add a new subsection "C" to read as follows:

C. DISTRICT C. (SECTION 303)

District C shall consist of all the lands within the following tax map parcels as said parcels are configured as of the date of adoption of this local law.

Tax Map Numbers:

Owners:

78.-1-38.1	Lloyd and Susan Lovely
78.-1-37.1	Robert Toole & William Larkin
78.-1-37.2	Philip H. Gott, Jr.
78.-1-29	Town of Fenner
78.-1-28.1	Town of Fenner
78.-1-28.2	Richard K. Foringer
78.-1-28.3	Richard K. Foringer
78.-1-28.23	Anthony Seitz
78.-1-28.22	Charles Seager
78.-1-28.21	Robert Butler
78-1-27	Kenneth Wilkinson
69.-1-16	Beryl Pratt
69.-1-36	Harold Geiger
69.-1-36.1	Harold Geiger, Jr.
69.-1-37	Robert Toole & William Larkin
69.-1-41	Alice Ross
69.-1-42	Joseph Balenski
70.-1-1	Russell Stone
70.-1-3	Russell Stone
70.-1-21	Russell Stone
70.-1-22	Scott & Donna Griffin
70.-1-23.11	Scott & Donna Griffin
70.-1-23.12	Scott & Donna Griffin
70.-1-27	Russell Stone

Section IV.

The “Land Use Map” referred to in Section 202 of Local Law 1997-1 and attached to Local Law 1997-1 as “Appendix B” is hereby amended to designate the lands described in Section III of this local law as “District C”

Section V.

The “Land Use Schedule” referred to in Section 203 of Local Law 1997-1 and included in Local Law 1997-1 as “Table 1” and the “Notes for Table 1” are hereby amended to read as follows:

TABLE 1

LAND USE SCHEDULE
Minimum Dimensions

		<u>Lot</u>		<u>Yards*</u>			Maximum Structure Height Ft.	Notes (See Page)		
		Frontage**** Ft.	Depth Ft.	Front Ft.	Side Ft.	Rear Ft.				
Lot Area										
“DISTRICT “A”										
Single-family unit	1 acre**	200	200	50	40	50	35	a, b		
Two-family unit	1.5 acre	200	200	50	40	50	35	b		
Multi-family	1.5 acre + 10,000 sq ft/unit	200	200	50	40	50	45	d, e		
Farm	5 acres	200	200	50	40	50	None	c, g		
DISTRICT “B”										
All “A” as above										
Mobile dwelling	1 acre	200	200	50	40	50	35	b		
Mobile dwelling park*	5 acres	200	300	50	30	50		b, d, e, f		
Individual Park Site	@ 10,000 sq. ft/unit	70	120	30	20	20	35	f		
Business, professional, or Industrial, on separate lots	1 acre	200	200	50	40	50	35	b, d, e		
DISTRICT “C”										
All “B”, as above										

*Corner lots are considered to have two front yards along the two roadways and two side yards.

**Acre = 43,560 sq. ft.

***Requirement of actual frontage along public highway, or if applicable, private access easement

All non-farm accessory buildings shall conform to front and side yard requirements of the district in which they are located

Notes for Table 1

- a. Measured from the road right-of-way. Applies to each side of a lot that adjoins a public road.

An alternative front yard minimum dimension measurement is permissible from the center of road-ways where neither road right-of-way bounds nor surveys are available: (1) on three rod roads (generally, but not necessarily, Town roads) set buildings back at least 75 feet from the centerline of the road; and (2) on four rod roads (Generally, but not necessarily, County roads) set buildings back at least 83 feet from the centerline of the road.

- b. Where community water supply and sewer are used, one-half lot area and smaller bordering yards are permitted. Lot: 100 feet front x 150 feet depth. Yards: 30 feet front x 20 feet sides x 50 feet rear.
- c. Accessory farm buildings (silos, barns, etc.) are exempt from height limits.
- d. Requires a special use permit issued by the Planning Board.
- e. A landscaped screening zone at least 15 feet wide shall be maintained by the owner of those sides of his lot that adjoin any residential property owned by another party.
- f. Each mobile dwelling site shall connect to an access road within the mobile dwelling park, and the front yard of each lot shall be measured from the edge of this access road.
- g. Upon the issuance of a special permit by the Planning Board, not more than two units of supplementary housing for relatives or hired hands employed by the farm; each unit must be provided with an adequate sewage disposal system, does not require separate lots.
- h. The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower) and: all surrounding property lines, overhead utility lines, any dwellings, and any other generation units, above-ground transmission facilities, and separate meteorological facilities, shall be equal to no less than 1.5 times the proposed structure height plus the rotor radius. No experimental, home-built, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure and determination by the Planning Board of appropriate setback distances on the basis of that documentation.

Section VI.

Local Law 1997-1 is hereby amended to add a new Section 3030 to read as follows:

Section 303 - DISTRICT C

The purpose of this district is to foster the development of the Town's windpower resource while preserving the farmlands and adjoining settlements as compatible adjoining uses.

Section 303.1 - PRINCIPAL USES PERMITTED

- A. One and two-family dwellings built on a foundation, including modular dwellings.
- B. Farms and farm buildings for related agricultural activities
- C. Mobile dwellings on individual lots.

Section 303.2 - ACCESSORY USES PERMITTED

- A. Same as Section 301.2
- B. Home businesses conducted by the residents
- C. Accessory buildings necessary to the principal use and which do not include any activity commonly conducted as a separate business.

Section 303.3 - USES REQUIRING A SPECIAL PERMIT

- A. Same as Section 301.3
- B. Mobile dwelling parks.
- C. All retail sales, eating, service and professional establishments
- D. Day camps, guest or vacations homes for pay, private clubs and seasonal camps
- E. Commercial outdoor recreation such as ski runs, snowmobiles parks, miniature golf courses, driving ranges, race tracks and hunting and fishing preserves.
- F. More than one residence structure on a lot for a farm (See note (g) to Table 1).
- G. Wind power electricity generation and transmission facilities. (See not (h) to Table 1). -

Section 303.4 - USES PROHIBITED

All other uses prohibited in this district.

Section VII.

Local Law 1997-1 is hereby amended to add a new Section 606.31 to read as follows:

Section 606.31- **ADDITIONAL STANDARDS FOR GRANTING SPECIAL USE
PERMITS FOR WIND POWER ELECTRICITY GENERATION
AND TRANSMISSION FACILITIES**

No special use permit shall be granted for commercial wind power electricity Generation and/or transmission facilities unless it is determined by the Planning Board that the proposed use meets all of the following criteria, in addition to those general criteria listed in Section 606.3:

- A. No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- B. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or interference with signal transmission or reception.
- C. Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board as a prerequisite to that Board's approval with specific respect to Section 606.3(D) as it applies to existing residential uses within 2000' of each tower for which such strobe lighting is proposed.
- D. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way or publicly owned land within the Town of Fenner, that extends beyond the border of the Town of Fenner.
- E. Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.

- F. No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- G. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- H. All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.
- I. Procedures acceptable to the Planning Board for emergency shutdown of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.
- J. Prior to issuance of a Building Permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of tower or towers or any other part(s) of the generation and transmission facility.

Section VIII.

Local Law 1997-1 is hereby amended to add a new Section 606.41 to read as follows:

Section 406.41 SUBMISSION OF ADDITION SUPPORTING DATA FOR
SITE PLAN OF WIND POWER ELECTRICITY
GENERATION AND TRANSMISSION FACILITIES

In addition to the site plan material listed in Section 606.4, the following material shall be submitted to the Planning Board for commercial wind power electricity generation and/or transmission facilities:

- A. Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scale used shall depict 3-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.

- B. No fewer than four and no more than the number of proposed individual wind turbines plus three color photos, no smaller than 3"x5" taken from locations with a 3-mile radius from it an to be selected by the Planning Board, and computer-enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from these locations.

Section IX

This local law shall take effect immediately upon filing with the Secretary of State.

LOCAL LAW NO. 2001-1
OF THE TOWN OF FENNER

A LOCAL LAW TO AMEND
THE TOWN OF FENNER
LAND USE LOCAL LAW NO. 1997-1

Section I.

Section 201, subsection “C”, of Local Law 1997-1, as previously amended, is hereby amended to read as follows:

C. DISTRICT C. (SECTION 303)

District C shall consist of all the lands within the following tax map parcels, exclusive of any lands within the “A” zone as defined in subsection “A” of this Section 201, as said parcels are configured as of the date of adoption of this local law.

Tax Map Numbers:

78.-1-38.1
78.-1-37.1
78.-1-37.2
78.-1-29
78.-1-28.1
78.-1-28.2
78.-1-28.3
78.-1-28.23
78.-1-28.22
78.-1-28.21
78-1-27
69.-1-16
69.-1-36
69.-1-36.1
69.-1-37
69.-1-41
69.-1-42
70.-1-1
70.-1-3
70.-1-21
70.-1-22
70.-1-23.11
70.-1-23.12
70.-1-27
69.00-1-35
69.00-1-40.11
70.00-1-24.22
70.00-1-24.211
70.00-1-24.212
70.00-1-26.1
70.00-1-33
70.00-1-34.5
70.00-1-34.6
70.00-1-35.2
70.00-1-47.1
79.00-1-1
79.00-1-1.2
79.00-1-1.3
79.00-1-1-2
79.00-1-12.1
79.00-1-17
79.00-1-18.11

Owners:

Lloyd and Susan Lovely
Robert Toole & William Larkin
Philip H. Gott, Jr.
Town of Fenner
Town of Fenner
Richard K. Foringer
Richard K. Foringer
Anthony Seitz
Charles Seager
Robert Butler
Kenneth Wilkinson
Beryl Pratt
Harold Geiger
Harold Geiger, Jr.
Robert Toole & William Larkin
Alice Ross
Joseph Balenski
Russell Stone
Russell Stone
Russell Stone
Scott & Donna Griffin
Scott & Donna Griffin
Scott & Donna Griffin
Russell Stone
Braun (east of Nelson Road only)
Toole
Jacek
Kutzuba
Kutzuba
Griffin
Mugglin
Griffin
Jones
Roberts
Parker
Cole
Cole
Cole
Cole
Roberts
Brown
Brown

Section II.

The “Land Use Map” referred to in Section 202 of Local Law 1997-1 and attached to Local Law 1997-1 as “Appendix B” is hereby amended to designate the lands described in Section I of the local law as within “District C”.

Section III

The “Land Use Schedule” referred to in Section 203 of Local Law 1997-1 and included in Local Law 1997-1 as “Table 1” and the “Notes for Table 1” are hereby amended by amending note “h” of said “Notes for Table 1” to read as follows:

- h. The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower) and: all surrounding property lines, overhead utility line, any dwelling, and any other generation units, above-ground transmission facilities, and separate meteorological facilities, shall be equal to no less than 1.5 times the proposed structure height plus the rotor radius. The property line setback requirement may be reduced by the Planning Board at an incident of special permit review when the Planning Board finds that the following circumstances apply: the property line in questions a) separates two properties that are both in the “C” District, and b) either , i) both properties on each side of the boundary line in question will have electricity generation or transmission facilities constructed on them as part of the project under review, or ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

No experimental, homebuilt, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure and determination by the Planning Board of appropriate setback distances on the basis of that documentation.

Section IV.

This local law shall take effect immediately upon filing with the Secretary of State.

LOCAL LAW NO. 2005-01
OF THE TOWN OF FENNER

A LOCAL LAW TO AMEND
THE TOWN OF FENNER
LAND USE LOCAL LAW NO. 1997-1

Section I.

Section 201, subsection “C” of Local Law 1997-1, as previously amended, is hereby further amended to add to the lands within the “C” District all of the lands within tax map parcel number 79-1-3, owned by David M. Senehi, as said parcel is configured as of the date of adoption of this Local Law, exclusive of the portion of said parcel currently within the “A” zone as defined in subsection “A” of Section 201 of Local Law 1997-1.

Section II.

The “Land Use Map” referred to in Section 202 of Local Law 1997-1 and attached to Local Law 1997-1 as “Appendix B”, is hereby amended to designate the lands described in Section I of this Local Law as within “District C”.

Section III.

This Local Law shall take effect immediately upon filing with the Secretary of State.

Tax Map Numbers:

78.-1-38.1
78.-1-37.1
78.-1-37.2
78.-1-29
78.-1-28.1
78.-1-28.2
78.-1-28.3
78.-1-28.23
78.-1-28.22
78.-1-28.21
78-1-27
69.-1-16
69.-1-36
69.-1-36.1
69.-1-37
69.-1-41
69.-1-42
70.-1-1
70.-1-3
70.-1-21
70.-1-22
70.-1-23.11
70.-1-23.12
70.-1-27
69.00-1-35
69.00-1-40.11
70.00-1-24.22
70.00-1-24.211
70.00-1-24.212
70.00-1-26.1
70.00-1-33
70.00-1-34.5
70.00-1-34.6
70.00-1-35.2
70.00-1-47.1
79.00-1-1
79.00-1-1.2
79.00-1-1.3
79.00-1-1-2
79.00-1-12.1
79.00-1-17
79.00-1-18.11
79-1-3

Owners:

Lloyd and Susan Lovely
Robert Toole & William Larkin
Philip H. Gott, Jr.
Town of Fenner
Town of Fenner
Richard K. Foringer
Richard K. Foringer
Anthony Seitz
Charles Seager
Robert Butler
Kenneth Wilkinson
Beryl Pratt
Harold Geiger
Harold Geiger, Jr.
Robert Toole & William Larkin
Alice Ross
Joseph Balenski
Russell Stone
Russell Stone
Russell Stone
Scott & Donna Griffin
Scott & Donna Griffin
Scott & Donna Griffin
Russell Stone
Braun (east of Nelson Road only)
Toole
Jacek
Kutzuba
Kutzuba
Griffin
Mugglin
Griffin
Jones
Roberts
Parker
Cole
Cole
Cole
Cole
Roberts
Brown
Brown
David M. Senehi

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.

County

City

of

Fenner

Town

Village

FILED
STATE RECORDS

FEB 23 2017

DEPARTMENT OF STATE

Local Law No. 1 of the year 2017

A local law to amend the Town of Fenner Land Use Regulations with respect to Fence Regulations
(Insert Title)

Be it enacted by the Town Board of the

County

City

of

Fenner

as follows:

Town

Village

- I. Local Law 1997-1 of the Town of Fenner, as amended, (the Revised Town of Fenner Land Use Local Law) is hereby amended to add a new section 409 to read as follows:

[Text of Legislation continued on following page]

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

Section 409 – FENCES

- A. No fence, except an agricultural fence, as defined in Appendix I hereto, shall be erected on any lot or parcel within the Town of Fenner except upon the prior issuance of a building permit by the Code Enforcement Officer. No fee shall be required for the issuance of any such permit. Agricultural fences are exempt from the requirements of this section.
- B. Fences requiring a building permit under subsection A above shall comply with the following requirements and limitations:
1. Maximum fence height from grade to the top of the fence shall be six feet in any front yard, and eight feet in any side or rear yard. Notwithstanding the foregoing, the maximum height for any fence enclosing a tennis court shall be twelve feet in height, provided that it complies with the applicable setback requirements set forth in paragraph "2" below.
 2. No fence or portion thereof shall be erected less than five feet from a property line. Notwithstanding the foregoing, no fence shall be erected in such a manner and /or in such a location, as determined by the Code Enforcement Officer, so as to impair visibility for traffic or pedestrian safety.
 3. The exterior (good) side of the fence shall face outward toward adjoining properties and / or roads, and with wiring, structural elements and /or other components of the fencing not designated for presentation to the public facing inward from the property lines.
 4. No fence other than an agricultural fence shall be constructed in a highway right-of-way.
 5. Electric fences shall be installed in accordance with all applicable code requirements.
 6. Underground low-voltage electric fences shall comply with the five foot setback requirement.
 7. The Code Enforcement Officer may require that a property boundary survey be provided prior to the issuance of a building permit in any instance where the Code Enforcement Officer, in his judgment, is otherwise unable to accurately determine whether the proposed fence location is in accordance with all applicable setback requirements.

- II. Appendix I to Local Law 1997-1, as amended, is hereby amended to add the following definition:

FENCE: A structure constructed of any material or combination of materials that creates a barrier erected to enclose, isolate, limit access to, and / or screen from view a lot or portion of a lot.

AGRICULTURAL FENCE: A fence erected on a Farm for the express purpose of containing and restraining livestock, or for protecting crops from wild animals.

- III. This local law shall be effective immediately upon filing with the Secretary of State.

**(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. _____ of 2017 of the
(County)(City)(Town)(Village) of Fenner was duly passed by the
Town Board on February 13, 2017 in accordance with the applicable
(Name of Legislative Body)
provisions of law.

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 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
(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 elector 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____.
(Elective Chief Executive Officer*)
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 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.)

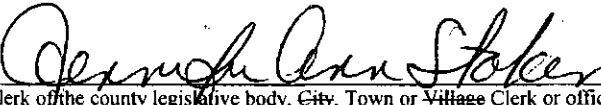
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 electors of 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 such 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.


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

(Seal)

Date: 2-13-17

(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 MADISON

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.

Signature

Attorney for the Town

Title

County

City

of Fenner

Town

Village

Date:

2-13-17

**REVISED
TOWN OF FENNER**

LAND USE REGULATIONS

8/12/97

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ARTICLE 1 – ENACTMENT AND APPLICATION

Section 100.1 - Title

This local law shall be known and may be cited as the Revised Town of Fenner Land Use Local Law.

Section 100.2 - ENACTING CLAUSE

The Town Board of the Town of Fenner in the County of Madison under the authority of Section 261 of the New York State Town Law hereby ordains, enacts and publishes as follows.

Section 100.3 - PURPOSES OF THE LAND USE LOCAL LAW

The Town of Fenner is noted for its pastoral character, rolling hills and magnificent vistas. It has an agricultural history and is currently experiencing residential development due to its rural nature, clean air and water, and proximity to urban and suburban areas. It is also home to a wide variety of wildlife including native mammal, fish and bird species. The purpose of this Land Use Local Law and the Land Use District Regulations herein and as outlined on the Land Use Map are to provide for the orderly growth of the Town; to encourage the appropriate use of land; to protect and conserve the value or property; to prevent the overcrowding of land; to promote the health, safety and general welfare of the public; and to preserve the character of the Town.

Section 100.4 - APPLICATION OF REGULATIONS

- A. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure or part thereof, shall be occupied or used unless in conformity with the regulations specified for the district in which it is located.
- B. No building shall hereafter be placed, erected or altered: to exceed the height; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side yards, than is specified herein for the district in which such building is located.
- C. No part of a yard or other space about any building required for the purpose of complying with the provisions of this local law shall be included as part of a yard or other open space similarly required for another building.

- D. Unless a use variance is granted, all uses not specifically permitted in a district or permitted after obtaining a special permit shall be deemed prohibited.
- E. Except as otherwise provided herein, no more than one principal use structure is permitted on any single lot

ARTICLE 2 – DISTRICTS AND BOUNDARIES

Section 201- ESTABLISHMENT OF DISTRICTS

Existing Land Use Districts are classified as:

A. District A. (Section 301)

District A shall consist of all lands located within the 500 feet of each side of the center line of the following roads.

1. Fenner Road (Co. Rt. 28) – Cazenovia Line to Nelson Road
2. Cody Road – Nelson Road to Smithfield Line
3. Hill Road – All
4. Roberts Road – All
5. Shephards Road – All
6. Moraine Road – All
7. Francis Road – All
8. Mutton Hill Road – from Cody Road to Radio Tower Drive (private drive)
9. South Road – All
10. Bear Swamp Road – All
11. Irish Ridge Road – from Bingley Road to Bear Swamp Road
12. Fall Road – All
13. Oxbow Road (Co. Rt. 25) – All
14. East Mile Strip Road – All
15. Milestrip Road – Oxbow Road to Rouse Road
16. Nelson Road (Co. Rt. 23) – All
17. Bingley Road (Co. Rt. 26) – All
18. Rouse Road – All
19. Peterboro Road – Oxbow to Rouse Road

B. District B. (Section 302)

District B shall consist of all lands within the Town of Fenner which are not contained in District A.

Section 202 - LAND USE MAP

The “Land Use Map” attached hereto as Appendix B is hereby made a part of this local law. All land use districts are shown on the Land Use Map, and defined as hereinbefore stated. Future district changes or additions may be shown on this map, the master of which will be kept on file in the Town Clerk’s Office.

Section 203 - LAND USE SCHEDULE (Table 1)

The Land Use Schedule shows, for all districts, the permitted minimum size and dimensions of lots, bordering yards, and maximum building heights.

TABLE 1

LAND USE SCHEDULE
Minimum Dimensions

		<u>Lot</u>		<u>Yards*</u>			Maximum Structure Height Ft.	Notes (See Page)		
		Frontage**** Ft.	Depth Ft.	Front Ft.	Side Ft.	Rear Ft.				
Lot Area										
“DISTRICT “A”										
Single-family unit	1 acre**	200	200	50	40	50	35	a, b		
Two-family unit	1.5 acre	200	200	50	40	50	35	b		
Multi-family	1.5 acre + 10,000 sq ft/unit	200	200	50	40	50	45	d, e		
Farm	5 acres	200	200	50	40	50	None	c, g		
DISTRICT “B”										
All “A” as above										
Mobile dwelling	1 acre	200	200	50	40	50	35	b		
Mobile dwelling park*	5 acres	200	300	50	30	50		b, d, e, f		
Individual Park Site	@ 10,000 sq. ft/unit	70	120	30	20	20	35	f		
Business, professional, or Industrial, on separate lots	1 acre	200	200	50	40	50	35	b, d, e		
DISTRICT “C”										
All “B”, as above										

*Corner lots are considered to have two front yards along the two roadways and two side yards.

**Acre = 43,560 sq. ft.

***Requirement of actual frontage along public highway, or if applicable, private access easement

All non-farm accessory buildings shall conform to front and side yard requirements of the district in which they are located

Notes for Table 1

- a. Measured from the road right-of-way. Applies to each side of a lot that adjoins a public road.

An alternative front yard minimum dimension measurement is permissible from the center of road-ways where neither road right-of-way bounds nor surveys are available: (1) on three rod roads (generally, but not necessarily, Town roads) set buildings back at least 75 feet from the centerline of the road; and (2) on four rod roads (generally, but not necessarily, County roads) set buildings back at least 83 feet from the centerline of the road.

- b. Where community water supply and sewer are used, one-half lot area and smaller bordering yards are permitted. Lot: 100 feet front x 150 feet depth. Yards: 30 feet front x 20 feet sides x 50 feet rear.
- c. Accessory farm buildings (silos, barns, etc.) are exempt from height limits.
- d. Requires a special use permit issued by the Planning Board.
- e. A landscaped screening zone at least 15 feet wide shall be maintained by the owner on those sides of his lot that adjoin any residential property owned by another party.
- f. Each mobile dwelling site shall connect to an access road within the mobile dwelling park, and the front yard of each lot shall be measured from the edge of this access road.
- g. Upon the issuance of a special permit by the Planning Board, not more than two units of supplementary housing for relative or hired hands employed by the farm; each unit must be provided with an adequate sewage disposal system; does not require separate lots.

Section 204 - INTERPRETATION OF DISTRICT BOUNDARIES

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

- A. Distances shown on the Land Use Map are perpendicular or radial distances from road center lines measured back to the district boundary line.
- B. Where district boundaries are so indicated that they are approximately parallel to the centerline of roads, such district boundaries shall be construed as being parallel thereto and at such distance from the road property line as indicated on the Land Use Map. If no distance is given,

the district boundaries shall be 500 feet back from the nearest road centerline.

ARTICLE 3 – LAND USE DISTRICTS

Section 301 - DISTRICT A

The purpose of this district is to provide attractive built-up housing areas in rural settings that will maintain health via proper sewage disposal, safe water supply, and the minimum of nuisance indifferent land uses.

Section 301.1 - PRINCIPAL USES PERMITTED

- A. One and two-family dwellings built on a foundation, including modular dwellings. Mobile dwellings are not permitted.
- B. Farms and farm building for related agricultural activities.

Section 301.2 - ACCESSORY USES PERMITTED

- A. Private garages.
- B. Customary accessory structures, other than private garages, (tool houses, playhouses, greenhouses) not to exceed 750 square feet and not to be less than 10 feet from the rear line of the lot.
- C. Animal shelters for domestic pets, and horses, properly maintained.
- D. Other structures such as private swimming pools and fireplaces.
- E. Customary buildings including roadside stand for the sale of seasonal produce and handmade items.
- F. Off-street parking.

Section 301.3 - USES REQUIRING A SPECIAL USE PERMIT

- A. Multi-family housing.
- B. Churches and other similar places of worship, parish houses, convents, and similar facilities for religious groups.
- C. Public and private recreation areas including parks, playgrounds and playfields.

- D. Public buildings, libraries, museums, public and non-profit private schools accredited by the State Education Department.
- E. Hospitals, nursing homes, colleges that are licensed or accredited by New York State.
- F. Homes businesses provided they are carried on in conjunction with the residential use of the property by residents, and with no evidence except sign.
- G. Public utility uses.
- H. Development of flood hazard areas, Special Flood Hazard Areas designed by the federal government, swamps, wetlands, streams, lakes, steep slopes, and agricultural districts certified by the New York State Department of Environmental Conservation.
- I. On farms only, not more than two residence structures, in addition to the principal residence structure, one or both of which may, but need not be, a mobile dwelling, for supplemental housing (See note (g) to Table 1).

Section 301.4 - USES PROHIBITED

All other uses prohibited in this district.

Section 302 - DISTRICT B

The purpose of this district is to preserve farmlands and adjoining settlements as long as possible to provide for separate residence of all kinds, and to invite other uses, under certain controls, in order to assure the livelihood and enjoyment of those who live there.

Section 302.1 - PRINCIPAL USES PERMITTED

- A. One and two-family dwellings built on a foundation, including modular dwellings.
- B. Farms and farm buildings for related agricultural activities
- C. Mobile dwellings on individual lots.

Section 302.2 - ACCESSORY USES PERMITTED

- A. Same as Section 301.2
- B. Home businesses conducted by the residents.
- C. Accessory buildings necessary to the principal use and which do not include any activity commonly conducted as a separate business.

Section 302.3 - USES REQUIRING A SPECIAL PERMIT

- A. Same as Section 301.3.
- B. Mobile dwelling parks.
- C. All retail sales, eating, service and professional establishments.
- D. Day camps, guest or vacation homes for pay, private clubs and seasonal camps.
- E. Commercial outdoor recreation such as ski runs, snowmobile parks, miniature golf courses, driving ranges, race tracks and hunting and fishing preserves.
- F. More than one residence structure on a lot for a farm (See note (g) to Table I).

Section 302.4 - USES PROHIBITED

All other uses prohibited in this district.

ARTICLE 4 – SUPPLEMENTARY REGULATIONS

Section 401 - ADDITIONAL REGULATIONS FOR ALL LOTS

This article provides for the safety of the occupants of buildings and of those who use the roads. Therefore, those who build, buy, use, repair or remodel any buildings shall observe the standards published by New York State under the Uniform Fire Prevention and Building Code, and/or similar codes that may be published later.

Section 402 - OBSTRUCTION OF VISION

On a corner lot, there shall be no obstruction of vision creating a safety hazard for anyone using the intersecting roads. The determination of an appropriate “clear zone” shall be made by the County or Town Highway Superintendent.

Section 403 - ON-PREMISES PARKING SPACE FOR VEHICLES

For every building hereafter erected, or converted to something other than its current use, the following minimum parking spaces shall be provided on the premises:

Residential uses: Two per dwelling unit.

Multiple tenant uses: One per tenant plus one extra for service and quests.

Hotel, motel, tourist home, boarding house: One per guest room plus three for service.

Public assembly, government buildings, outdoor recreation: As required in granting the special use permit.

Section 404 - MENACE OR NUISANCE CONDITIONS

In all districts, any uses that endanger the health, safety or welfare of any person is prohibited. Any existing uses judged to be a menace or nuisance may be cited to the land use officer by written complain as provided in Section 609A.

This section applies to noise, odor, dust, dirt, smoke, noxious gases, building vibrations, dangerous glare or other impairment of vision, contamination of soil and open water systems, and other physical conditions.

Section 405 - STORAGE OF FLAMMABLE LIQUIDS, CHEMICALS AND EXPLOSIVES

The design, construction, maintenance and operation of storage facilities for flammable liquids, chemicals and explosives shall comply with all applicable laws, codes and regulations. A copy of these materials can be examined in any public firehouse.

Section 406 - EXTRACTION OF TOPSOIL, SAND, GRAVEL OR STONE

All landowners shall comply with the New York State Mined Land Reclamation Law (Chapters 1043, 1044) which requires that operators who mine more than 1,000 tons of minerals from the earth within 12 successive calendar months must obtain a permit for such operations from the Department of Environmental Conservation.

Section 407 - CONSERVATION OF STEEP SLOPES

The construction of new buildings, roads and other facilities on slopes of 15% or more grade (15% = 1 ½ foot rise in 10 feet horizontal distance) shall require a special use permit. Logging on such areas shall comply with New York State Department of Environmental Conservation standards.

Section 408 - NON-CONFORMING USES AND LOTS

- A. Lawful use of any building or land existing at the time of enactment or amendment of this local law may be continued, although such uses do not conform with this local law, except as hereinafter provided.
- B. When a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with this local law.
- C. Non non-conforming use shall be changed to other than a conforming use for the district in which it is situated.
- D. A non-conforming use may be rebuilt or restored to its original dimensions following damage by natural causes (including fire, wind and motor vehicles) within one (1) year.
- E. Expansion or enlargement of a non-conforming single family use shall be subject to issuance of a special permit. Enlargement of any other non-conforming use shall not be permitted except in conformance with these regulations.
- F. Any lot which was duly approved or legally existed in separate ownership from any adjoining land prior to this local law and which has an area less than required by this local law may be used for any permitted purpose if:
 - a. The owner, on the effective date of this local law or at the time of application for any permit or approval from the Town, has no adjoining land which would permit the owned to make the lot conforming, and
 - i. if all other zoning and planning requirements are satisfied, or;
 - ii. if the owner obtains a variance pursuant to the provisions of Article 6 for any setback, frontage, lot coverage or other requirement of this local law (other than lot size) which can not be met. Such a variance may only be granted if the applicant demonstrates that all requirement of New York law relating to residential lots (such as percolation,

sewage disposal, and water supply) can be satisfied, or if;

- G. No confirming lot shall be created where no nonconforming lot existed prior to the passage of this local law. No lot shall be so reduced in area that the total area, yard setbacks, lot width, frontage, coverage, or other requirements of this local law shall be less than herein prescribed for each land use district without a variance. The provisions of this Section shall not apply when part of a lot is taken for a public purpose.

ARTICLE 5 – EXISTING SUPPLEMENTAL REGULATIONS

Ordinance, local laws and other forms of regulations which deal with specific land use in the Town of Fenner exist or may be enacted by the Town Board. These regulations shall be enforced in concert with this land use local law. Regulations which exist at the time this local law is enacted are listed as follows:

Section 501 – FLOOD HAZARD LAW

Section 502 – FRESHWATER WETLANDS PROTECTION LAW

Section 503 – SANITARY DISPOSAL REQUIREMENTS

Section 504 – AUTOMOBILE JUNK YARD LOCAL LAW

Section 505 – PROHIBITION OF DUMP, REFUSE, DISPOSAL SITE LANDFILL

Section 506 – SUBDIVISION REGULATIONS

Section 6 – ADMINISTRATION AND ENFORCEMENT

Section 601 - ENFORCEMENT

This local law shall be enforced by the code enforcement officer.

Section 602 - FEES

A fee as determined from time to time by resolution of the Town Board, shall be charged for all permits issued and for processing all applications for appeals, for interpretation of decisions, for variances and for special permits, except as provided in Section 604.

Section 603 - BUILDING PERMIT PROCEDURE

- A. No building shall be erected, extended, or put in place until the code enforcement officer has issued a building permit certifying that it meets all pertinent requirements.
- B. Application for a building permit, including instructions on procedure and Statement of fees, shall be obtained from the Town Clerk before Construction begins.
- C. The building permit shall be issued or denied, by the code enforcement officer, within 30 days of receipt of the completed application and proper fee.
- D. If construction authorized by a building permit has not been started and completed within eighteen months from the date of issuance, the permit shall be cancelled. Upon application to the code enforcement officer and the payment of a fee equal to one-half of the applicable fee at the time of original issuance, a building permit may be renewed for a single additional period of six months.
- E. The location of a new access (driveway) onto town, county and state roadways must be approved by the appropriated highway department with jurisdiction over the subject roadway.

Section 603.1 - CERTIFICATE OF COMPLIANCE PROCEDURE

- A. A certificate of compliance shall be applied for coincident with the application for a building permit.
- B. No land shall be occupied or used and no building, structure or system hereafter erected, altered or extended, shall be used or changed in use, until a certificate of compliance shall have been issued by the code enforcement officer stating that the building, structure, system, or land alteration and proposed use thereof comply with the provisions of this local law. Said certificate shall be issued within ten (10) days after the erection or alteration shall have been inspected and found to comply with the provisions of this local law.
- C. The Town Clerk shall maintain a record of all certificates, and copies shall be furnished upon request and the payment of applicable copying charges.

Section 604 - MINOR ALTERATIONS

Any minor alteration of an existing building not subject to Subchapter B or the New York State Uniform Fire Prevention and Building Code pursuant to section 1231.3 thereof, shall not require a building permit. All alterations and/or additions must conform to the requirements of this local law and of the Town sanitation ordinance.

Section 605.1 - BOARD OF APPEALS

The Town Board hereby affirms the existence of the Board of Appeals of the Town of Fenner, consisting of five members, and having all the authority conferred upon a board of appeals by Article 16 of the Town Law of the State of New York.

Section 605.2 - POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers and duties:

- A. Upon appeals from a decision, or upon request of another board or officer of the Town of Fenner, to decide questions involving interpretation of any provisions of this local law.
- B To grant area and use variances upon application, in accordance with standards established by Article 16 of the Town Law of the State of New York.
- D. Decisions of the Board of Appeals shall be made within 90 days from the time that the application has been filed with the Board; decisions shall be by resolution, shall contain a full statement of findings of fact in the minutes of the Board. In a case of restoration because of destructions beyond the owner's control, the Board of Appeals should meet with one week.

Section 605.3 - APPLICATION TO THE BOARD OF APPEALS

An appeal of a decision made by the code enforcement officer, or a request for an interpretation of any part of this local law, or a request for a variance, shall be made to the Board of Appeals within 60 days after the filing in the Town Clerk's office of the administrative determination being appeals. The Town Clerk will furnish an application form and instructions, along with a statement of the standards and procedure to be followed by the Board of Appeals, including a public hearing, as required by law. When the application form is filled in and returned to the Town Clerk, along with the prescribed fee, a copy will be provided to the code enforcement officer, and a copy will be submitted to the Planning Board for an advisory recommendation, and then forwarded to the Board of Appeals within one week thereafter.

Section 605.4 - VARIANCE

A variance is a legal permit for a modification of some part of the Land Use law to meet an individual hardship. "Hardship" does not refer to a personal hardship of the property owner/user. Rather, "hardship" refers to the inability of the property to be used for a permitted use or to the inability to meet the lot area and/or dimensional requirements.

If a use or construction authorized by a variance has not been started and continued within one year, the Board of Appeals may revoke the variance and require a new application.

When a variance is granted, the Board of Appeals may prescribe conditions to be observed in order to protect the health, safety, or welfare of the public, to preserve the general character of the neighborhood, and to minimize possible detrimental effects on nearby property.

Section 605.5 - GRANTING OF VARIANCES

- A. The Board of Appeals shall act in strict accordance with the procedure specified by state law and by this law. All applications made shall be in writing on forms prescribed by the Board. Every application shall refer to the specific provision of the law involved, the details of the variance being applied for, and the grounds on which it is claimed that the variance should be granted.
- B. Each application shall include a site plan of the proposed use or construction to enable the Board of Appeals to evaluate development constraints inherent in the property and the proposed use's or construction's compatibility with the existing uses in its vicinity and with the purpose of this law. Upon the granting of any variance, the submitted site plan, with any modifications required by the Board, shall become a part of the record on which future compliance with the terms of the variance shall be based.
- C. Written notice setting forth the general nature of the variance application and the date of the public hearing shall be forwarded by first class mail by the Town Clerk to owners of real property within the Town of Fenner at those addresses as appear on the Town tax roll in use at the time of mailing for owners of property located adjacent to and/or within 500 feet of the property parcel(s) which is the subject of the proposed variance.

Section 605.6 - STANDARDS FOR GRANTING VARIANCES

No variance for modification of the strict application of any provision of this law shall be granted by the board unless it finds that:

- A. For Use Variances: No use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable regulations and restrictions contained in those Land Use Regulations have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under those Regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided the lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- B. The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- C. For Area Variance: In making its determination, on each application for an area variance, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- D. The Board of Appeal, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the

same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- E. Imposition of conditions. The Board of Appeals shall, in the granting of Both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Land Use Regulations, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Section 606 - PLANNING BOARD

The Town Board hereby affirms the existence of the Town of Fenner Planning Board consisting of seven (7) members and having all the authority conferred pursuant to Article 16 of the Town law. Specifically, the Planning Board shall have the following powers and duties:

1. To issue or deny Special Permits required by this law.
2. To undertake planning activities allowed by Town Law or as requested by the Town Board.
3. Subdivision Review and Approval.
4. Site Plan Review and Approval.

Section 606.1 - SPECIAL PERMITS

A Special Permit gives some means of control of proposed new uses of land and buildings which are compatible with land uses permitted by right by the Land Use Regulations as long as the conditions applicable to special permit uses are satisfied. Specifically, it gives the Planning Board the opportunity to determine whether such proposed new development (in the particular location) will create special problems which can be corrected or effectively minimized by specially devised conditions or which call for denial of permission.

When a Special Permit is granted, the Planning Board may prescribe conditions to be observed in order to ensure adherence to the standards specified in Sections 606.2 and 606.5.

No Special Permit shall be granted with respect to any property or any use on or for which a violation currently exists. (Non-conforming uses as outlined in Section 408 are not considered violations of this local land use law.)

Unless extended by the Planning Board, if a use or construction authorized by a Special Permit has not been started within one year, the Special Permit will expire.

Section 606.2 - APPLICATIONS FOR SPECIAL USE PERMITS

A. An application to the Planning Board for a special use permit shall be submitted to the Town Clerk and shall be accompanied by three sets of preliminary site plans and other descriptive matter to show clearly the intentions of the applicant. These documents shall become a part of the record to determine if the proposed special use meets the requirements of this local law.

A public hearing shall be held by the Planning Board within sixty-two days from the date any application for a Special Permit is received.

B. At least 10 days before the date of the public hearing, the Town Clerk shall transmit to the Planning Board a copy of the application, with supporting documents, and notice of hearing. The Planning Boards shall render its decision within 62 days, of the date the public hearing is closed.

Section 606.3 - STANDARDS FOR GRANTING SPECIAL USE PERMITS

No special use permit shall be granted unless it is determined by the Planning Board that the proposed use meets all of the following criteria:

- A. The location, size and use of structure, nature and intensity of operations involved, size of site in relation to the proposed structure(s), and the location of the site with respect to roads giving access to it are such that the proposed use will be in harmony with orderly development of the district.
- B. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, or impair their value.
- C. The proposed use shall not conflict with any master plan, or part thereof.
- D. Operations of any special use shall not be more objectionable to nearby properties than would be the operations of any unconditionally permitted use.
- E. A special use permit shall not be issued for a use on a property where there is an existing violation of this local law.
- F. The use shall not have an adverse effect on the agriculture of the area.
- G. The proposed use shall be in strict compliance with the requirements of Article 5, Existing Supplemental Regulations.

The Planning Board may impose additional standards on the special use to Provide adequate safeguards to protect the health, safety, or general welfare of the Public, to preserve the general character of the neighborhood in which such proposed Special use is to be placed, and to minimize possible detrimental effects of use on adjacent property.

Section 606.4 - SUBMISSION OF SITE PLAN AND SUPPORTING DATA

A site plan and supporting data for a special use permit shall be submitted to the Planning Board. The owner shall submit a site plan and supporting data as required and shall include all or a portion of the following information presented in drawn form and accompanied by a written text. The amount of information will depend on the scope of the proposal.

- A. Survey of the property, showing existing features of the property, Including contours, large trees, buildings, structures, streets, utility Easement, right-of -way, land use, land use district and ownership of surrounding property.
- C. Site plan showing proposed lots, blocks, building locations, and land use area.
- D. Traffic circulation, parking and loading spaces, and pedestrian walks.
- E. Preliminary architectural drawings for buildings to be constructed, Including floor plans, exterior elevations, and sections.
- F. Preliminary engineering plan, including road improvements, storm Drainage system, public utility extensions, water supply, and sanitary Sewer facilities.
- G. Engineering feasibility studies of any anticipated problems which might arise due to the proposed development, as required by the Planning Board.
- H. Construction sequence and time schedule for completion of each phase for buildings, parking spaces, and landscaped areas
- I. A description of the proposed uses, including hours of operations, number Of employees, expected volume of business, and type and volume of Traffic expected to be generated.
- J. A completed Environmental Assessment Form.

Section 606.5 -SITE PLAN APPROVAL

The Planning Board shall review the site plan and supporting data before Approval, rejection, or approval with stated conditions as given, and take into Consideration the following:

- A. Harmonious relationship between proposed uses and existing adjacent uses.
- B. Maximum safety of vehicular circulation between the site and road network.
- C. Adequacy of interior circulation, parking and loading facilities, with particular attention to vehicular and pedestrian safety.
- D. Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts.

Should changes or additional facilities be required by the Board, final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with the changes or additions.

Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

Section 607 - CHANGES AND AMENDMENTS OF THE LAND USE LOCAL LAW

Section 607.1 - PERIODIC REVIEW

From time to time, the Town Planning Board may re-examine the provisions of this local law and the location of district boundary lines and may submit a report to the Town Board recommending such changes, or amendments, if any, which may be desirable in the interest of the safety, health, or welfare of the public.

Section 607.2 - PROCEDURE FOR AMENDMENTS

- A. Regulations, districts and boundaries established by this local law may be amended or repealed after official notice has been given and a public hearing has been held by the Town Board as required by law.
- B. Each petition requesting a change of land use regulations or district boundaries shall be typewritten, signed by the owner, and filed in triplicate with the Town Clerk accompanied by the required fee, which shall be determined from time to time by resolution of the Town Board.

- C. At least 35 days before the date of the Town Board public hearing required by law, the Town Clerk shall transmit to the Planning Board a copy of the proposed amendment or change, with supporting documents, and notice of hearing. The Planning Board shall submit its recommendation to the Town Board prior to the date of the public hearing. Failure of the Planning Board to submit a recommendation to the Town Board shall not prohibit the Town Board from acting on any proposed amendment, nor impair the validity of any such approval.
- D. The Planning Board may require a site plan of the proposed development for which a change of district is sought to assist them in their understanding of the proposed amendment.
- E. The Town Board shall hold a public hearing within 60 days of the submission date of any petition submitted pursuant to this section.

Section 608 - REFERRAL TO COUNTY PLANNING AGENCY

Requirements for referral to the Madison County Planning Agency as defined in Section 239-1 and m of Article 12-B of the General Municipal Law shall be strictly complied with.

Section 609 - VIOLATIONS

- A. Any person may file a complaint about a violation of this local law. Such complaints must be in writing, signed and filed with the code enforcement officer, the Town Clerk, or the Town Board. The code enforcement officer shall investigate promptly and take the appropriate action to satisfy that complaint.
- B. Any violation of this local law alleged by the Town will be reported to the offender by the code enforcement officer or the Town Board, with the date by which the violation must be corrected. Such a notice shall not be deemed a condition precedent to prosecution of any alleged offender pursuant to paragraph (C) of this section
- C. Any person who violates any provision of this local law shall be punished by a fine not to exceed the sum of \$250.00 or by imprisonment of not more than fifteen days or both. Each 7 days of violation shall constitute a separate offense.

Section 610 - STATE SUPREME COURT REVIEW

Anyone who is aggrieved by a determination of the Board of Appeals, or Planning Board in the implementation of this local law may apply to the State

Supreme Court for review of any such determination which shall be within 30 days after the filing of that decision in the office of the Town Clerk.

Section 611 - SEPARABILITY

If any part of this local law is found to be invalid by any court of competent jurisdiction, such judgment shall not invalidate the remainder of this local law.

Section 612 - ENFORCEMENT

The provision of this local law shall be strictly enforced by the code enforcement officer.

Section 613 - EFFECTIVE DATE

This local law shall take effect on the date it is filed in the office of the Secretary of State of the State of New York.

APPENDIX I – DEFINITIONS

Customary meaning of words. Except where specifically defined herein, all words used in this local law shall carry their customary means. Words used in the present tense include the future, and the plural includes the singular, the word “lot” includes the word “plot”, the word “building” includes the word “structure”, the word “shall” is intended to be mandatory; “occupies” or “used” shall be considered as though followed by words “or intended, arranged or designed to be used or occupied”.

DEFINITIONS

ANIMAL HOSPITAL: Any structure under veterinary supervision for the treatment of sick or injured animals.

BUILDING: Any structure other than a boundary wall or fence which covers or encloses space. Silos of all kinds and livestock slurry storage tanks are considered to be building.

BUILDING, ACCESSORY: A supplemental building, the use of which is incidental to a main or principal building or incidental to the principal use and located on the same lot therewith. The accessory building shall not exceed 750 square feet, shall not be for human habitation, shall not be for school buses, mobile homes, trailers, shipping containers or tanks. All accessory buildings must conform to front and side yard requirements or the district in which they are located.

BUILDING AREA: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces, and steps. All dimensions shall be measured between the exterior faces of walls.

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

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

BUILDING LINE: The line of that face of the building nearest the front line of the lot. This face includes sun parlors, covered porches whether enclosed or unenclosed (but does not include steps), and any overhang. In the case of a cantilevered building, the building line shall coincide with the most projected surface.

BUILDING, PRINCIPAL OR MAIN: A building in which is conducted the principal use of the lot on which it is located.

CAMP, SEASONAL: Land on which is located one cabin, camping trailer, shelter of other accommodation suitable for seasonal or temporary living purposes, exclusive of mobile dwellings, primarily for the use of the owned.

CAMP, DAY: Any land including any building thereon used for any assembly of persons for what is commonly known as “day camp” purposes, whether or not conducted for profit and whether or not occupied by adults or by children either as individuals, families or groups.

CAMPING GROUND: A parcel of land used or intended to be used, let or rented for occupancy by persons utilizing trailers, campers or other such forms of recreational dwelling.

CERTIFICATE OF COMPLIANCE: A certificate issued by the proper officer of the town upon completion of construction, alteration, or change in occupancy of use of building. Said certificate shall acknowledge compliance with all the requirements of this local law and such adjustments thereto granted by the Board of Appeals.

CLUB, MEMBERSHIP: An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain providing they are not operating any vending machines or merchandising or commercial activities except as required generally for the membership and purposes of such club.

CLUSTER DEVELOPMENT: A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.

CODE ENFORCEMENT OFFICER: The Town of Fenner Code Enforcement Officer, or such other person as may be designated or appointed by the Town Board of the Town of Fenner to administer and/or enforce the provisions of this local law.

COMMERCIAL OR BUSINESS: Of or pertaining to purchase, sale or transaction involving the disposition of any article, substance, commodity or service; the maintenance or conduct of offices, professions or recreational or amusement enterprises conducted for profit; and also the renting of rooms, business offices and sales display rooms and premises.

COVERAGE: That percentage of the plot or lot area covered by the building area.

DOMESTIC ANIMALS OR PETS: Animals which normally live in the same dwelling unit as their owner and are not kept for commercial use.

DUMP: A lot of land or part thereof used primarily for the disposal of abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts there, or waste material of any kind.

DWELLING, PERMANENT: A building designed or used as the permanent living quarters for one or more families. The term “dwelling” shall not be deemed to include automobile court, rooming house, tourist home, motel, hotel, or temporary camps.

DWELLING, SEASONAL: A building such as a cabin, shelter or other accommodation suitable only for seasonal living quarters, exclusive of a mobile dwelling.

DWELLING, ONE-FAMILY: A detached building containing one dwelling unit only and distended for the use of a single family.

DWELLING, TWO-FAMILY: A detached building containing two dwelling units.

DWELLING, MULTI-FAMILY: A building or portion thereof containing three or more dwelling units and used for occupancy by three or more families living independently or each other.

FAMILY: One or more persons who live together in one dwelling unit and maintain a common household. May consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. May also include domestic servants and occasional guests.

FARM: Any parcel containing five or more acres of land which is normally used for gain in the raising of agricultural products including crops, livestock, poultry, dairy products, orchards, nurseries and three plantations, maple sugar, and stabled animals. It includes a single principal residence and necessary farm buildings and structures within the prescribed limits and the storage of equipment used.

GARAGE, PRIVATE: An accessory building used in conjunction with a principal building which provides for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

GARAGE, PUBLIC: Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, servicing or equipping of automobiles or other motor vehicles.

HOME BUSINESS: Any use of a business or professional nature carried on in a dwelling unit or in an accessory structure by a member of the family living in the dwelling unit and not more than two other non-family employees, which use is secondary to the residential purpose of the dwelling, occupies less than 25% of the floor area of the house, and produces no offensive noises, vibrations, smoke, dust, odors, heat or glare.

HOSPITAL: Unless otherwise specified, the term “hospital” shall be deemed to include without limitation sanitarium, sanatorium, preventorium, clinic, rest home, convalescent home, nursing home, and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL, MOTEL, TOURIST HOME: A building or buildings in which overnight accommodations are provided for transient guests for compensation.

INDUSTRY OR INDUSTRIAL: Means and includes storage, manufacture, preparation, processing or repair of any article, substance, or commodity and the conduct of the industrial trade but shall not mean such preparation, processing or repair as are customarily applied to articles, substances, or commodities in retail businesses or trade for on-the-premises transactions.

INSTITUTION: A building occupied by a non-profit establishment for public use.

JUNKYARD: Land used for collecting, storage and sale of waste paper, rags, scrap metal or discarded material, or for the collection, dismantling, storage and salvaging of two or more motor vehicles either unlicensed or not in operating condition. Motor vehicles registered on a seasonal basis are exempt from this definition.

KENNEL: Any premises on which four or more dogs over four months of age are kept for commercial care.

LANDSCAPED AREA: Any non-built-upon area of grass, agricultural fields, pasture, woodlot, forest, standing or flowing water maintained in healthy condition.

LANDSCAPE SCREENING: Plantings of a permanent nature which will have a height in excess of 5 feet and which have sufficiently dense foliage to screen the view.

LOT: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this local law. No area shall be counted as accessory to more than one main building or

use, and no area necessary for compliance with the open space requirements for one mail building or use shall be included or counted in calculation of the open space accessory to any other main building or use.

LOT AREA: An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public road right-of-way shall not be included in calculating lot area.

LOT DEPTH: The mean distance between the front and rear lot lines, measured in the general direction of the side lines of the lot.

LOT LINES: The property lines bounding the lot.

LOT THROUGH: An interior lot having frontage on two parallel or approximately parallel roads.

LOT, WIDTH OF: The mean width measured at right angles to its depth.

MOBILE DWELLING: A structure, constructed pursuant to standards of the U.S. Housing and Urban Development Administration published in Chapter 24 of Title ____ of the Code of Federal Regulations, which is transportable in one or more sections, which in traveling mode, is eight body feet or more in width or 40 body feet or more in length, or , when erected on site, 320 or more square feet, and which is built on a permanent transport chassis and designed to be used a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical system contained therein.

MODULAR DWELLING: A dwelling unit built in accordance with the requirements of the New York State Uniform Fire Prevention and Building Code, Subchapter B, constructed off-site, consisting of more than one (1) segment and designed to be mounted on, and permanently anchored to a permanent perimeter foundation located below the fronts line, thereby becoming a fixed part of the real estate.

MOBILE DWELLING PARK (TRAILER PARK): Any area of land or a building designated as a parking space for two or more mobile dwellings which are used for living purposes in space leased or rented commercially, whether currently occupied or currently open for public occupancy.

NON-CONFORMING BUILDING: A building which in its design or location upon a lot does not conform to the regulation of this local law for the district in which it is located.

NON-CONFORMING LOT: A lot of record existing at the date of the passage of this local law which does not conform to the dimensional regulations of the district in which it is situated.

NON-CONFORMING USE: Any use of any building, structure, or land existing at the time to enactment of this local law which does not conform to the use regulations of the district in which it is situated.

PARKING SPACE OR PARKING SPACE UNT: An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet, exclusive of passageways or driveways and having direct access to the road, highway or alley.

PLAT: A map, plan or layout of a city, town, section or subdivision indicating the locating boundaries of individual properties.

“PUBLIC WATER” or “PUBLIC SEWER”: Wherever the phrase “public water” and/or “public sewer” is used, it shall be deemed to refer to an off-site water or sewage system which is owned and operated by a government authority or by a utility company or a sewer district adequately controlled by a government authority.

RESIDENTIAL SUBDIVISION: The creation of parcels of land from larger parcels for the purpose of building single or multi-family homes.

RESTAURANT: Any establishment, however designed, at which food is regularly sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground playfield or park operated by the agency or group of an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RIGHT-OF-WAY: The line determining the road or highway public limit of ownership. Also, an easement established for passage across land.

SIGN: Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public; each display surface shall be considered to be a “sign”.

SIGN, OFF-PREMISES: Any sign unrelated to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such is located.

SIGN, ON-PREMISES: Any sign related to a business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located.

SITE DEVELOPMENT PERMIT: A permit issued by the land use officer upon approval of a site plan certifying that any building that is to be erected, extended or put in place conforms to the district requirements and the schedule of this local law and to its provisions for traffic safety and parking space, and if necessary, to the town sanitation ordinance.

SITE PLAN: Maps and detailed descriptive text required for any proposed development so designated by the Board of Appeals (see Section 605.10).

SPECIAL FLOOD HAZARD AREA: That area along a waterway designed and mapped by the U.S. Department of Housing and Urban Development under the Flood Disaster Protection Act of 1973 as subject to flooding that could damage buildings, structures and accessory installations in that area.

SPECIAL USE PERMIT: A permit that allows those areas of land or buildings specifically listed in this local law and with the conditions set out in the granting of such permit.

STABLE, PRIVATE: An accessory building in which horses are kept for private use and not for hire remuneration, or sale.

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

STRUCTURE: A building, house, tower, office, warehouse, garage, etc.

SWAMPS, WETLANDS: Areas with permanent or seasonal standing water, or those so designated by the Soil Conservation Service and other government agencies.

USE, ACCESSORY: A use customarily incidental and subordinate to the principal use of building and located on the same lot with such principal use of building.

USE, PRINCIPAL: The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any non-conforming use.

UTILITIES, COMMUNITY: Community facilities for water supply and distribution, sewage collection and disposal, storm drainage, owned and operated by a private owner, semi-public agency or a public agency, for three or more dwellings or establishments.

UTILITIES, PUBLIC AND/OR SEMI-PUBLIC: Distribution points, transmission lines and stations, sub-stations, storage yards, garages and other central buildings and/or related uses for the operation and provision of public and semi-public power, fuel, water and communications service licenses by the Public Service Commission.

VARIANCE, AREA: A legally-permitted modification of a zoning ordinance to allow for different dimensions in the area coverage of a specific parcel of land.

VARIANCE, USE: A legally-permitted modification of a zoning ordinance to allow a different use of a specified parcel of land or a specific structure.

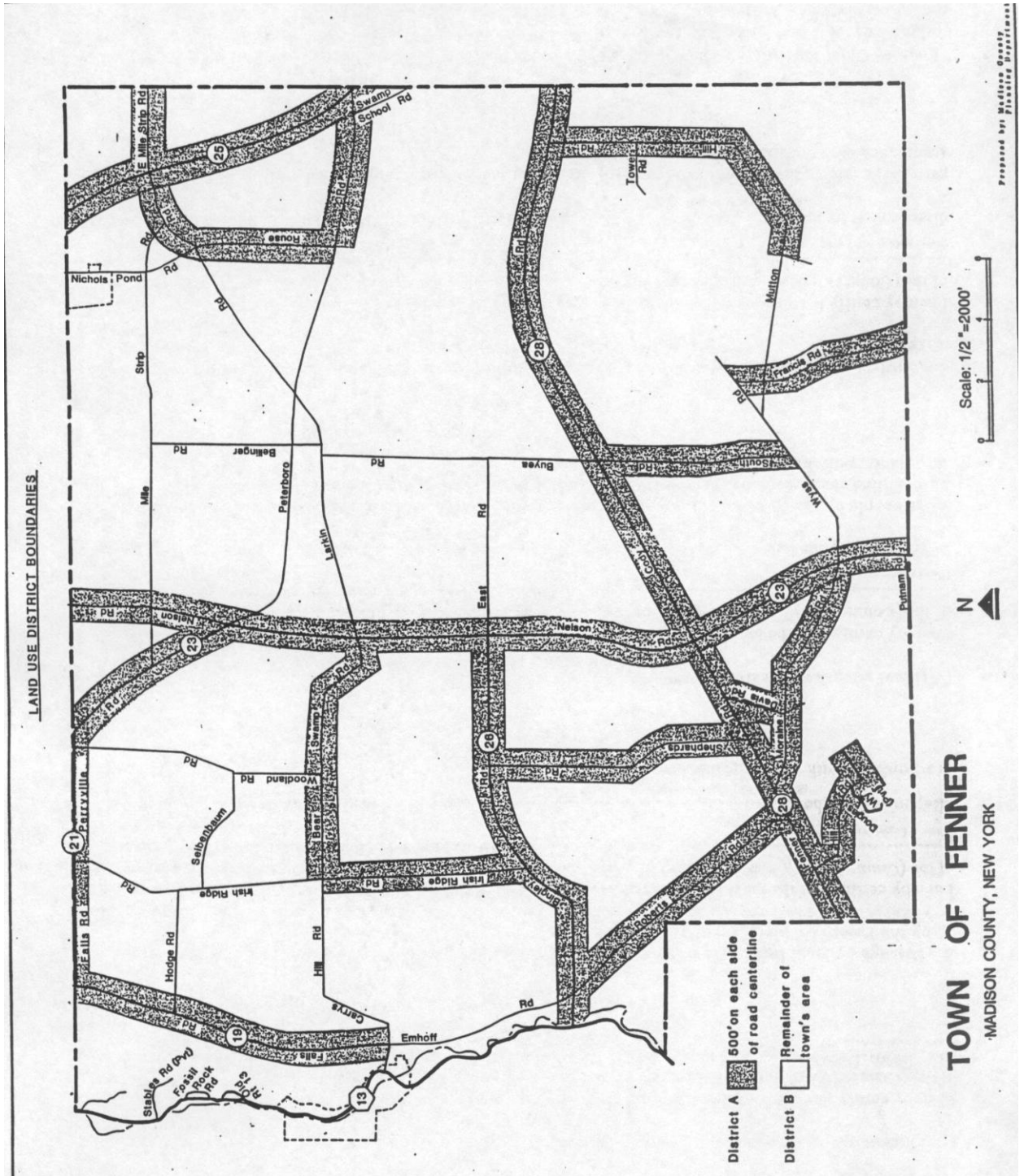
YARD: An unoccupied space open to the sky, on the same lot with a building or structure.

YARD, FRONT: An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the edge of the highway right-of-way and the front line of the building projected to the sidelines of the lot. The depth of the front yard shall be measured between the nearest point of the front line on the building and road right of way. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. The front yard must be free of any man-made building or structure. The one exception is some types of permitted roadside stands (see Section 302.2).

YARD, REAR: An open unoccupied space on the same lot with a main building, extending full width of the lot and situated between the area line of the lot and the rear line or the building projected to the side line of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the road right-of-way if there is a roadway and the nearest point of the rear line of the main building. Accessory buildings may be built on the rear yard unless the lot is a “through lot” (see definition).

YARD, SIDE: An open unoccupied space on the same lot with the principal building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

The culverts for driveways need to have corrugate 15 gauge steel, a minimum 15” in width or what is designated by the Highway Superintendent.



SUBDIVISION REGULATIONS

TOWN OF FENNER

September 1, 1994

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ARTICLE 1 DECLARATION OF POLICY

It is declared to be the policy of the Planning Board to consider land Subdivision Plats as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Land Use Map, and shall be properly related to the proposals shown on the General Plan, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of firefighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds.

Section 110 Enactment and Authorization

By authority of the resolution of the Town Board of the Town of Fenner pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Fenner Town Planning Board is authorized and empowered to:

1. Approve, conditionally approve, or disapprove plans showing lots, blocks, or sites, with or without roads or highways.
2. Approve preliminary plats.
3. Pass and approve the development of entirely or partially undeveloped plats already filed in the Office of the County Clerk.

Section 120 Title

These regulations shall be known as the "Subdivision Regulations of the Town of Fenner."

Section 130 Effective Dates

These regulations, after public hearing and adoption by the Planning Board, have been approved on July 2, 1991 by the Town Board and are effective this day of approval.

Section 140 Purpose

The purpose of these regulations is to provide for orderly efficient growth within the community, and to afford adequate facilities for the transportation, housing, comfort, convenience, safety, health, and welfare of its population.

Section 150 Administration

These subdivision regulations shall be administered by the Planning Board and the Codes Enforcement Officer.

Section 160 Separability

The invalidity of any provision of these regulations shall not invalidate any other provision.

Section 170 Amendment

The Planning Board may on its motion and after public hearing amend, supplement, or change these regulations subject to the approval of the Town Board.

Section 180 Waiver

When in the opinion of the Planning Board undue individual hardship may result from strict compliance with these regulations, it may modify these regulations so that substantial justice may be done and the public interest secured, provided that such modification will not have the effect of nullifying the intent and purpose of these regulations.

Section 185 Fees

185.1 Minor Subdivisions

All applications for Plat approval for Minor Subdivisions shall be accompanied by a fee of \$25.00 dollars and \$5.00 dollars per lot.

185.2 Major Subdivisions

All applications for Plat Approval for Major Subdivisions shall be accompanied by a fee of \$50.00 dollars and \$5.00 dollars per lot.

185.3 Other Fees

If the Planning Board decides it is necessary to hire an outside consultant to assist in the review of the subdivision proposal, the Planning Board may charge an additional fee to the applicant in order to cover the actual costs of such a review.

Section 190 Violations and Penalties

A violation of this law is declared to be an offense punishable by a fine not exceeding Three Hundred Fifty Dollars (\$350.00) or imprisonment for a period not to exceed six (6) months, or both.

Each week's continued violation shall constitute a separate additional violation.

Section 195 Conflict with other Local Laws, Ordinances and Regulations

Whenever there may be a conflict between the standards specified in this local law and those of other codes, ordinances, local laws or regulations of the Town of Fenner, the most restrictive or highest standard shall apply.

ARTICLE 2 DEFINITIONS

For the purpose of these regulations, words and terms used herein are defined as follows:

Codes Enforcement Officer	Any Person appointed, designated, or otherwise retained by the Town Board to carry out the functions assigned to such person according to these regulations.
Final Plat	Means a drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Planning Board for approval, and which if approved, shall be duly filed or recorded by the applicant in the office of the County Clerk.
General Plan	Means a comprehensive or master plan for the development of the Town prepared by the Planning Board pursuant to Section 272-a of the Town Law.
Land Use Ordinance	Land Use Ordinance of the Town of Fenner.
Official Submission Date	Means the date on which an application for plat approval, complete and accompanied by all required information, endorsements and fees, has been filed with the Planning Board and the Planning Board has determined that the application is complete.
Planning Board	The Fenner Town Planning Board
Preliminary Plat	Means a drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form, and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.
Resubdivision	The division of any previously subdivided lot. For the purposes of this local law, resubdivisions shall be considered subdivisions and shall be subject to the same regulations.

Road, Major	Means a road intended to serve heavy flows of traffic from minor roads or as a business road providing access to business properties.
Road, Minor	Means a road intended to serve primarily as an access to abutting residential properties.
Sketch Plan	Means a sketch of a proposed subdivision to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.
Subdivider	Any person, firm, corporation, partnership or association who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein either by the subdiviver or others.
Subdivision	Division of any parcel of land into two (2) or more lots, blocks, or sites for the purpose of conveyance, transfer of ownership, improvement, building development, or sale. The term subdivision shall include resubdivision.
Subdivision, Major	A subdivision containing five (5) or more lots, or any subdivision requiring a new road or roads.
Subdivision, Minor	A subdivision containing two (2), three (3) or four (4) lots fronting on an existing road.

ARTICLE 3 REVIEW AND APPROVAL PROCEDURE

Section 310 General

310.1 Minor subdivisons shall be processed in the following stages:

1. Sketch Plan Conference
2. Public Hearing
3. Final Plat approval

310.2 Major subdivisions shall be processed in the following stages:

1. Sketch Plan Conference
2. Public Hearing
3. Preliminary Plat approval
4. Optional Public Hearing
5. Final Plat approval

Section 320 Pre-Application Procedures

Prior to the preparation of and the submission of a plat for approval, the subdivider should proceed to gather the necessary information and data on the existing conditions at the site. The subdivider should study the site suitability and opportunities for development; presumably he will discuss financing, planning and marketing with the lending institutions. The subdivider should develop a preliminary layout in sketch form which in turn should be submitted to the Planning Board for advice and assistance and should include a preliminary environmental assessment (EAF Short Form, Appendix A). The sketch plan should include the information identified in Articles 4 and 5. It is recommended that this sketch plan be prepared in consultation with a licensed land surveyor.

Section 330 Sketch Plan Conference

The subdivider should request an appointment with the Planning Board for the purpose of reviewing the sketch plan. The Planning Board Clerk will notify the subdivider of the time, date, and the place that the Planning Board will meet to consider and review such sketch plan and the subdivider's intentions as they relate to the General Plan for the Town of Fenner, design standards, and improvement requirements. This meeting is intended to assist the subdivider in the planning and preparation of the preliminary or final plat to save both time and money in preparing maps and plans.

This step does not require formal application, fee, or filing with the Planning Board.

330.1 Subdivision Classification

The plan will be classified as a minor or major subdivision by the Planning Board as defined by these regulations. Subdivisions classified as minor may proceed directly to preparation of a final plat without submission and approval of a preliminary plat which shall be required for a major subdivision.

330.2 Adverse Natural Features Review

The Planning Board shall review the location of the proposed subdivision for the presence of any adverse natural considerations limiting development on the site as indicated by the General Plan's maps of physical limitations to development. If the site falls into areas on the soils map denoted as having "moderate" or "severe" limitation, within flood hazard areas, or areas of unique hydrologic or natural habitat areas (including wetlands), the Planning Board may require the subdivider to consult with the appropriate technical review or assistance agencies (such as, but not limited to the Soil Conservation Service, the State Health Department, Army Corps of Engineers, and the State Department of Environmental Conservation) to determine appropriate measures to mitigate or eliminate such problems or conflicts. The findings or recommendations of such agencies shall not be binding on the Planning Board or subdivider, except with regard to flood hazard areas and N.Y.S. wetlands in which case the findings or recommendations of such agencies shall be binding.

The Planning Board may require that design techniques be used to avoid development in these critical resource areas, and shall not approve a sketch plan which has failed to adequately address these critical resources concerns (soils, flood hazards, and hydrologic and natural habitat resources). Building in a floodplain must be reviewed and approved by the Town's Board of Appeals.

Section 340 Agricultural Subdivision Waiver

If, at the sketch plan conference, the Planning Board determines that the subdivision is for agricultural purposes only, does not involve the creation of a new road or highway, and does not include more than one lot of less than five (5) acres in area, the Planning Board may waive the subdivision review procedures and exempt the subdivision from these regulations.

Section 350 Madison County Department of Health

Madison County Department of Health approval must be required for any subdivision creating lots of five (5) acres or less and where the subdivision results in the creation of 5 or more lots in a three year period. Early contact by the subdivider with this department is advised.

Section 360 Preliminary Plat

All major subdivisions shall be subject to the Preliminary Plat requirements, as specified herein. The subdivider shall file an application for approval of the Preliminary Plat on forms available at the Town Office accompanied by all documents specified in Article 4 herein.

360.1 Review of Subdivision

Following the review of the Preliminary Plat and supplementary material submitted for conformity to these regulations, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the Planning Board shall hold a public hearing. This hearing shall be held within forty-five (45) days of the official submission date of the plat. The subdivider or the subdivider's representative is expected to attend the hearing. This hearing may also fulfill the hearing requirements for the State Environmental Quality Review Act. Within forty-five (45) days from the public hearing, the Planning Board shall approve, approve with modifications, or disapprove the preliminary plat and state its reasons for disapproval.

360.2 Notice of Public Hearing

The hearing shall be advertised at least once in the Town's designated Official Newspaper at least five (5) days before the hearing. Notice of the hearing shall be mailed by the subdivider to the owners of all adjoining properties within five hundred (500) feet of the subdivided property at least five (5) days before the hearing.

360.3 State Environmental Quality Review (SEQR)

If the subdivision meets any Type-1 thresholds listed in Part 617.12 or unlisted-action criteria listed in Part 617.10 of the SEQR regulations, lead agency for the SEQR process shall be determined according to procedures outlined respectively in Sections 617.6 and 617.7 of the SEQR regulations. A determination of no significant environmental impact (Negative Declaration) or a Draft Environmental Impact Statement (DEIS) is required by the designated lead agency before the subdivisions may be approved (in accordance with Section 617.11 or the SEQR rules). The public hearing shall be used to solicit comments on the Draft EIS under SEQR.

360.4 Notice Of Decision

The action of the Planning Board shall be noted on four (4) copies of the Preliminary Plat and reference shall be made to any modifications determined. the copies shall be distributed as follows: one (1) copy to the subdivider; one (1) copy to the Codes Enforcement Officer; one (1) copy to the Town Attorney; and one (1) copy shall be retained by the Planning Board.

360.5 Effect Of Approval

Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the subdivider must comply with these regulations and all requirements set forth by the Planning Board in its review of the preliminary plat, and any other State, Federal, or County requirements.

Section 370 Final Plat

All subdivisions, as defined herein, shall require Final Plat approval by the Planning Board.

The Subdivider shall file an application for Final Plat approval on forms available at the Town Office, and the application shall be accompanied by documentation as specified in Article 5 herein, to the Planning Board. Such application shall be submitted at least ten (10) days prior to the meeting at which it is to be considered by the Planning Board, and no later than six (6) months after the date of the preliminary plat approval.

370.1 Optional Public Hearing

A public hearing may be held by the Planning Board after a complete application is filed and prior to rendering a decision. This hearing shall be held within forth-five (45) days of the official submission date of the plat. The subdivider or the subdivider's representative is expected to attend the hearing. The Planning Board shall approve, conditionally approve, or disapprove the Final Plat within forth-five (45) days of the public hearing.

If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the regulation violated by the Plat. Failure of the Planning Board to render a decision within the stated forty-five (45) day period shall be deemed final approval of the plat.

370.2 Notice Of Public Hearing

The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before the hearing. Notice of the hearing shall be mailed by the subdivider to the owners of all adjoining properties within five hundred (500) feet of the subdivided property at least five (5) days before the hearing.

370.3 Waiver Of Public Hearing

If the final plat is in substantial agreement with the preliminary plat, the Planning Board may waive the public hearing requirement. If no hearing is held, the Planning Board shall approve, conditionally approve, or disapprove the plat within forty-five (45) days of the official submission date.

370.4 State Environmental Quality Review (SEQR)

The Planning Board's action on the subdivision plat shall include either a Negative Declaration or the final Environmental

Impact Statement and a statement of findings on the subdivision as required under Section 8-0109-8 of the Environmental Conservation Law.

370.5 Notice of Decision

The subdivider shall be notified of the final action of the Planning Board and the subdivider shall record the Final Plat, or section thereof, in the Office of the Clerk of Madison County, New York within sixty (60) days after the date of approval; otherwise the plat shall be considered void and must again be submitted to the Planning Board for approval before recording in the Office of the Clerk of Madison County, New York.

370.6 Conditional Approval

Upon conditional approval of such final plat the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. The plat shall be certified by the Town Clerk and a certified statement of such requirements shall accompany such plat which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements the plat shall be signed by said duly authorized officer of the Planning Board. If the requirements are not completed by the deadline set in the resolution granting conditional approval, the conditional approval shall expire, and the applicant must reapply. The planning Board may, however, extend the expiration time for a period not to exceed six (6) months.

ARTICLE 4 MINOR SUBDIVISION

Section 410 Information Required For Minor Subdivisions

The following shall be submitted with applications for approval of a final plat for a minor subdivision:

- 410.1 Name and address of subdivider and professional advisers, including license numbers and seals.
- 410.2 One copy of the minor subdivision plat (which is to be submitted by the County Clerk once the Planning Board's chairman places signature on same signifying that the subdivision is approved), drawn with ink on appropriate material, plus two (2) paper copies. The plat map (drawn by a licensed surveyor at a scale of one (1) inch to one hundred (100) feet, unless otherwise specified by the Planning Board) shall contain the following information:
 - a. Subdivision name, scale, north arrow, and date;
 - b. Subdivision boundaries;
 - c. Contiguous properties and names of owners;
 - d. Existing roads, utilities, and structures;
 - e. Water courses (including all HUD Federal Flood Insurance Hazard Areas), marshes (including DEC-designated wetlands), wooded areas, and other significant physical features on or near the site;
 - f. Proposed pattern of lots, including lot widths and depths, road layout, open space, drainage, sewage, and water supply;
 - g. Land contours at ten-foot (10') intervals, or other suitable indicators of slope.
- 410.3. Copy of tax map(s).
- 410.4. Existing and/or intended restrictions on the use of land including easements, covenants, and zoning.
- 410.5. Total acreage of subdivision and number of lots proposed.
- 410.6. Building types and approximate size and cost.
- 410.7. Environmental Assessment Form (EAF); long or short form as required by the Planning Board (Appendix A).

- 410.8. On-site sanitation and water supply facilities shall be designed to meet the specifications of the State Department of Health, and a statement to this effect shall be made on the application.
- 410.9. Additional information as deemed necessary by the Planning Board.
- 410.10. Any required fees.

Section 420 Waiver of Submission Requirements

When an application concerns a subdivision of uncomplicated nature, such as a small subdivision along an existing road that requires no installation of public facilities, the Planning Board may waive certain submission requirements.

ARTICLE 5 MAJOR SUBDIVISION

Section 510 Preliminary Plat, Major Subdivision

The following shall be submitted with all applications for approval of a Preliminary Plat for a major subdivision:

- 510.1. Name and address of subdivider and professional advisers, including license numbers and seals.
- 510.2. Three (3) copies of the preliminary plat map, drawn to scale. The map scale shall be one (1) inch to one hundred (100) feet unless otherwise specified by the Planning Board, including:
 - a. Subdivision name, scale, north arrow, and date;
 - b. Subdivision boundaries;
 - c. Contiguous properties and names of owners;
 - d. Existing and proposed roads, utilities, and structures;
 - e. Water courses, (including all HUD Federal Flood Insurance Hazard Areas), marshes (including DEC-designated wetlands), wooded areas, and other significant physical features on or near the site;
 - f. Proposed pattern of lots, including lot widths and depths, road layout, open space, drainage, sewage, and water supply;
 - g. Land contours at two-foot (2') intervals, or other suitable indicators of slope.
- 510.3. Copy of tax map(s).
- 510.4. Existing and/or intended restrictions on the use of land including easements, covenants, and zoning.
- 510.5. Total acreage of subdivision and number of lots proposed.
- 510.6. Building types and approximate size and cost.
- 510.7. All parcels of land proposed to be dedicated to public use and the conditions of such use.
- 510.8. Grading and landscaping plans.

- 510.9. The width and location of any roads or public ways and the width, location, grades, and road profiles of all roads or public ways proposed by the developer.
- 510.10. The approximate location and size of all proposed waterlines, hydrants, and sewer lines, showing connection to existing lines.
- 510.11. Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.
- 510.12. Preliminary plans drawn to scale and cross-sections showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains, the character, width and depth of pavements and sub-base, and the location of any underground cables.
- 510.13. Preliminary designs for any bridges or culverts.
- 510.14. The proposed lot lines with approximate dimensions and area of each lot.
- 510.15. An actual field survey of the boundary lines of the tract, giving complete description of bearings and distances, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board, shown on the plat.
- 510.16. Environmental Assessment Form (long form, Appendix A) and a Draft Environmental Impact Statement, if required.
- 510.17. Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted for study to the Planning Board.
- 510.18. Additional information as deemed necessary by the Planning Board.
- 510.19. Any required fees.

Section 520 Final Plat, Major Subdivision

The following shall be submitted with all applications for approval of a Final Plat for a major subdivision:

- 520.1. One (1) copy of the final plat (which is to be submitted to the County Clerk once the Planning Board's chairman places his signature on same signifying that the subdivision is approved), drawn with ink on suitable material, plus two (2) paper copies. The map scale shall be one (1) inch to one hundred (100) feet unless otherwise specified by the Planning Board.
- 520.2. Proposed subdivision name and the name of the Town and County in which the subdivision is located; the name and address of record owner and subdivider; name, address, license number and seal of the surveyor and/or engineer.
- 520.3. Road lines, pedestrian ways, lots, easements and areas to be dedicated to public use.
- 520.4. Sufficient data acceptable to the Planning Board to determine readily the location, bearing and length of every road line, lot line, and boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.
- 520.5. The length and bearing of all straight lines, radii, length of curves, and central angles of all curves; tangent bearings shall be given for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, locations, graphic scale, and true north point.
- 520.6. All offers of cession and any covenants governing the maintenance of uncaded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- 520.7. Permanent reference monuments shall be shown and constructed in accordance with Planning Board specifications.
- 520.8. Approval of the Madison County Health Department of water supply systems and sewage disposal systems proposed or installed.
- 520.9. An approved Environmental Impact Statement.

- 520.10. Construction drawings, drawn to scale by a licensed engineer, including plans, profiles, and typical cross sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements and sub-base, and other facilities.
- 520.11. Evidence of legal ownership of property.
- 520.12. Deed restrictions, existing and proposed in form for recording.
- 520.13. A certificate by a licensed professional engineer that any required improvements constructed by the subdivider have been designed and inspected and meet the minimum standards in this local law, or as otherwise required by law.
- 520.14. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board in enforcement of these regulations.

Section 530 Waiver of Submission Requirements

When an application concerns a subdivision of uncomplicated nature, such as a small subdivision along an existing road that requires no installation of public facilities, the Planning Board may waive certain submission requirements.

ARTICLE 6 DESIGN, STANDARDS, AND REQUIRED IMPROVEMENTS

Section 605 General

All improvements specified in the subdivision plan or required by the Planning Board in accordance with this Article shall be constructed at the expense of the subdivider without reimbursement by the Town or any district therein.

All such improvements shall be installed by the subdivider to the satisfaction of the Planning Board prior to the approval of the final plat, or alternatively, he shall post a performance bond, as provided in Article 7 sufficient in amount to cover the estimated full costs of such construction as determined by the Planning Board (at the discretion of the Town Board, the subdivider may secure the formation of a special district to install such utility and street improvements pursuant to the laws of the state).

Prior to public acceptance of any improvements, the subdivider shall submit an affidavit stating that all bills and accounts for material and labor used in construction have been paid in full.

The subdivider shall make good without any cost to the Town any defects in any of the improvements constructed by him or his agent, and any damage due to faulty workmanship on his or his agent's part or due to imperfect material or equipment furnished by him or his agent which defects or damage may appear within one year after installation and approval of the improvements.

Section 610 Road Design and Construction Standards

610.1 Conformity with General Plan

The arrangement, width, location, and extent of major roads and all minor roads should conform and be in harmony with the local highway standards adopted by the Town Board. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new road.

610.2 Special Treatment Along County Highways

When a major subdivision abuts or contains a County highway, the Planning Board may require that highway access to and from the subdivision's lots be provided by the subdivider's establishment of a feeder road or roads and/or such other treatment as may be necessary to maintain traffic safety and an efficient traffic flow along the highway without any reduction of its speed limit.

Section 615 Sidewalks

Sidewalks are not required in every subdivision; when sidewalks are required, they shall be installed as follows:

1. Sidewalks shall be installed at the expense of the subdivider at such locations as the Planning Board may deem necessary;
2. Sidewalks must be constructed to comply with the detailed specifications of the Planning Board;
3. Sidewalks shall be concrete or other approved material, and have a minimum width of four (4) feet in residential areas, and five (5) feet in commercial and industrial areas.

Section 620 Utilities

Public utility improvements may be required and shall be installed as follows:

1. Fire Protection: Hydrants to be of size, type, and location specified by the Insurance Services Organization.
2. Street Lighting: Poles, brackets, and lights to be of size, type, and location approved by the local power company and shall be compatible with an existing street lighting.
3. Electricity: Power lines may be required to be placed underground and shall be approved by the local power company.
4. Utility Services: Shall be located from six (6) to eight (8) feet from the back property line to the center line of the utility service or between the sidewalk and curb line. Utility lines may be required to be placed underground and shall be approved by the local utility company.

Section 625 Water Supply

1. Where individual wells will be used, evidence of water supply, geological reports, and supporting data shall be provided.
2. If, in the opinion of the Planning Board, it is feasible and desirable to require a public water supply system, such system shall be installed at the expense of the subdivider upon approval by the Town Board and Madison County Department of Health.
3. All individual wells shall meet the requirements of the New York State Department of Health to the satisfaction of the Planning Board.

Section 630 Sewage Disposal

1. Where septic tanks are proposed, the subdivider shall submit results and specific locations of percolation tests, or such other tests of soil suitability for on-site sewage disposal as the New York State Department of Health may currently specify, for each lot and a lot-specific design plan for each such disposal system.
2. If, in the opinion of the Planning Board, it is feasible and desirable to require a sanitary sewer system, such system shall be installed at the expense of the subdivider upon approval of the Town Board and the Madison County Department of Health.
3. All sanitary sewage disposal systems shall meet the requirements of the New York State Department of Health.

Section 635 Drainage Improvements

635.1 Removal of Spring and Surface Water

The subdivider may be required by the Planning Board to 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.

635.2 Drainage Structure To Accomodate Potential Development Upstream

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 Town Highway Superintendent shall approve the design and size of facility based on anticipated run-off from a "ten-year" storm under conditions of total potential development permitted by the Zoning Ordinance in the watershed.

635.3 Responsibility From Drainage Downstream

The Subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Highway Superintendent. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility during a "five-year" storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board will not approve the subdivision until provisions have been made for the improvement of said condition. If in the opinion of the Planning Board, it is feasible and desirable to require a drainage district, such district shall be installed at the expense of the subdivider upon approval of the Town Board.

Section 640 Lots

- 640.1 Location All lots shall abut by their full frontage on roads built to the Town's road specifications.
- 640.2 Dimensions The lot size, width, depth, shape, and area shall comply with the Town's Land Use Ordinance. Excessive depth in relation to width (for example, such as to exchange the later creation of a second building lot at the front or rear) shall be avoided. A proportion of two and one-half to one (2 1/2 : 1) will normally be considered the maximum.
- 640.3 Double Frontage Lots Frontings on two roads other than corner lots shall be discouraged.
- 640.4 Pedestrian Easements In order to facilitate pedestrian access from roads to schools, parks, play areas, or nearby roads, perpetual unobstructed easements at least twenty (20) feet wide may be required by the Planning Board. In heavy traffic areas, sidewalks may be required in addition.
- 640.5 Setback The provisions of the Town's Land Use Ordinance shall apply regarding setback lines.
- 640.6 Lot Lines Side lot lines shall be approximately at right angles to the road, or radial to curved roads. On large size lots and except when indicated by topography, lot lines shall be straight.
- 640.7 Corner Lots Lots for residential use shall have extra width to permit appropriate building setback from and orientation to both roads.

Section 645 Unique And Natural Features

Unique physical features such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours, and similar features shall be preserved where possible. Also streams, lakes, ponds, and wetlands shall be left unaltered and protected by easements. All surfaces must be graded and restored within six (6) months of completion of subdivision so no unnatural mounds or depressions are left. Original topsoil moved during construction shall be returned and stabilized by approved methods. Damage to existing trees should be avoided.

Section 650 Public Open Spaces And Sites

Consideration shall be given to the allocation of areas suitably located for community purposes as indicated on the General Plan and be made available by one of the following methods:

1. Such lands may be offered to the Town as a gift, and at the discretion of the Town Board may be accepted upon recommendation by the Planning Board. If such lands are given to the Town they shall be used either for their intended purpose or they may be sold and the funds realized shall be placed in the Town recreation land fund;
2. Reservation of land for the use of property owners by deed or covenant;
3. If the Planning Board determines that suitable parks or parks of adequate size cannot be properly located in the plat or is otherwise not practical, the Board may require as a condition to approval of the plat a payment to the Town of Fenner a sum to be determined by the Town Board, which sum shall constitute a trust fund to be used by the Town exclusively for neighborhood park, playground or recreational purposes including the acquisition of property.

The Planning Board may require the reservation of such other areas or sites of a character, extent, and location suitable to the needs of the Town as water plants, sewage treatment plant, and other community purposes not anticipated in the General Plan.

ARTICLE 7 BOND FOR INSTALLATION OF IMPROVEMENTS

Section 710 General

In order that the Town has the assurance that the construction and installation of such improvements as drainage districts, sewage districts, public water districts, road signs, sidewalks, and road construction will be constructed, the subdivider shall enter into one of the following agreements with the Town:

1. Construct all improvements directly affecting the subdivision as required by these regulations and by the Planning Board, prior to final approval of the plat;
2. Furnish a performance bond or other security, approved by the Planning Board and Town Board as to form, sufficiency, manner of execution and surety, for the completion of such required improvements.

Section 720 Conditions

Before the final plat is approved, the subdivider shall have executed a subdivider contract with the Town, and a performance bond or certified check shall have been deposited covering the estimated cost of the required improvements that have been designated by the Planning Board.

The performance bond or certified check shall be to the Town and shall provide that the subdivider, his heirs, successors, and assigns, their agent or servants, will comply with all the applicable terms, conditions, provisions, and requirements of these regulations; will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with such laws and regulations.

Any such bond shall require the approval of the Planning Board, the Town Board and the Town Attorney as to form, sufficiency, manner of execution, and surety.

Wherever a certified check is made, the same shall be made payable to the Town of Fenner.

Section 730 Extension of Time

The construction or installation of any improvements or facilities, other than roads, for which guarantee has been made by the subdivider in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the final plat. Road improvements shall be completed within two years from the date of approval of the final plat. The subdivider may request an extension of time, provided the subdivider can show reasonable cause for inability to perform said improvements within the required time. The extension should not exceed six (6) months, at the end of which time the Town may use as much of the bond or check deposit to construct the improvements as necessary. More than one six month extension may be granted at the discretion of the Planning Board. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

Section 740 Agreement - Schedule of Improvements

When a certified check or performance bond is made pursuant to the preceding Sections, the Town and subdivider shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the subdivider upon completion and approval after inspection of such improvement or installation. However, ten percent (10%) of the check deposit or performance bond shall not be repaid to the subdivider until one (1) year following the completion, inspection, and acceptance by the Town of all construction and installation covered by the check deposit or performance bond as outlined in the subdivider's contract.

Section 750 Inspections

Periodic inspections during the installation of improvements shall be made by the Codes Enforcement Officer to insure conformity with the approved plans and specifications as contained in the subdivider's contract and these regulations. The subdivider shall notify the Codes Enforcement Officer when each phase of improvements is ready for inspection. At least five (5) days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk any inspection fee required by the Town Board. Upon acceptable completion of installation and improvement, the Planning Board shall issue a letter to the subdivider or his representative and such letter shall be sufficient evidence for the release by the Town of Fenner the portion of the performance bond or certified deposit as designated in the subdivider's contract to cover cost of such completed work. In the case of improvements in the form of road construction, such inspections shall be conducted by the Town Highway Superintendent rather than the Codes Enforcement Officer.

ARTICLE 8 CLUSTER AND ZERO LOT LINE PROVISIONS

Section 810 General

Pursuant to a resolution of the Town Board, the Town of Fenner Planning Board has been empowered to modify the minimum width and minimum setback requirements in accordance with the provisions of Section 281 of Town Law, in order to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities, and to preserve the natural and scenic qualities of open lands and shorelines.

Section 820 Standards

The following shall be standards and procedures:

1. The Town of Fenner Planning Board may make such modifications only with respect to the lands within special development areas.
2. The minimum acreage to which this section may be applicable to shall be 10 acres, except that where public services, sewer and/or water are available the Planning Board may determine the minimum size.
3. No subdivision shall be approved by the Planning Board pursuant to this section which shall not reasonably safeguard the appropriate use of adjoining land.
4. In the event that the utilization of this section results in a Plat showing lands available for park, recreation, or other municipal purposes, such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes, and may further, in the case of lands to be retained in open space, require that such lands be restricted by deed restriction, restrictive covenant, conveyancy of a scenic easement or other appropriate means against any development or land use inconsistent with their retention on open space.
5. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in other Town regulations or ordinances.

Section 830 Procedures

830.1. Request By Subdivider

A subdivider may request the use of this Section simultaneously with the submission of the Sketch Plan, as described in Article 3, Section 330. Any submission subsequent thereto, shall require a resubmission of the Sketch Plan.

830.2. Alternate Sketch Plan

A subdivider shall present for the Planning Board's consideration along with a proposal utilizing the provisions of this Section, an alternate Sketch Plan, with lots meeting the minimum lot area, minimum lot width, and requirements of any other town ordinance or local law.

830.3. Plat Submission

Upon determination by the Planning Board that the Sketch Plan utilizing the provisions of this Section is suitable, the procedures attendant to and subsequent to the Sketch Plan submission as set forth in this Article, shall be followed in regular order.

830.4. Local Filing, Notation on Zoning Map

Any Subdivision Plat finally approved which involves modifications as provided for in this Section shall be filed, in addition to the filing required in Article III, Section 370, hereof with the Town Clerk, who shall make appropriate notation and reference thereto on the official Town Map.

APPENDIX A ENVIRONMENTAL ASSESSMENT FORMS (EAF)

**SANITARY DISPOSAL REQUIREMENTS
TOWN OF FENNER
MADISON COUNTY, N.Y.**

In order to promote a healthy environment and to protect residents of the Town from unhealthy conditions due to improper sanitary facilities, the Town plans to adopt these sanitary disposal requirements.

CHAPTER 1. INTRODUCTION

Section 1.01 Adoption

At their meeting held on the 7th day of January 1975, the Town Board of the Town of Fenner adopted the following Sanitary Disposal Requirements for the purpose of protecting public health, safety, and well-being.

Section 1.03 Use of Authority

Before any private or public sewage disposal facility is installed or altered, it must receive approval by the Sanitary Inspector appointed by the Town. Any Sewage Disposal installation shall be designed and built according to the requirements of this regulation and current sanitary regulations of New York State.

Section 1.04 Validity

If any part of these regulations shall, for any reason, be held to be invalid, the validity of any other section or of the remaining portion shall not be affected or impaired.

Section 1.05 Effective Date

This regulation shall take effect immediately after adoption and the publication or posting as required by law.

CHAPTER 2. ADMINISTRATION

Section 2.01 Permit

It shall be unlawful for any person to construct, alter, or extend a sewage disposal system unless he has a valid Construction Permit.

Section 2.02 Application for a Permit

An application for a permit shall be filed in the office of the Town Clerk. The applicant shall furnish all information required to fill out the application.

Section 2.03 Fee

A fee of \$25.00 shall be paid to the Town Clerk at the time of filing of the application. The fee covers an application for a single installation; a fee of \$5.00 shall be charged for each additional installation.

Section 2.04 Connection to a Community System

Where a public or community sewage system is available or where such a system is available or where such a system is in close proximity (within 100 feet or less) the Town may refuse to grant a permit for individual sewage disposal and may require connection to the public or community system.

Section 2.05 Percolation Testing

A percolation test shall be performed at the site of each disposal area. More than one test will be required where the soil structure varies, where large disposal areas are proposed or where other natural or man-made conditions so require. Percolation tests shall be conducted under the supervision of the sanitary inspector: at least 24 hours notice is required to the inspector prior to the test.

Section 2.06 Design by Licensed Engineer

Design and supervision of construction by a licensed professional engineer shall be required where percolation rate is found to be greater than 30 minutes, where proposed installation is less than 6 feet above solid bedrock and where steep slopes, poor soil and drainage or other unsuitable conditions for private sewage disposal are in existence. Services of a licensed professional engineer shall also be required for installations not covered by requirements of this ordinance such as sand filters, seepage pits, surface or underground drains, etc. All sanitary installations which are subject to review by the New York State Department of Health require the design service of a licensed professional engineer.

Section 2.07 Inspection

Completed installation of the sanitary system shall be inspected and approved by the sanitary inspector or by a licensed professional engineer prior to covering or back filling of the installation. At least a 24 hour notice is required for the final inspection.

Section 2.08 Appeals

After the sanitary inspector declines to approve any proposed installation, the applicant may appeal to the Town Board whose approval or rejection shall be final and conclusive.

Section 2.09 Review and Approval by NYS-DOH

In addition to the approval of the Town, a review and approval by the New York State Department of Health (or the New York State Department of Environmental Conservation, if appropriate) shall be required for the following conditions:

- a. Subdivision of land into 5 or more residential parcels since January 1, 1970.
- b. A temporary residence as defined in Part 7.1 of the New York State Sanitary Code.
- c. Any commercial sewage disposal system or system with effluent in excess of 1,000 gallons per day.

Section 2.10 Existing Facilities

Facilities existing at the time this ordinance takes effect shall not be affected unless and until a formal complaint is filed by a resident of this Township with the Town Clerk. The Town Clerk shall communicate all such complaints to the Town Board at the earliest regular meetings following receipt thereof. The Town Board shall review all such complaints and shall determine whether they are reasonable in keeping with the purposes of this ordinance. Unreasonable complaints shall be returned to the complainants. When a complaint has been declared to be reasonable by the Town Board the land owner against whom the complaint was filed must proceed through the steps described in this ordinance for the alteration of any sewage disposal system.

Section 2.11 Maintenance and Protection

All existing and new sanitary facilities shall be maintained in good working order at all times. It is considered poor practice to install paving, to plant trees and shrubs, to re-grade or to fill, to cross by vehicle or to install driveways over sanitary disposal fields; there shall be no other activities or conditions which would interfere with proper operation of sewage disposal facilities.

Section 2.12 Conflict with other Provisions

In any case where a provision of this ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, health ordinance of the Town the provision which in the judgment of the sanitary inspector establishes the higher standard for the promotion of health and safety of the people shall prevail.

Section 2.13 Detriments to General Welfare

Proposals for sewage disposals which could have an adverse effect, or could contribute to an adverse effect on the public health, safety, and general welfare shall not receive favorable consideration even though meeting other requirements of this ordinance.

Section 2.14 Violation and Penalties

Any person who violates any provision of this ordinance shall be punished by a fine not to exceed the sum of \$50.00 or by imprisonment of not more than 30 days, or both. Each week shall constitute a separate violation.

CHAPTER 3. MINIMUM DESIGN REQUIREMENTS

Section 3.01 Subsurface Conditions

Minimum depth between bottom of the tile field and highest level of seasonal or permanent water table shall be 24 inches or more. Tile field installation should be in an area which provides good drainage of storm water.

Section 3.02

A soil percolation test (utilizing at least two percolation holes) shall be made within the area proposed for the sewage disposal system. Percolation tests should follow procedures outlined in the appendix.

Section 3.03 Percolation Requirements

A stabilized percolation rate greater than 60 minutes per one inch drop of water indicates that the land is not suitable for sub-surface disposal; percolation rate of less than 60 minutes but more than 30 minutes indicates areas where design can be based on requirements of this chapter.

Section 3.04 Minimum Design Capacity

Design of private sewage disposal shall be based on a minimum occupancy per dwelling unit equivalent to a three bedroom house. A smaller design capacity may be permitted (for a two bedroom house) provided such restriction is noted and made part of the record map which is filed in the County Land Records, or noted on the deed in the case of filing of single lots.

Section 3.05 Lot Areas

Where private water supply and private sewage disposal are used, a minimum lot area shall be no less than 40,000 square feet per dwelling unit with a minimum road frontage of 200 feet and not less than 150 feet wide at the Building Line as measured not less than 50 feet from the road right of way.

Section 3.06 Individual Sewage Disposal System

An individual sewage disposal system shall consist of a house sewer, approved septic tank, septic tile field, connecting piping, and distribution boxes as required.

Section 3.07 House Sewer

The house sewer shall consist of four or six inch diameter tight-jointed pipe made of cast iron, asbestos, cement or plastic, plus adequate vent. That portion of the sewer line within 100 feet of any well or suction line from a well, or within five feet of any drinking water supply line under pressure, should be of watertight construction.

The sewer should be laid on a firm foundation at a minimum grade of $\frac{1}{4}$ inch per foot with minimum bends. On lines longer than 30 feet, a vent at the inlet side of the septic tank is suggested to permit the escape of any accumulated gas. Normally, the main vent for the house plumbing will provide adequate ventilation for the disposal system.

Section 3.08 Septic Tank

Minimum storage capacity of a septic tank shall be as indicated in Table 1. Pre-fabricated metal tanks or precast concrete or fiberglass tanks shall be of a design approved by the New York State Department of Health.

At a regular meeting of the Town Board of the Town of Fenner, the foregoing local law was duly adopted and enacted. Motion made by Councilman Charles Record, seconded by Councilman Earl Hyatt.

Vote: Ayes - Councilman Charles Record
- Councilman Earl Hyatt
- Supervisor John Larkin
- Town Justice Merwin Hughes
- Town Justice William Gerbig
No's - None

Dated: February 7, 1968
Archie McEvers
Town Clerk