



TOWN OF ITHACA
ZONING ORDINANCE
(Effective April 1, 2004)

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ARTICLE I: TITLE

Section 100 - TITLE. This law shall be known as the “Town of Ithaca Zoning Ordinance” whether adopted as an ordinance or local law. Hereinafter, this law is sometimes referred to as “this Ordinance”.

ARTICLE II: PURPOSE

Section 200 - PURPOSE. This law is adopted pursuant to the laws of the State of New York in order to protect and promote the health, safety and welfare of the community. Among other purposes this law is intended to prevent the overcrowding of lands, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewage disposal, schools, parks, and other public requirements, to consider the value of property, and to establish zones in which regulations concerning the use of lands and structures, the density of development, the amount of open space that must be maintained, size of yards, the provision of parking and control of signs, and other provisions will be set forth to encourage the most appropriate development of the Town in accordance with the Comprehensive Land Use Plan of the Town of Ithaca as the same may be amended and updated by the Town.

ARTICLE III: INTERPRETATION AND DEFINITIONS.

Section 300 - INTERPRETATION OF MEANINGS. For the purposes of this Ordinance certain terms and words shall be interpreted as follows:

1. Unless otherwise specifically defined herein or otherwise indicated, all words used in this Ordinance shall carry their customary meanings.
2. Words used in the present tense include the future.
3. The plural usage includes the singular.
4. The word "shall" is mandatory.
5. The word "may" is permissive.
6. The word "lot" includes the word "plot" or "parcel".
7. The words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied".
8. The words "he", or "she" includes the opposite gender and in both instances includes the word "it".

Section 301 - CONTROLLING REGULATION. Where provisions of this Ordinance

impose greater restrictions than those of any statute, other ordinance, law, or regulation, the provisions of this Ordinance shall be controlling. When the provisions of any statute, other ordinance, law, or regulation impose greater restrictions than this Ordinance, the provisions of such other statute, ordinance, law, or regulation shall be controlling.

Section 302 - DEFINED TERMS. For the purpose of this Ordinance certain words and terms shall have the following meanings unless the context otherwise requires.

ADULT CARE FACILITY - An establishment for adults which provides for hire residential care and services to adults who, by reason of choice, physical or other limitations associated with age, physical or mental disabilities or other factors, are unable or substantially unable to live independently or choose not to live independently. Such establishment includes an adult care facility as defined in the New York Social Services Law which has received and continues to maintain a validly issued operating permit as an adult care facility from New York State Department of Social Services or a County Department of Social Services. Such definition also includes retirement homes and communities which provide residences for the elderly with some supportive services.

ADULT DAY CARE FACILITY - An establishment for adults which provides for hire day care services to adults who, by reason of physical or other limitations associated with age, physical or mental disabilities or other factors, are unable or substantially unable to live independently without supervision.

ADULT ENTERTAINMENT BUSINESS - A business involving one or more of the following:

- (a) Adult arcades where, for any form of consideration, one or more motion picture projectors, slide projectors, video cassette players, computers, or similar machines, for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, computer generated images, or other photographic reproductions, which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (b) Adult bookstores which have as a substantial (50% or more) portion of its stock in trade and offers for sale, for any consideration, any one or more of the following:
 - (i) Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representations, which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, or
 - (ii) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.
- (c) Adult cabarets meaning any nightclub, bar (including establishments which do not serve alcoholic beverages), restaurant, or similar establishment, which regularly features live performances characterized by exposure of specified anatomical areas

or by specified sexual activities or films, motion pictures, video cassettes, slides or other photographic reproductions characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

- (d) Adult motion picture theater where, for any form of consideration, films, motion pictures, video cassettes, slides or other photographic reproductions are regularly shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (e) Adult theater meaning a theater, concert hall, auditorium or similar establishment which, for any form of consideration, regularly features live performances in which a substantial portion of the total presentation time is devoted to the exposure of specified sexual activities or specified anatomical areas.
- (f) Massage parlor where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment or manipulation of the human body is administered, unless by a medical practitioner, chiropractor, acupuncturist, physical therapist, licensed massage therapist, or similar professional person licensed by the state. This definition shall not be deemed to include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.
- (g) Peep show where, for any form of consideration, persons may observe from individual enclosures shows which regularly feature live performances characterized by exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides, computer generated images, or other photographic reproductions characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ALTERATION - As applied to a building or structure

- (a) an enlargement by increasing in height or by extending on a side, front, or back;
- (b) moving from one location or position to another;
- (c) any change, addition, or removal of the structural parts; or
- (d) any change, addition, or removal of partitions, or any change in walls, ceiling, windows, or doors.

The term "**ALTER**" in its various modes and tenses and its participial form, refers to the making of an alteration.

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

adjoining the building.

BED AND BREAKFAST - A building originally built and used as a dwelling other than a hotel or motel in which accommodations for transients are regularly offered for compensation and which accommodations include provision of at least one meal, and in which building no more than four bedrooms are utilized for such accommodations.

BUILDING - A structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons, animals or property.

BUILDING, ACCESSORY - A detached building subordinate and clearly incidental to the principal building on the same lot and used for purposes customarily incidental to those of the principal building.

BUILDING, PRINCIPAL - A building within which is conducted the primary uses of the lot on which the building is located.

BUILDING AREA - The total 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.

BUILDING CODE - The New York State Uniform Fire Prevention and Building Code (9 NYCRR Part 600 et. seq.) as the same may be amended from time to time, and any successor regulations, laws or codes.

BUILDING LINE - The line formed by the intersection of the vertical plane that coincides with the most projected exterior point of a building on any side and the ground. Front, side, and rear building lines are respectively the building lines closes to the highway right-of-way, side property line and rear property line.

CATERER - A person or enterprise that prepares food for hire for consumption predominantly off-premises.

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

CHILD DAY CARE CENTER - A facility, home, or other establishment defined as a child day care center in Section 390 of the Social Services Law providing child care for seven or more children for hire licensed by the New York State Department of Social Services at which day care is provided for hire, and which is not a school, day care home, family day care home, or group family day care home. (See also Day Care Home, Family Day Care Home, Group Family Day Care Home.)

CLINIC - A building or any part of a building which is used for the group practice of medicine by several physicians in which certain facilities other than reception are shared by the occupants and in which patients are diagnosed or treated by physicians practicing as a group.

CLUBHOUSE or LODGE - A building or premises used exclusively by members of an organization and their guests which premises or buildings are devoted to recreational or athletic purposes, not primarily conducted for gain. It excludes commercial and merchandising activities for other than its own membership.

COMMUNITY RESIDENCE - A facility for adult residents operated by or subject to licensure by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities of the State of New York defined as a Community Residence in the Mental Hygiene Law.

DAY CARE HOME - A facility, home, or other establishment at which day care is provided for hire for more than three hours per day per child for no more than two children.

DOMESTIC ANIMALS - Domesticated horses, ponies, donkeys, sheep, cattle, llamas, goats, pigs, ducks, geese, chickens, swans, turkeys, rabbits, cats, dogs, or other domesticated animals found to be of a similar nature by the Board of Zoning Appeals, kept and maintained for personal use rather than for commercial uses, and not generally available for sale.

DRIVE-THROUGH or DRIVE-IN FACILITY - An establishment or facility that by design of physical facilities permits customers to receive a service or obtain a product (including food) while remaining in a motor vehicle on the premises.

DWELLING - A building designed or used primarily as the living quarters for one or more families.

DWELLING UNIT - A dwelling, or portion of a dwelling, providing complete living facilities for one family.

ELDER COTTAGE - A separate, detached, temporary one-family dwelling, accessory to a one or two family dwelling on a lot erected and occupied in accordance with the provisions of Section 2601 of this Ordinance.

EQUESTRIAN FACILITY - A facility available to the public providing one or more of the following services for compensation:

- (a) Horseriding lessons.
- (b) Horse training.
- (c) Leasing of horses.
- (d) Boarding of horses.
- (e) Sale of horses other than an occasional sale of a horse owned and used solely for personal purposes by the owner of non-commercial facility.

For the purpose of this definition, a pony or donkey shall be included in the term "horse".

FAMILY - (a) An individual, or

- (b) Two or more persons occupying a single dwelling unit, related by blood, marriage, or legal adoption, living and cooking together as a single housekeeping unit, or
- (c) Two unrelated persons, occupying a single dwelling unit, living and cooking together as a single housekeeping unit.
- (d) Notwithstanding the provisions of paragraph (c) of this definition, a group of unrelated persons numbering more than two (2) shall be considered a family upon a determination by the Zoning Board of Appeals that the group is a functional equivalent of a family pursuant to the standards enumerated in paragraph (f) herein.
- (e) Before making a determination whether a group of more than two unrelated persons constitutes a family for the purpose of occupying a dwelling unit, as provided for in paragraph (d) of this definition, the Zoning Board of Appeals shall hold a public hearing, after public notice, as is normally required for the obtaining of a variance. The fee for such an application shall be the same as is required for an application for a variance. Said application shall be on a form provided by the Zoning Board of Appeals or Zoning Enforcement Officer.
- (f) In making a determination under paragraph (d) the Board of Appeals shall find:
 - (i) The group is one which in theory, size, appearance and structure resembles a traditional family unit.
 - (ii) The group is one which will live and cook together as a single housekeeping unit.
 - (iii) The group is of a permanent nature and is neither merely a framework for transient or seasonal (including as "seasonal" a period of an academic year or less) living, nor merely an association or relationship which is transient or seasonal in nature. In making this finding, the Zoning Board of Appeals may consider, among other factors, the following:
 - (A) Whether expenses for preparing of food, rent or ownership costs, utilities, and other household expenses are shared and whether the preparation, storage and consumption of food is shared.
 - (B) Whether or not different members of the household have the same address for the purposes of
 - (1) Voter registration.

- (2) Drivers license.
- (3) Motor vehicle registration.
- (4) Summer or other residences.
- (5) Filing of taxes.
- (C) Whether or not furniture and appliances are owned in common by all members of the household.
- (D) Whether or not any children are enrolled in local schools.
- (E) Whether or not householders are employed in the local area.
- (F) Whether or not the group has been living together as a unit for an extended period of time, whether in the current dwelling unit or other dwelling units.
- (G) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a traditional family.
- (iv) In making determinations under this section, the Zoning Board of Appeals shall not be required to consider the matters set forth in Section 2405 of this Ordinance.
- (g) Notwithstanding the provisions elsewhere provided herein, if the following limitations result in a lesser permitted number of occupants than would be permitted under the definition of family set forth above and the regulations of each zone set forth later in this Ordinance, the number of occupants, related or otherwise, shall not exceed the maximum numbers determined on the basis of habitable space of each dwelling unit as follows:
 - (i) A minimum of 150 square feet of habitable space for the first occupant; and
 - (ii) 80 square feet of habitable space for each additional person in each dwelling unit.

In no case shall the enclosed floor area be less than required by Section 2701 of this Ordinance.

Areas utilized for kitchenettes, bath, toilet, storage, utility space, closets, and other service or maintenance space shall be excluded in determining "habitable space".

FAMILY DAY CARE HOME - A facility, home, or other establishment, defined as a family day care home in Section 390 of the Social Services Law, at which day care is provided for hire for generally three to six children and which is registered with the Tompkins County Department of

Social Services and is operated in accordance with the State and County regulations governing operations of a family day care center.

FAMILY TYPE HOME FOR ADULTS - An adult care facility providing services to four or fewer adult persons unrelated to the operator, all as defined as a family type home for adults in the New York Social Services Law Section 2.

FARM - Any parcel of land containing at least 3 acres which is used in the raising of agricultural products, such as crops, livestock, poultry, and dairy goods. It includes structures necessary to the production and storage of agricultural products and equipment and on-farm buildings used for preparation or marketing of products produced, or derived from products produced, on the farm property on which the building is located subject to the limitations regarding road side stands set forth in this Ordinance.

FARM RETREAT - A farm which includes facilities for room and/or board for up three people unrelated to the owner or operator of the farm, which people temporarily occupy farm premises and participate in the farming activities for the purposes of learning about farm life.

FLASHING SIGN - Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times.

GARAGE - A covered building used primarily for storage of automobiles and other similar motor vehicles.

GROUP FAMILY DAY CARE HOME - A facility, home, or other establishment defined as a group family day care home in Section 390 of the Social Services Law, licensed by the New York State Department of Social Services or by the Tompkins County Department of Social Services, at which day care is provided for hire for generally seven to fourteen children and is operated in accordance with the State and County regulations governing operations of a group family day care home.

HEIGHT - As it relates to a structure other than a building, the distance measured from the lowest level or portion of the structure (slab or base) in contact with the ground surface to the highest point at the top of the structure.

HEIGHT FROM LOWEST INTERIOR GRADE - As it relates to a building, the vertical distance measured from the surface of the lowest level (floor of a crawl space, basement floor, slab, or other floor, even if below exterior grade level) in contact with the ground surface to the highest point of the roof, excluding chimneys, antennae, and other similar protuberances. When the measurement of height from the lowest interior grade is made from the floor of a cellar the maximum permissible height from lowest interior grade shall be increased by four feet. This permitted increase shall not apply when the measurement is from any other floor, including a basement floor, slab or other floor.

HEIGHT FROM LOWEST EXTERIOR GRADE - As it relates to a building, the vertical

distance from the lowest point of the exterior finished grade adjacent to the wall of the building to the highest point of the roof, excluding chimneys, antennae and other similar protuberances.

HOME OCCUPATION - A business customarily conducted wholly within a dwelling, or building accessory thereto, by an owner and resident of the dwelling, which is clearly incidental and secondary to the use of the property for residential purposes and which meets the following additional conditions:

- (a) An area of no more than 25% of the floor space of the dwelling (whether in the dwelling or in an accessory building) or 500 square feet (whichever is less) is used for such business;
- (b) No more than two persons (full or part-time) outside the resident household, and no more than four persons (full or part-time) including the resident household, are employed in conducting the business;
- (c) The owner and chief operating officer of the business is an owner and full-time resident of the property on which the business is conducted;
- (d) No goods are offered for sale excepting those created, assembled, or reconditioned completely on the property;
- (e) There is no exterior display or sign except as permitted by this Ordinance or the Town of Ithaca Sign Law, no exterior storage of materials, equipment (including commercial vehicles), or other items of commerce, and no other exterior indication of the home occupation or variation from the residential character of the lot, district or surrounding neighborhood;
- (f) No offensive noise, vibration, smoke, dust, odor, heat, glare or electronic disturbance is produced beyond the boundary line of the property occupied by the business;
- (g) The business does not generate traffic in any greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the use is met off the street and in accordance with any other regulation of this ordinance; and
- (h) The business or use is not detrimental to the residential character of the lot on which the business is located nor of the surrounding neighborhood.
- (i) The lot on which the business is operated is large enough to allow such business to be conducted with minimal impact on the neighbors.

Home occupations typically include, but are not limited to, architects, attorneys, carpenters, caterers, dentists, doctors, dressmakers, electricians, engineers, hairdressers, insurance brokers, plumbers, realtors, and teachers.

HOSPICE - A building other than a hospital or nursing home where more than two terminally ill persons are regularly lodged and furnished with meals and nursing care and which has been granted a certificate of approval to operate as a Hospice pursuant to the Public Health Law or any successor regulating state law.

HOSPITAL - An establishment for temporary occupation by the sick or injured for the purpose of medical treatment licensed by the State of New York for such purposes.

HOTEL or **MOTEL** - A building containing rooms designed and originally planned to be rented or hired out for living or sleeping accommodations for transient occupancy.

HOUSEHOLD PETS - Domesticated dogs, cats, birds, fish, amphibians, reptiles, mice, ferrets, rabbits, hamsters, gerbils, and other domesticated small animals ordinarily kept as pets which eat and sleep within a dwelling unit occupied by a family.

LOT - Any area of land bounded by property lines which is not divided into parts by a public road, railroad, or public utility right-of-way. Each part of an area so divided is considered an individual lot for zoning purposes but is not exempt from applicable Subdivision Regulations.

LOT AREA - The area of a lot, excluding any portion of a public highway right of way that may be included within deed description of the lot.

LOT DEPTH - The distance between a point on a public highway right-of-way line and the rear of the lot measured perpendicularly from the street line. A lot need meet the minimum depth requirements set forth in this Ordinance at only one point and not uniformly throughout the lot's entire width.

LOT LINE - A property boundary of a lot, except where the property boundary is the centerline or other portion of a public highway, in which event the property line is the highway right-of-way line.

MARINA - A facility providing docking or mooring for boats together with ancillary uses such as sale of fuels, boats and boating a parts and accessories.

MINING - The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, sorting, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location; or any one of the above activities. Mining shall not include the excavation, removal and disposition of minerals from the site of, and incidental to, a construction project, or excavations incidental to bona fide agricultural activities provided, however, such excavations, removal or disposition are subject to obtaining fill permits if required as set forth in this Ordinance. For the purpose of this definition:

- (a) “Minerals” mean any naturally formed, usually inorganic, solid material located on or below the surface of the earth. “Minerals” include, but are not limited to, peat, topsoil, gravel, and stone.
- (b) “Overburden” means all of the earth, vegetation and other materials which lie above or alongside a mineral deposit.
- (c) “Spoil” and “Tailings” have the meanings given to them by Article 23 of the N.Y.S. Environmental Conservation Law or any similar or successor statute.

MIXED USE - A commercial facility with accessory residential facilities, the floor area (inclusive of all floors on all stories dedicated to the residential use) of which residential facilities is less than the floor area (inclusive of all floors on all stories dedicated to commercial use) of the commercial use, and which residential facilities are located elsewhere in the building than on the street frontage of the ground floor.

MOBILE HOME - A transportable dwelling unit suitable for year-round occupancy. A mobile home is designed and built to be towed on its own chassis, comprised of frame and wheels, and connected to either public or private utilities. The unit may contain parts which may be folded, collapsed, or telescoped when being towed and expanded later to provide additional cubic capacity. A mobile home may also be designed as two or more separately towable components designed to be joined into one integral unit capable of again being separated into the components for repeated towing. This definition excludes travel or camping trailers towed by a motor vehicle and neither wider than 8 feet nor longer than 32 feet. Self-propelled motor homes, or modular housing which is not built with an integral chassis and which must be transported on a separate vehicle from factory to housing site are also excluded from this definition. A mobile home shall be considered a one-family dwelling only for purposes of determining the number of occupants permitted.

MOBILE HOME LOT - A parcel of land used for the placement of a single mobile home and the exclusive use of its occupants. A mobile home lot shall be located in a mobile home park as defined by this ordinance.

MOBILE HOME PARK - A parcel of land owned by an individual, partnership, or corporation which has been planned and improved for the placement of mobile homes.

MOBILE HOME STAND - That part of an individual mobile home lot which has been reserved and improved for the placement of the mobile home, appurtenant structures and additions.

MULTIPLE-FAMILY DWELLING - A building or group of buildings on one lot containing three or more dwelling units.

NATURAL AREA - An area of land designated as a Critical Environmental Area, Unique Natural Area, or other similar environmental designation in accordance with regulations promulgated by the New York State Department of Environmental Conservation or any similar successor state agency, or by any other federal, state, or local governmental unit, and any area specifically designated as a

Significant Natural Area by the Town Board of the Town of Ithaca after notice to the owner or owners of the area and a public hearing on such designation.

NON-CONFORMING USE - A use of land existing at the time of enactment of this ordinance and its amendments which does not conform to the zoning regulations of the district in which it is situated.

NURSERY - A lot or structure where trees, shrubs, flowering and other plants are cultivated, grown or stored and sold.

NURSING or **CONVALESCENT HOME** - A building other than a hospital where sick or infirmed persons are lodged, furnished with meals and nursing care for hire and licensed by the State of New York.

ONE-FAMILY DWELLING - A detached building containing a single dwelling unit.

PARKING SPACE - An area for the temporary parking of a motor vehicle 180 square feet in size exclusive of the parking lot circulation areas.

PUBLIC PARKING GARAGE - A garage or other structure used for the parking of automobiles for the public for a fee on an itinerant basis.

SEQR - Article 8 of the New York State Environmental Conservation Law, or any similar successor statute, together with any state regulations (presently 6 NYCRR Part 617) and local regulations promulgated thereunder.

SHORELINE - The mean high water elevation of Cayuga Lake along the shore.

SPECIFIED ANATOMICAL AREAS - The following areas of the human body:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernible turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - The following activities:

- (a) Human genitals in a state of sexual stimulation or arousal; or
- (b) Acts of human masturbation, sexual intercourse or sodomy; or
- (c) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

STREET LINE or **HIGHWAY RIGHT OF WAY LINE** - The limit of the right of way of a street,

road or highway. Where the word street appears this also means highway or road.

STORAGE - The outdoor accumulation or laying-up of manufactured products or raw materials, or the keeping of one or more pieces of movable equipment other than pleasure automobiles.

STRUCTURE - Anything that is constructed or erected on the ground or upon another structure or building. "Structure" also includes anything that is constructed or erected underground and projects up to the ground surface or above, or anything that is constructed or erected wholly underground other than utility lines, septic and water systems, or other similar types of underground construction wholly ancillary to a principal building or structure on the premises. "Structure" also includes constructed parking spaces. The term "structure" includes a building. There is excluded from the term structure, however, underground graves, vaults or other underground facilities for the interment of bodies.

TELECOMMUNICATIONS FACILITY - Any equipment, other than

- (a) equipment used by amateur radio licensees regulated by the Federal Communications Commission; or
- (b) equipment that is used by a governmental unit or agency that is statutorily expressly exempt from regulation by the Town of Ithaca; or
- (c) mobile equipment that is contained in a car or other motor vehicle or is completely portable and not affixed in any manner to realty (the exception for mobile equipment does not extend to any antenna(s) attached, directly or indirectly such as on a tower or other structure, to realty or to other facilities used in connection with such mobile equipment);

used in connection with the provision of two-way communication services of which at least one of the directions of communications is wireless, including cellular telephone services, personal communications services, private radio communications services, fire and emergency communications, and any other private or public radio communications transmissions regulated by the Federal Communications Commission in accordance with the Telecommunications Act of 1996 and other federal laws. Such uses shall include private commercial uses as well as public uses. A telecommunications facility shall include monopole, guyed, or latticework tower(s), as well as antenna(s), switching stations, principal and accessory telecommunications equipment and supporting masts, wires, structures, and buildings.

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

VEHICLE REPAIR GARAGE - A facility at which the principal activity is the servicing or repairing of motor vehicles for hire. Such facilities include but are not limited to mechanic's shops, speedy-type oil and lubrication facilities, and muffler and brake repair facilities.

YARD - An open space on the same lot with a building, unoccupied and unobstructed from the

ground upward except as otherwise permitted herein.

YARD, FRONT - The yard between the street right of way line and the front line of the principal building, exclusive of eaves which overhang by no more than four feet, extended to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the highway right of way line. Covered porches, or uncovered porches more than three feet off of the ground, shall be considered as part of the building and shall not project into a required front yard.

YARD, REAR - The yard between the rear lot line and the rear line of the principal building, exclusive of overhanging eaves, extended to the side lines of the lot.

YARD, SIDE - The yard between the principal building, exclusive of overhanging eaves, and a side lot line and extending through from the front yard to the rear yard.

ARTICLE IV: ESTABLISHMENT OF ZONES

Section 400 - ZONES. For the purpose of this ordinance the Town of Ithaca is hereby divided into the following types of zones (also sometimes hereinafter referred to as "Districts"):

- Conservation Zones
- Agricultural Zones
- Lakefront Residential Zones
- Low Density Residential Zones
- Medium Density Residential Zones
- High Density Residential Zones
- Mobile Home Park Zones
- Multiple Residence Zones
- Neighborhood Commercial Zones
- Office Park Commercial Zones
- Community Commercial Zones
- Vehicle Fueling and Repair Commercial Zones
- Lakefront Commercial Zones
- Light Industrial Zones
- Industrial Zones
- Planned Development Zones
- Areas of Special Flood Hazard
- Special Land Use Districts (Limited Mixed Use)
 - In accordance with and pursuant to Local Law #2-1984
- Special Land Use District #1
 - In accordance with and pursuant to Local Law #3-1984 [Wiggins]
- Special Land Use District #2
 - In accordance with and pursuant to Local Law #4-1984 [Sapsucker Woods]
- Special Land Use District #3 (Limited Mixed Use)
 - In accordance with and pursuant to Local Law #4-1986 [Biggs Complex]
- Special Land Use District #4 (Limited Mixed Use)

- In accordance with and pursuant to Local Law #1-1987 as amended by Local Law #2-2002 [Statler West]
Special Land Use District #5 (Limited Mixed Use)
- In accordance with and pursuant to Local Law #2-1988 [Chamber of Comm.]
Special Land Use District #7 (Limited Mixed Use)
- In accordance with and pursuant to Local Law #1-1994 [Ithacare]
Special Land Use District #8 (Limited Mixed Use)
- In accordance with and pursuant to Local Law #1-1995 as amended by Local Law #4-2001 [Ecovillage]
Special Land Use District #9 (Limited Mixed Use)
- In accordance with and pursuant to Local Law #2-1996 [Cornell Precinct 7]
Special Land Use District #10 (Limited Mixed Use)
- In accordance with and pursuant to Local Law #6-1998 [Sterling House/Sterling Cottage]
Special Land Use District #11 (Limited Mixed Use)
- In accordance with and pursuant to Local Law #7-1998 [Cornell Chilled Water Plant]

Said districts are set forth on the map accompanying this ordinance, Town of Ithaca Zoning Map (the "Zoning Map"), dated August 25, 2003, and signed by the Town Clerk. Said map and all explanatory matter thereon and amendments thereto are hereby made a part of this ordinance.

Section 401 - CONTINUATION OF SPECIAL LAND USE DISTRICTS. The provisions of any prior zoning ordinance or local law creating, implementing, amending, or in any other manner dealing with any special land use district as in effect on the effective date of the adoption of this provision shall continue in full force and effect unless expressly modified by the terms of this Ordinance or any other local law or ordinance adopted subsequent to the adoption of this provision. Henceforth, such special land use districts shall be considered planned development zones for the purposes of this Ordinance. Without limiting the foregoing, the adoption of this revised Ordinance shall not alter the permitted uses nor the conditions or limitations relating to properties within an existing special land use district.

Section 402 - ZONE BOUNDARIES. Where uncertainty exists with respect to the exact boundaries of the various districts as shown on the Zoning Map, the following rules shall apply.

1. Where zone boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be said boundaries.
2. Where zone boundaries are so indicated that they approximately follow the lot lines as shown on plots of record at the time this Ordinance becomes effective, or lot lines on plots of record at the time of any amendment rezoning an area, then such lot lines shall be construed to be said boundaries.
3. Where zone boundaries are so indicated that they are approximately parallel to the center lines of street lines or streets, or the center lines or right-of-way lines of highways, such zone boundaries shall be construed as being parallel thereto and at

such distance therefrom as indicated on the Zoning Map. If no such distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.

4. Where the boundary of a zone follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.
5. Where the boundary of a zone follows a stream, lake or other body of water, unless otherwise indicated said boundary line shall be deemed to be at the center line of said stream, lake, or other body of water, unless said center line is outside the jurisdiction of the Town of Ithaca, in which event said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Ithaca.
6. Distances shown on the Zoning Map are perpendicular or radial distances from street lines measured back to the zone boundary line, which lines, in all cases where distances are given, are parallel to the street line.
7. In all other cases the boundary line shall be determined by use of the scale on the Zoning Map.
8. Any lands existing in the Town of Ithaca which are unzoned at the time of the adoption of this amendment, and any lands hereafter added to the Town of Ithaca by annexation or otherwise, are hereby zoned Low Density Residential Zone. Any such after-acquired lands shall be automatically zoned Low Density Residential Zone upon such acquisition, except that such lands may be thereafter rezoned to any other zone as determined by the Town Board.

Section 403 - PROHIBITION OF USES. All uses not specifically set forth as permitted uses in a zone are expressly prohibited as uses in that zone. A use specifically permitted in one zone is not permitted in any other zone, less restrictive or otherwise, unless specifically enumerated as a permitted use in such other zone.

ARTICLE V: CONSERVATION ZONES

Section 500 - PURPOSE. It is the purpose of the Conservation Zone to preserve the outstanding natural features in certain areas of the Town, as described in the Town of Ithaca Comprehensive Plan (September 21, 1993), and to provide a regulatory framework through which development can occur with minimal environmental impact in these areas. Among the natural values and ecological importance of these areas are their diversity as a plant and wildlife habitat, their existence as biological corridors, their scenic views and rural character, and their importance as an educational and recreational resource. In addition, certain lands in the Conservation Zones contain large areas of steep slopes, wetlands, highly erodible soils and, in one instance, the City of Ithaca water supply, which must be taken into consideration in planning for future development.

It is a further purpose of the Conservation Zone to preserve existing areas of contiguous open space,

prevent unnecessary destruction of woodland areas, preserve existing and potential agricultural land and promote appropriate development densities and flexibility of design and development of land. Developers should be encouraged to use mechanisms to accomplish these objectives. Such mechanisms could include enlarged buffer areas, conservation easements, deed restrictions, and public or semi-public land dedications.

Certain of the areas included in Conservation Zones, in recognition of their natural and ecological significance, have been designated by the Tompkins County Environmental Management Council as Unique Natural Areas. It is a further purpose of this Conservation Zone to preserve the natural resources and scenic beauty of the areas to promote tourism as an important economic benefit to the Town of Ithaca.

Section 501 - PERMITTED PRINCIPAL USES. In a Conservation Zone, no building shall be erected or extended and no land or building or part thereof shall be used for other than any of the following purposes:

1. A one-family dwelling, except a mobile home, to be occupied by no more than
 - (a) One family, or
 - (b) One family plus no more than one boarder, roomer, lodger or other occupant.
2. A two-family dwelling provided that
 - (a) Each dwelling unit is occupied by no more than one family; and
 - (b) The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely within the basement area, it may exceed 50%.
3. Garden, nursery or farm.
4. Roadside stand or other structure, not exceeding 500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. Any such stand shall be located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right of way.
5. Forest management and other forest resource uses, including the harvesting of timber in conformance with environmentally sound forestry practices, provided that logging of more than one acre of contiguous land shall require the submission of a forest management plan to and approval by the Planning Board. Such a plan shall include, but not be limited to, a description of the area to be logged, what percentage of trees will be cut, the method of cutting and removing trees, and how the land will be restored (e.g., through reforestation, agriculture or otherwise).

6. Public water supply.

Section 502 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Conservation Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Church or other places of worship.
2. Public library, public museum, public, parochial and private schools, daycare center, nursery school, and any institution of higher learning including dormitory accommodations.
3. Publicly owned park or playground, including accessory buildings and improvements.
4. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
5. Roadside stand or other structure, exceeding 500 square feet but not more than 2500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. The majority of the products sold at such stand shall be, or be derived from, products produced on the farm on which the roadside stand is located. Any such stand shall be located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right of way.
6. Bed and Breakfast.

Section 503 - ADDITIONAL REQUIREMENTS FOR SPECIAL PERMIT. The application for a special permit for any of the uses set forth in the immediately preceding section shall be made to the Planning Board. Any required site plan shall conform to the requirements of, and be subject to the procedures contained in Article XXIII. No building permit shall be issued unless the proposed structure is in accordance with the final site plan approved by the Planning Board. In determining whether to grant a special permit, the Planning Board shall consider the matters set forth elsewhere in this ordinance and in addition shall grant a special permit for any of the above uses only if it can be demonstrated that:

1. The proposal is consistent with the goals and objectives of the Conservation Zone, as enumerated in the purpose section relating to this Zone;
2. The proposal provides adequate measures to control stormwater runoff and minimize erosion and sedimentation;
3. The project includes adequate measures to protect surface and groundwaters from

direct or indirect pollution; and

4. Off-street parking facilities are adequately buffered to minimize visual and noise impacts on surrounding areas, and are designed to minimize the increase in impervious surfaces on the site.

Section 504 - PERMITTED ACCESSORY BUILDINGS OR USES. The following accessory buildings or uses are permitted as of right in a Conservation Zone:

1. Accessory buildings customarily incidental to the above permitted uses.
2. Home occupations to the extent permitted and subject to the same requirements set forth in the provisions related to home occupations in the sections governing Low Density Residential Zones.
3. Wildlife rehabilitation operation as defined and regulated under 6 NYCRR Part 184, provided that no noise, dust, disorder, or objectionable odor is experienced (as a result of that use) beyond the boundary lines of the property where such use is conducted, and that no more than 3 additional persons not residing on the premises may be employed.
4. Day care homes, family day care homes, and group family day care homes.
5. Adult day care facilities serving no more than four clients at any one time.
6. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.

Section 505 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in a Conservation Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Elder Cottages.
2. A second dwelling unit in a building other than the principal building, provided that
 - (c) All of the general criteria set forth elsewhere in this Ordinance for the issuance of a Special Approval have been satisfied;
 - (d) The location of the second dwelling, and the building in which it is located, does not adversely impact in any significant manner the adjoining neighbors;
 - (e) The building containing such second dwelling is located at least 50 feet from any side boundary of the lot, and is not constructed in any required front

yard.

- (f) There is adequate off-street parking for the proposed number of occupants, including occupants of both the principal building and the dwelling unit for which special approval is sought;
- (g) The floor area of the second dwelling (inclusive of floor area on all floors dedicated to such dwelling) does not exceed 50% of the floor area of the primary dwelling on the lot;
- (h) The second dwelling is located in a building that is accessory to the principal dwelling;
- (i) The building containing the primary dwelling does not contain more than one dwelling; and
- (j) There are no elder cottages or other buildings on the lot containing dwellings other than the building containing the primary dwelling and the building for which special approval is sought.

Section 506 - HEIGHT LIMITATIONS. Except as may be specifically otherwise authorized in this law, in Conservation Zones no non-agricultural building shall exceed thirty-eight (38) feet in height from lowest interior grade nor thirty-six (36) feet in height from lowest exterior grade, and no non-agricultural structure other than a building shall exceed thirty (30) feet in height. Non-agricultural accessory buildings shall in no case exceed 15 feet in height.

Section 507 - YARD REGULATIONS. Except as may be specifically otherwise authorized in this law, in Conservation Zones yards of at least the following dimensions are required:

1. Front Yard - Not less than the average depth of the front yards of building immediately adjacent. However, except for roadside stands authorized by Section 501, the front yard shall not be less than 50 feet nor need it be greater than 75 feet in depth.
2. Rear Yard - not less than 200 feet in depth.
3. Side Yards - Each not less than 50 feet.
4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard provisions.
5. Buffer areas - The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas.
6. Accessory Buildings - In Conservation Zones accessory buildings other than garages

may not occupy any open space other than a rear yard. The total lot area covered by non-agricultural accessory buildings may not occupy more than 1,000 square feet of any required rear yard and shall be not less than 50 feet from any side or rear lot line.

Section 508 - LOT COVERAGE. The maximum building area shall not exceed ten percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage. For the purposes of this Zone, roads, driveways, parking areas, and other paved areas shall be considered buildings in computing the percentage of lot coverage.

Section 509 - SIZE AND AREA OF LOT. Lots in Conservation Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least seven acres; and
2. Minimum lot width at the street line shall be 300 feet; and
3. Minimum width at the maximum required front yard setback line (75 feet from the street line) shall be 300 feet; and
4. Minimum depth from the street line shall be 450 feet.

Section 510 - CLUSTERING. The Planning Board is hereby authorized to require clustering of residential units as outlined in the Town's Subdivision Regulations, where clustering will further the purposes of the Conservation Zone, subject to the requirement with respect to the Conservation Zone along Six Mile Creek, that where feasible, on the southwestern side of Six Mile Creek (i.e., on the Coddington Road side of the Conservation Zone), dwelling units shall be clustered between the former railroad grade and Coddington Road, in order to preserve the natural characteristics and scenic views of the lands adjacent to Six Mile Creek and the City Watershed properties. In such cases, the same number of dwelling units that could have been built on that portion of the parcel between the former railroad grade and Six Mile Creek under the above density requirements when feasible shall be transferred to the portion of the parcel between the former railroad grade and Coddington Road. This provision shall not apply to parcels which are situated entirely between the former railroad grade and Six Mile Creek.

Section 511 - PARKING. Parking requirements shall be as set forth in Section 2707.

Section 512 - ADDITIONAL REQUIREMENTS AND RESTRICTIONS.

1. The following activities are specifically prohibited in Conservation Zones:
 - (a) The importation for dumping or disposal of snow or ice collected from roadways or parking lots into or within two hundred (200) feet linear distance of any wetland or watercourse carrying water six (6) months out of the year.
 - (b) The location of buildings or structures on slopes of 25 percent or greater, with a minimum horizontal slope length of 25 feet.

2. No buildings, structures, paved areas, or storage of construction equipment or machinery shall be located within 50 feet of the centerline of any watercourse carrying water six (6) months out of the year, or within 200 feet of the 100-Year Flood Boundary of any body of water or water course identified as "Zone A" on any Flood Insurance Rate Map for the Town of Ithaca, N.Y., prepared by the Federal Emergency Management Agency, (or any other generally recognized map of 100 year flood zones) within any Conservation Zones.

In the case of residential subdivisions, whether conventional or cluster, the no disturbance zone as defined above shall be increased by up to 50% if the Planning Board determines that such an increase is necessary to protect water quality or to minimize the impacts of erosion and sedimentation.

Unless otherwise authorized by the Planning Board, no disturbance as listed above shall be located within one hundred (100) feet linear distance of any wetland. During the subdivision or site plan approval process, where there is evidence of a wetland, the Planning Board may require a wetland delineation study to determine the potential impacts of development or disturbance on said wetland. For the purposes of this section, wetlands shall mean all wetlands, as defined in either state or federal legislation (whichever is more restrictive) governing regulation of wetlands, of an area of more than 1/10th of an acre.

3. With respect to the Conservation Zone along Six Mile Creek, no buildings, structures, or storage of construction equipment or machinery shall be located within 100 feet of the centerline of the South Hill Recreation Way.
4. The storage and land application of manure for agricultural purposes shall follow reasonable agricultural practices. Minimum conditions for storage of solid manure are a pad of concrete and a leachate collecting system or other system reasonably equivalent in its protection of the surrounding environment. The manure storage system should be designed to prevent animal waste from entering any stream or water body.
5. The following apply to vegetation and landscaping:
 - (a) Existing native vegetation shall be maintained to the extent practicable.
 - (b) When landscaping is required by the Planning Board to enhance buffer areas, to replace existing vegetation, or otherwise, native plant materials should be used to the extent practicable.
6. Scenic views, in particular those with viewing points from adjacent roads (and, in the case of the Conservation Zone along Six Mile Creek, from Six Mile Creek and the Gorge) should be preserved using practices such as the following:
 - (a) Avoid the siting of buildings or structures on ridgelines or hilltops.

Buildings should be sited below the crest or ridgeline of hills to preserve a natural topographic and vegetative profile.

- (b) Retain existing vegetation to the extent practicable.
 - (c) Retain existing stone walls, fences and other features in open meadows.
 - (d) Regrading should blend in with the natural contours and undulations of the land.
 - (e) Buildings proposed to be located within significant viewing areas should be screened and landscaped to minimize their intrusion on the character of the area. Building materials and color schemes should harmonize with their setting and be compatible with neighboring land uses.
 - (f) Where possible, buildings and structures should be located on the edges of open fields and in wooded areas to minimize visual impacts.
 - (g) Visibility of proposed buildings or structures from public trails within Conservation Zones should be considered so as to minimize visual intrusion on views from the public trails.
7. Wildlife habitats and biological corridors should be preserved. Open space linkages should be encouraged to accomplish the above. Open space and conservation easement areas shall be designed with massing and linking as guiding principles. Open space and conservation areas both on and off site should be as contiguous as reasonably possible.
8. Roads and driveways should follow existing contours to the extent practicable to minimize the impact of cuts and fills. The number of driveways accessing public streets shall be kept to a minimum. The appropriate use of common driveways is encouraged.
9. The following shall apply to drainage:
- (a) The Planning Board may require the preparation and submittal of a stormwater management plan, to be approved by the Town Engineer, for proposed special approval uses and for proposed subdivisions.
 - (b) Existing natural drainageways should be retained where possible.
 - (c) In cases where a retention basin will be required, a landscaping plan shall be prepared and submitted for the Planning Board's approval. Basin landscaping materials that enhance wildlife habitat shall be used to the extent practicable.

10. The following shall apply to lighting:
 - (a) Street lighting shall be provided only where site-specific safety conditions warrant.
 - (b) Where street lighting is required, its location, type, and intensity shall be subject to the Planning Board's review and recommendation to the Town Board for approval.
11. Whenever a subdivision of land is proposed in a Conservation Zone, the Planning Board may require that the non-buildable areas listed above, including wetlands, slopes 25 percent or greater, and streams/watercourses and setbacks, be shown on the preliminary and final subdivision plats.

Section 513 - PARK AND RECREATION SET-ASIDES AND FEES IN LIEU THEREOF. Because of the reduced density in the Conservation Zones, the requirements for maintaining open space, existing public trails, and the existing and expected additional opportunities for passive recreational activities in the areas included in the Conservation Zones, it is anticipated that in Conservation Zones normally there will be no need for mandated parkland reservations or fees in lieu thereof pursuant to applicable Town Law and Town of Ithaca Subdivision and Zoning Ordinance Regulations including Section 22 of the Town's Subdivision Regulations and any successor or related provisions.

Section 514 - SITE PLAN APPROVAL. No building permit shall be issued for a building or structure within a Conservation Zone requiring a special permit unless the proposed building or structure is in accordance with a site plan approved pursuant to the provisions of Article XXIII.

ARTICLE VI: AGRICULTURAL ZONES

Section 600 - PURPOSE. The purpose of the Agricultural Zone is to assure a proper economic and physical environment for continued agricultural use of land and other non-extractive natural resource land uses; to maintain an open rural character to viable agricultural areas; to assure compatible types and densities of development on lands that are useable for agricultural pursuits; and to minimize other land uses incompatible with farming. Persons and entities not engaged in agricultural pursuits in the Agricultural Zone should be aware that the primary intention of the Zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of concerns and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive. To the extent buffer areas may be required, the intention of such buffers is to reduce the potential for conflicts between farming and non-farming uses. Agricultural Zones are also areas of the Town where it is unlikely public water or sewer will be made available, so as to reduce the economic pressures for development that often flow from the

introduction of such facilities. Accordingly, persons acquiring property in Agricultural Zones should not expect such public facilities to be provided.

Section 601 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in an Agricultural Zone:

1. Any lawful farm purpose, including usual farm buildings and structures, but excluding rendering plants.
2. Plant nursery.
3. Equestrian Facility.
4. Kennel, coop, or other facility for the housing or caring for animals, birds, or fish, whether for hire or otherwise, including an animal shelter, wildlife refuge and fish farms.
5. A roadside stand or other structure, not exceeding 500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. The majority of the products sold at such stand shall be, or be derived from, products produced on the farm on which the roadside stand is located. Any such stand shall be located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right of way.
6. A one-family dwelling to be occupied by no more than
 - (a) One family, or
 - (b) One family plus no more than one boarder, roomer, lodger, or other occupant.
7. A two-family dwelling provided that
 - (a) Each dwelling unit is occupied by no more than one family; and
 - (b) The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely within the basement area, it may exceed 50%.
8. Publicly owned park or playground including accessory buildings and improvements.
9. Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to residences in the district in which the substations or similar structures are constructed.

10. Day care homes, family day care homes and group family day care homes.
11. Community Residence.
12. Forest management and other forest resource uses, including the harvesting of timber in conformance with environmentally sound forestry practices.

Section 602 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in an Agricultural Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Except as permitted as of right in the preceding section retail sales of machinery, products, supplies, or produce primarily related to, or derived from, agricultural operations subject to the following limitations:
 - (a) Any building devoted to such activity may be no larger than 4,000 square feet;
 - (b) No more than six persons may be engaged in or employed by the activity;
 - (c) No more than three acres, inclusive of building, parking, driveways, well, septic system and other ancillary facilities, be dedicated to the use;
 - (d) No outside storage other than temporary day-time only display of products, unless otherwise authorized by the Planning Board.

In determining whether to grant such authorization, the Planning Board shall consider, in addition to other criteria set forth in this Ordinance, that

- (i) The nature of the business generally requires outside storage;
 - (ii) There is adequate space on the lot for the proposed storage;
 - (iii) The premises are screened or otherwise buffered so that the outside storage does not adversely impact the neighboring properties and property owners; and
 - (iv) The proposed outside storage will not adversely affect the character of the surrounding neighborhood.
2. Veterinary offices or hospitals.
3. Church or other places of worship, convent and parish house.
4. Cemetery and the buildings and structures incident thereto.

5. Public library, public museum, public, parochial and private schools, nursery school, and any institution of higher learning relating to agricultural pursuits.
6. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
7. Golf course or driving range with related facilities such as clubhouse, restaurant, and pro shop.
8. Cross country ski center with related facilities such as lodge, ski shop and restaurant.
9. Commercial composting facility where composting occurs for sale, utilizing more than four hundred square feet of land in which event the following additional requirements shall apply:
 - (a) The lot on which the facility is located shall be at least two acres in size;
 - (b) The composting facility shall be located at least 100 feet from any roadway and any lot line, except for lot lines adjacent to Residential Zones, in which event the set-back from the Residential Zone line shall be increased to 250 feet and shall have a buffer of vegetation or fencing to screen the facility from the Residential Zone;
 - (c) The facility shall be operated in a clean and orderly manner so that it does not create a nuisance to any neighboring property.
10. Hunting preserves, lodges, or clubhouses.
11. Bed and breakfast.
12. Radio, television, telecommunication, microwave, satellite or other electronic transmission facility operated pursuant to a license from the Federal Communications Commission or any successor federal or state agency.
13. Research facilities dedicated to research in agriculture or animal husbandry.
14. Farm retreat.
15. Adult day care facilities serving no more than four clients at any one time.

Section 603 - PRINCIPAL USES AUTHORIZED BY SPECIAL APPROVAL ONLY.

The following uses are permitted in an Agricultural Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Mining, subject to the following requirements in addition to the normal requirements

for a special approval:

- (a) No special approval shall be granted until
 - (i) The Planning Board approves a site plan for the proposed mining operations; and
 - (ii) The appropriate New York State authorities (DEC or other regulatory body) has approved a reclamation plan and the plan and any required security for the performance of the plan has been provided to the State of New York.
- (b) There shall be a buffer area of at least 100 feet around the perimeter of the mined area between the mined area and any surrounding property, such buffer to consist of natural vegetation, plantings, berms, fences, or other screening as deemed reasonable by the Board of Appeals to minimize the auditory and visual impacts of the mining operations on surrounding properties.
- (c) A fill permit shall be obtained in accordance with the fill permit requirements of this Ordinance before commencement of any mining operations.
- (d) Hours of operation shall be limited to business days (days other than weekends and holidays) from 8:00 a.m. to 5:00 p.m. local time unless the applicant, for good cause shown, demonstrates to the Zoning Board of Appeals that special circumstances exist which compel that the times be extended.

Notwithstanding the foregoing, if the material to be mined is soil, gravel, or other similar types of fill, up to 50 cubic yards of such product may be mined in any one calendar year without special approval. If more than 50 cubic yards but not more than 250 cubic yards in any one year are being mined, the special approval may be issued by the Director of Engineering of the Town. In all other cases, the Special Approval shall be obtained as set forth above.

Section 604 - PERMITTED ACCESSORY BUILDINGS AND USES. The following accessory buildings or uses are permitted as of right in an Agricultural Zone:

1. Any farm-related structure not otherwise expressly referred to or limited by any provision in this Ordinance.
2. If the principal use is as a farm, one or more one or two family dwellings, subject to the occupancy limitations set forth above for one and two family dwellings and subject to the overall density limitations set forth below in Section 610.
3. If the principal use is as one or two family dwelling or as a farm with dwellings; a

private swimming pool, tennis court, or other similar recreational facility for the principal private use of the occupants of the dwelling.

4. If the principal use is as a one or two family dwelling, up to three accessory buildings, all such accessory buildings in the aggregate not to exceed a total of 1500 square feet in size.
5. Off-street garage or parking space for the occupants, users and employees in connection with uses permitted in this Article, but subject to provisions of Section 2707.
6. A temporary building for commerce or industry, where such building is necessary or incidental to the development of a residential area. Such buildings may not be continued for more than one year except upon receipt of a special approval from the Board of Appeals.
7. Signs, as regulated by the Town of Ithaca Sign Law.
8. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.

Section 605 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in an Agricultural Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Elder cottages.
2. If the property is not used for agricultural purposes, a second dwelling unit in a building other than the principal building on the lot, provided that
 - (a) All of the general criteria set forth elsewhere in this Ordinance for the issuance of a special approval have been satisfied;
 - (b) The location of the second dwelling, and the building in which it is located, does not adversely impact in any significant manner the adjoining neighbors;
 - (c) The building containing such second dwelling is located at least 40 feet from any side boundary of the lot, and is not constructed in any required front yard.
 - (d) There is adequate off-street parking for the proposed number of occupants, including occupants of both the principal building and the dwelling unit for which special approval is sought;

- (e) The floor area of the second dwelling (inclusive of floor area on all floors dedicated to such dwelling) does not exceed 50% of the floor area of the primary dwelling on the lot;
 - (f) The second dwelling is located in a building that is accessory to the principal dwelling;
 - (g) The building containing the primary dwelling does not contain more than one dwelling; and
 - (h) There are no buildings on the lot containing dwellings other than the building containing the primary dwelling and the building for which special approval is sought.
3. Home occupation, other than farming or a farm related enterprise for which no special approval shall be required.

Section 606 - HEIGHT LIMITATIONS.

1. Except as may be specifically otherwise authorized in this law, in Agricultural Zones no non-agricultural building shall exceed thirty-eight (38) feet in height from lowest interior grade nor thirty-six (36) feet in height from lowest exterior grade, and no non-agricultural structure other than a building shall exceed thirty-six (36) feet in height. Agricultural structures, such as silos or windmills, whether on a farm parcel or not, shall be set back a distance at least equal to their height from all property lines.
2. Notwithstanding the foregoing, the Planning Board may, by special permit, allow a tower, other than a telecommunications tower or facility, operated pursuant to a license issued by the Federal Communications Commission for the transmission or reception of radio, television, microwave, satellite, or other electrical transmissions to be up to 80 feet in height from lowest exterior grade upon making the findings set forth below for special permits generally and in addition finding that
- (a) The proposed tower is designed in accordance with generally accepted engineering standards so that its construction and operation will not pose a hazard to persons or property on the ground or in the vicinity of the tower;
 - (b) The topography and location of the proposed site are reasonably adapted for the proposed use.
 - (c) The size of the site is adequate in that the tower is located on an unoccupied parcel having an area of sufficient size that no part of the tower could fall on neighboring property should the structure collapse; and

- (d) The plans for the site (and the vegetation, screens, fencing or other devices when completed) provide adequate buffering of the site and towers from adjoining land.

Section 607 - YARD REGULATIONS. Except as may be specifically otherwise authorized in this law, in Agricultural Zones yards of at least the following dimensions are required:

1. Front Yard - not less than the average depth of the front yards of buildings on lots immediately adjacent. However, the front yard depth shall not be less than 30 nor need it be greater than 60 feet. A road side stand authorized in Section 601 may be located in a front yard.
2. Rear Yard - not less than 50 feet in depth.
3. Side Yards - none required with respect to buildings all on the same lot, but not less than 40 feet from any structure to a side property line except that in one of the side yards a one-story garage, either attached to the principal building or separate therefrom, may be 15 feet from a side line which is not a street line.
4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard requirements.

The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas. For purposes of calculating yards, and notwithstanding the yard definitions, yards shall be measured in Agricultural Zones to any building (other than a roadside stand), instead of to the principal building.

Section 608 - BUILDING AREA. The maximum building area shall not exceed ten percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 609 - SIZE AND AREA OF LOT. Subject to the density provisions regarding subdivision of parcels of land set forth below, lots in Agricultural Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least two acres, subject to the following conditions and exceptions:
 - (a) A non-farm lot subdivided for residential purposes from a parent tract as set forth below in Section 610 shall have a minimum area of one acre and a maximum of two acres unless
 - (i) A larger area is required by the Tompkins County Health Department to provide on-site water and septic systems, in which event the permitted maximum area shall be increased to the minimum area required by the Health Department for such installations; or

- (ii) The applicant for approval of a subdivision requests larger lots and fewer dwellings than would be normally permitted pursuant to Section 610 below and the Planning Board determines in considering subdivision approval that the amount of land dedicated to such larger lots does not exceed the amount of land that would have been dedicated to residential purposes had the number of dwellings and sizes of lots been in full compliance with Section 610.
2. Minimum width at the street line shall be 60 feet.
 3. Minimum width at the maximum required front yard setback line (60 feet from the street line) shall be 100 feet.
 4. Minimum depth from the street line shall be 200 feet.

Section 610 - DENSITY LIMITATIONS AND LIMITATIONS ON SUBDIVISION OF PARENT TRACTS. In order to protect agricultural uses, to preserve the agricultural value of land, to provide for the retention of tracts of sufficient size to be used reasonably for agricultural purposes, and to preserve the open space qualities of the Town, creation of non-farm lots and the subdivision of farm parcels from parent tracts shall be limited in the Agricultural Zone. Accordingly, and notwithstanding the minimum lot sizes set forth above, the following additional requirements shall apply to land within an Agricultural Zone:

1. Any tract or parcel of land in common contiguous ownership at the time of the adoption of this provision of the Zoning Ordinance, subject to other normally applicable subdivision laws and regulations, hereafter may be subdivided into no more lots than equals the total number of acres of the tract divided by 7 and rounded down to the nearest whole number. (For example, a tract of twenty acres may be subdivided into no more than two lots--20 divided by 7 equals 2 6/7 rounded to two.) Some of the lots, subject to other applicable requirements, may be as small as one acre but the total number may not exceed the above limitation.
2. Clustering of the lots may be required by the Planning Board as a condition to granting any subdivision approval. In determining the design of the subdivision the following criteria should be applied:
 - (a) Clustered lots should avoid prime agricultural soils, defined as Class I and Class II by the USDA Natural Resources Conservation Service or similar or successor agency;
 - (b) Clustered lots should not interfere with natural drainage patterns; and
 - (c) To the extent reasonably possible, subdivisions shall be approved in a manner that maintains the largest amount of contiguous acreage for open space or agricultural use. (For example, if reasonably possible, a 17 acre

parcel would be divided into one one-acre lot and one 16 acre lot, and a twenty-four acre lot would be divided into two one acre lots and one twenty-two acre lot.)

3. The Planning Board, as a condition of granting subdivision approval, shall require, unless good cause is shown for omission of same, the developer to encumber the larger tracts (the non-cluster lots) by deed restrictions, conservation or agricultural easements, or other mechanism satisfactory to the Planning Board, to ensure that such parcels shall remain permanently as open space or agricultural land. For this purpose, land shall still be considered open space or agricultural land if used for the purposes set forth in Section 601, paragraphs 1, 2, 3, 4, 5, 8 (provided the same are passive recreational areas), 9 and 12.
4. Notwithstanding the density limitations set forth above, any parcel of fifty acres or larger remaining after subdividing off the clustered lots and which has been encumbered in the manner set forth in the immediately preceding paragraph, may be further subdivided into separate ownership provided that all parcels so further subdivided are at least 25 acres in size, and all such parcels continue to be subject to the open space and/or agricultural easements.

Section 611 - PARKING. Parking requirements shall be as set forth in Article XXVII.

Section 612 - ADDITIONAL SPECIAL REQUIREMENTS. Additional special requirements include the following:

1. Screening - In addition to the landscaping, screening, fencing and buffer requirements set forth elsewhere in this Ordinance, additional landscaping, fencing, screening, or earth berm may be required to be provided by the Planning Board in the site plan review process in any area where the proposed structure or use would, in the reasonable opinion of the Planning Board, create a hazardous condition or would detract from the value of neighboring property if such landscaping, fencing, screening, or berm were not provided.

Section 613 - SITE PLAN APPROVAL. No building permit shall be issued for a building or structure within an Agricultural Zone requiring a special permit unless the proposed building or structure is in accordance with a site plan approved pursuant to the provisions of Article XXIII.

Section 614 - RIGHT TO FARM. Notwithstanding any other provisions of law, it being the intention of this section to supersede to the extent legally possible any prior statutory or court developed rule of law regarding nuisances or similar types of actions, on any land in an Agricultural Zone an agricultural practice shall not constitute a private nuisance when an action is brought by a person, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the New York State Commissioner of Agriculture and Markets. Nothing in this section shall be construed to prohibit an aggrieved party from recovering damages for personal injury or wrongful death.

ARTICLE VII: LAKEFRONT RESIDENTIAL ZONES

Section 700 - PURPOSE. The purposes of the Lakefront Residential Zone are to minimize excessive and undesirable development in fragile lakefront areas, to protect the natural beauty and ambiance of the lakeshore in the Town of Ithaca for all of the citizens of the community to enjoy, and to enhance the experience provided to those living near, and those who use, the resource provided by Cayuga Lake.

Section 701 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted as a matter of right in a Lakefront Residential Zone:

1. A one-family dwelling to be occupied by no more than
 - (a) One family, or
 - (b) One family plus no more than one boarder, roomer, lodger, or other occupant.
2. A two-family dwelling provided that
 - (a) Each dwelling unit is occupied by no more than one family; and
 - (b) The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely within the basement area, it may exceed 50%.
3. Publicly owned park or playground including accessory buildings and improvements.
4. Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to residences in the district in which the substations or similar structures are constructed.
5. Day care homes, family day care homes and group family day care homes.
6. Community residence.

Section 702 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Lakefront Residential Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Church or other places of worship, convent and parish house.

2. Public library, public museum, and public schools.
3. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
4. Clubhouse or lodge, provided that no building so used shall be within 100 feet from any street or within 150 feet of the lot line of any adjoining owner or within 200 feet of any lakeshore.
5. Bed and breakfast.

Section 703 - PERMITTED ACCESSORY STRUCTURES AND USES. The following accessory structures or uses are permitted as of right in a Lakefront Residential Zone:

1. Off-street garage or parking space for the occupants, users and employees in connection with uses permitted in this Article, but subject to provisions of Section 2707 and further subject to the requirement that no vehicle parking shall occur within one hundred feet of any shoreline.
2. Where the principal use is as a one or two family dwelling, private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants of the dwelling.
3. Up to two accessory storage buildings other than a garage, all such accessory buildings in the aggregate not to exceed a total of 600 square feet in size.
4. A temporary building for commerce or industry, where such building is necessary or incidental to the development of a residential area. Such buildings may not be continued for more than one year except upon receipt of a special approval from the Board of Appeals.
5. Signs, as regulated by the Town of Ithaca Sign Law.
6. Adult day care facilities serving no more than four clients at any one time.
7. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.

Section 704 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in a Lakefront Residential Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Elder cottages pursuant to, and subject to, the provisions of Section 2601 of this Ordinance.

2. Home occupation.
3. The keeping of domestic animals in accessory buildings, provided that no such building shall be nearer than 30 feet to any lot line of any adjoining owner or to the lake shore, and further provided that there shall be no raising of fur-bearing animals, or kennels for more than 3 dogs over 6 months old.

Section 705 - ACCESSORY STRUCTURES AND USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following accessory structures or uses are permitted in a Lake Front Residential Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Fishing piers, docks, wharves, boat houses, cabanas, sea walls, and similar waterfront structures and facilities when such uses are clearly accessory or incidental to the primary, principal use on the property subject to all applicable state and federal regulations and approvals. All such structures shall require a building permit. All such structures shall additionally be subject of site plan review in accordance with the provisions set forth elsewhere in this ordinance.

The following additional requirements shall apply to all such structures and facilities including those subject to site plan review and those that are not subject to such review:

- (a) The construction of such structures and facilities shall be undertaken in such a way so as not to impact water quality, cause harm to fish spawning grounds, destroy the natural beauty of the shoreline, reduce the stability of steep slope areas, cause erosion or sedimentation problems along the shoreline, create hazards for navigation, interfere with the public use and enjoyment of the water surface or shoreline, infringe on the riparian rights of other littoral parcels, or otherwise threaten the public health and safety.
- (b) Piers, docks and wharves shall be designed in accordance with good engineering practice. At the discretion of the Building and Zoning Enforcement Officer, plans approved by a licensed engineer or architect may be required before issuance of a building permit.
- (c) Such structures and facilities shall only be constructed of materials which are stable, chemically inert and insoluble and which will have no adverse effects on water quality.
- (d) The amount of grading, dredging, earth moving and disturbance of land above and below water during the construction of such structures and facilities shall be minimized as much as possible and shall be consistent with the permit requirements of the New York State Department of Environmental Conservation and U.S. Army Corps of Engineers regulating such activities.

- (e) To permit the free circulation of water, reduce the effects of fluctuating water levels, and prevent adverse modifications of the shoreline, piers, docks and wharves shall be of floating construction wherever feasible and shall not be of rockfilled cribbing, sheet piling, closely spaced piling, or such other construction technique or materials which would significantly impair water circulation.
- (f) The width of any pier, dock or wharf shall be a minimum of three (3) feet and shall not exceed eight (8) feet.
- (g) The length of any pier, dock or wharf shall extend offshore from the mean low water line to a distance no greater than thirty (30) feet (or such lesser distance as may be stipulated in any permit obtained for such construction from the N.Y. State Department of Conservation or the U.S. Army Corps of Engineers) for each lot used for single-family residential purposes. Longer dock lengths may be approved by the Planning Board in accordance with the provisions of this Ordinance, when necessary to reach adequate water depths for proposed boat docking, while complying with all other standards contained in this section.
- (h) The maximum surface area of all piers, docks, and wharves permitted on a waterfront lot that is vacant or used for one or two family residential purposes shall not, in the aggregate, exceed three hundred (300) square feet.
- (i) The number of piers, docks or wharves permitted on non-residential properties shall not exceed three (3) such structures per lot. Such docks shall not exceed a length, or be developed or configured on the site in a manner that adversely affects existing environmental conditions or natural features, including views, or negatively impacts navigation or riparian rights of adjacent littoral parcels. The construction of more than three (3) such structures per non-residential lot shall be subject to a determination by the Town Planning Board as part of the permit process, that such additional structures are needed to accommodate anticipated boat traffic and can be developed on the site without adversely affecting existing environmental conditions or natural features, or negatively impact navigation or riparian rights of adjacent littoral parcels.
- (j) Every pier, dock or wharf that is constructed shall have a minimum clearance or setback of twenty (20) feet from adjacent property lines, as extended from the shoreline, to allow adequate vessel access to neighboring waterfront parcels. In the case of parcels bounding a substantially straight shore line, docks and piers shall be located in the area fixed by projection of parcel lines lakeward at right angles from the shoreline. In the case of parcels bounding a concave or convex shoreline, docks and piers shall be located in the area fixed by projection of the parcel lines lakeward along the line bisecting the

angle formed by the shoreline at its intersection with the parcel lines. Where such projections do not allow access to the line of navigability - that line marking the minimum depth for navigation -the converging lines shall instead run to the line of navigability. The line of navigability shall be divided among such parcels in proportion to their respective shares of the shoreline and permit all shoreline parcels practicable access to navigable water.

- (k) Piers, docks or wharves that extend one hundred (100) feet or more from the shore line must be lighted during the hours of darkness in such a manner so as to not constitute a hazard to navigation.
- (l) Lighting of the surface of any pier, dock or wharf shall be provided in such a manner so as not to produce any offensive glare when viewed from the water or the land. The use of low-mast lighting fixtures and deflector shields to direct the light downward shall be required to reduce or eliminate glare.
- (m) Commercial renting, leasing or operation of fishing piers, docks, wharves, boat launching ramps or similar waterfront structures and facilities shall be expressly prohibited in Lakefront Residential Districts.

2. Mooring buoys or facilities subject to the following restrictions:

- (a) Mooring buoys shall only be placed in connection with littoral parcels. Such buoys shall be placed only within an area parallel to and thirty (30) feet inward of the parcel lines extended lakeward at right angles from the shoreline, and to a depth necessary for safe mooring of a boat.
- (b) Moorings shall be placed so that objects moored to them, at full swing of their mooring or anchor line, will be no closer than ten (10) feet to the projection of the adjacent property lines from the shoreline.
- (c) The number of private moorings permitted per each waterfront lot shall not exceed the following:
 - (i) 100 feet or less of water frontage: A total of one (1) such mooring.
 - (ii) More than 100 feet up to 250 feet of water frontage: A total of two (2) such moorings.
 - (iii) More than 250 up to 500 feet of water frontage: A total of three (3) such moorings.
 - (iv) One (1) additional mooring is allowed for each 150 feet of water frontage in excess of 500 feet.

- (d) Nothing in this section is intended to require or permit activities which contravene any laws, rules, or regulations or permits of the United States or New York State, or any agency thereof, nor are any of the foregoing provisions intended to supercede any requirements for the obtaining of any permits or approvals required by the United States or New York State, or any agency thereof.

Section 706 - HEIGHT LIMITATIONS. In Lakefront Residential Zones, no building shall be erected, altered, or extended to exceed thirty-eight (38) feet in height from the lowest interior grade or thirty-six (36) feet in height from the lowest exterior grade, whichever is lower. No structure other than a building shall be erected, altered, or extended to exceed thirty (30) feet in height. Accessory buildings shall in no case exceed 20 feet in height.

Section 707 - YARD REGULATIONS. In Lakefront Residential Zones yards of at least the following dimensions are required:

1. Front Yard - not less than the average depth of the front yards of buildings on lots immediately adjacent. However, the front yard depth shall not be less than 30 feet or need it be greater than 60 feet.
2. Rear Yard - not less than 50 feet in depth unless the rear yard is adjacent to the shoreline, in which event the rear yard shall be not less than 25 feet in depth.
3. Side Yards - each not less than 20 feet in width, except that in one of the side yards a one-story garage, either attached to the principal building or separate therefrom, may be 15 feet from a side line which is not a street line.
4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard provisions.
5. Accessory Buildings - In Lakefront Residential Zones accessory buildings other than garages may not occupy any open space other than a rear yard. Accessory buildings, in the aggregate, may occupy not more than 15 per cent of any required rear yard and, if other than a garage, shall be not less than 3 feet from any side or rear lot line. Notwithstanding the foregoing, a private garage that serves dwellings on two separate lots may be built across a common lot line with a party wall by mutual agreement between adjoining property owners provided that there is at least one garage bay on each lot. Any accessory building on a corner lot shall not be less than 5 feet from the rear lot line. Where the average natural slope of a lot exceeds 8 per cent rise or fall directly from the street line, either a private garage not over one story in height and housing not in excess of 2 cars or a small accessory building not exceeding 20 square feet in floor area and not exceeding 12 feet in height, may be located in the front or side yard not less than 5 feet from said street line upon receiving a special approval from the Board of Appeals.
6. Minimum setback from shoreline - Notwithstanding the foregoing, any principal

building, parking area or accessory structure, excluding such facilities as docks, piers, wharves, boat ramps, and boathouses, shall be located at least twenty-five (25) feet inland from the shoreline in order to maintain adequate access to the shoreline. The Planning Board, during site plan review, may establish a minimum setback of greater than twenty-five (25) feet based on due consideration by the Board of the preservation and protection of sensitive environmental features, and the maintenance of the wooded character of the shoreline area, as well as scenic views and vistas.

Section 708 - BUILDING AREA. The maximum building area shall not exceed ten percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 709 - SIZE AND AREA OF LOT. Lots in Lakefront Residential Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least fifteen thousand (15,000) square feet; and
2. Minimum width at the street line shall be 60 feet; and
3. Minimum width at the maximum required front yard setback line (60 feet from the street line) shall be 100 feet; and
4. Minimum width at the shoreline, as measured in a straight line that is ninety degrees from a sideline at its point of intersection with the high water line of the lake to the other side line, shall be 100 feet; and
5. Minimum depth from the highway right of way shall be 150 feet.

Section 710 - SPECIAL PROPERTIES. In the case of publicly owned properties located in Lakefront Residential Zones, which comprise at least 6 acres in area and are traversed by interior roads or driveways, the front and side yard requirements set forth above shall apply only along the exterior public street frontages and there shall be no rear yard requirements. The shoreline setback requirements shall remain.

Section 711 - PARKING. Parking requirements shall be as set forth in Article XXVII.

Section 712 - SPECIAL REQUIREMENTS. The following additional special requirements shall apply to Lakefront Residential Zones:

1. Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner as to prevent to the maximum extent possible, erosion and sedimentation of surface waters. On slopes greater than 25%, there shall be no grading or filling within 100 feet of the shoreline unless
 - (a) A permit for same is obtained pursuant to the fill permit provisions of this Ordinance or is issued by the Town of Ithaca Director of Engineering upon his determination that such grading or filling is necessary to protect the

shoreline and to prevent erosion, or

- (b) Such grading and filling is in conjunction with construction pursuant to a building permit legally issued by the Town of Ithaca Director of Building and Zoning after the Town of Ithaca Director of Engineering has reviewed the proposed construction and any required or necessary erosion control measures and has determined that the conduct of such work will not adversely affect the shoreline.
2. In addition to the requirements of this Article, any construction, grading, or other activities shall be conducted only in accordance with any federal, state, or other local law or requirement pertaining to such activity, including any requirements of the N.Y. State Department of Conservation and the U.S. Army Corps of Engineers.

ARTICLE VIII: LOW DENSITY RESIDENTIAL ZONES

Section 800 - PURPOSE. The purpose of the Low Density Residential Zone is to provide an area of limited development where it is deemed most desirable in the Town to maintain larger lots for development and permit the possibility of continued agricultural use of the areas without limiting the areas to solely agricultural uses.

Section 801 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted as a matter of right in a Low Density Residential Zone:

1. A one-family dwelling to be occupied by no more than
 - (a) One family, or
 - (b) One family plus no more than one boarder, roomer, lodger, or other occupant.
2. A two-family dwelling provided that
 - (a) Each dwelling unit is occupied by no more than one family; and
 - (b) The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely within the basement area, it may exceed 50%.
3. Nursery or farm, except a hog farm. On site retail sales of farm and nursery products shall be subject to the provisions of Subdivision 8 of Section 803 below. Usual farm buildings are permitted, provided that:
 - (a) Any building in which farm animals are kept shall be at least 100 feet from

any lot line or street right of way.

(b) No manure shall be stored within 100 feet of any lot line or street right of way.

4. Publicly owned park or playground including accessory buildings and improvements.
5. Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to residences in the district in which the substations or similar structures are constructed.
6. Day care homes, family day care homes and group family day care homes.
7. Community residence.

Section 802 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Low Density Residential Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Church or other places of worship, convent and parish house.
2. Cemetery and the buildings and structures incident thereto.
3. Public library, public museum, public, parochial and private schools, daycare center, nursery school, and any institution of higher learning including dormitory accommodations.
4. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
5. Golf course, driving range or miniature golf course.
6. Clinic and nursing or convalescent home, provided that no building so used shall be within 100 feet from any street or within 150 feet of the lot line of any adjoining owner.
7. Clubhouse or lodge, provided that no building so used shall be within 100 feet from any street or within 150 feet of the lot line of any adjoining owner.
8. Bed and breakfast.
9. Equestrian facility, provided that adequate provision is made to prevent nuisance to adjoining residences and provided

(b) The lot size is at least two acres (three acres if public sewers are not

available);

- (c) There is a non-occupied and non-used buffer of at least 50 feet around the perimeter of the lot;
- (d) Any building in which farm animals are kept shall be at least 100 feet from any lot line or street line; and
- (e) No manure shall be stored within 100 feet of any lot line or street line.

Section 803 - PERMITTED ACCESSORY BUILDINGS AND USES. The following accessory buildings or uses are permitted as of right in a Low Density Residential Zone:

1. Off-street garage or parking space for the occupants, users and employees in connection with uses permitted in this Article, but subject to provisions of Section 2707.
2. Where the principal use is as a one or two family dwelling, private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants of the dwelling.
3. Up to three accessory buildings other than a garage, all such accessory buildings in the aggregate not to exceed a total of 600 square feet in size unless the lot is three acres or larger, in which event the aggregate area of the accessory building may not exceed 2,000 square feet.
4. A temporary building for commerce or industry, where such building is necessary or incidental to the development of a residential area. Such buildings may not be continued for more than one year except upon receipt of a special approval from the Board of Appeals.
5. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.
6. The keeping of domestic animals in accessory buildings, provided that no such building shall be nearer than 30 feet to any lot line of any adjoining owner, and further provided that there shall be no raising of fur-bearing animals, or kennels for more than 3 dogs over 6 months old.
7. Signs, as regulated by the Town of Ithaca Sign Law.
8. A roadside stand or other structure, not exceeding 500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. The majority of the

products sold at such stand shall be, or be derived from, products produced on the farm on which the roadside stand is located. Any such stand shall be located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right of way.

9. Adult day care facilities serving no more than four clients at any one time.

Section 804 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in a Low Density Residential Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Elder cottages pursuant to, and subject to, the provisions of Section 2601 of this Ordinance.
2. A second dwelling unit in a building other than the principal building, provided that
 - (a) All of the general criteria set forth elsewhere in this Ordinance for the issuance of a Special Approval have been satisfied;
 - (b) The location of the second dwelling, and the building in which it is located, does not adversely impact in any significant manner the adjoining neighbors;
 - (c) The building containing such second dwelling is located at least 40 feet from any side boundary of the lot, and is not constructed in any required front yard.
 - (d) There is adequate off-street parking for the proposed number of occupants, including occupants of both the principal building and the dwelling unit for which special approval is sought;
 - (e) The floor area of the second dwelling (inclusive of floor area on all floors dedicated to such dwelling) does not exceed 50% of the floor area of the primary dwelling on the lot;
 - (f) The second dwelling is located in a building that is accessory to the principal dwelling;
 - (g) The building containing the primary dwelling does not contain more than one dwelling; and
 - (h) There are no elder cottages or other buildings on the lot containing dwellings other than the building containing the primary dwelling and the building for which special approval is sought.
3. Home occupation.

Section 805 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following accessory buildings or uses are permitted in a Low Density Residential Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Equestrian facility, provided that adequate provision is made to prevent nuisance to adjoining residences and provided the lot size is at least two acres and there is a non-occupied and non-used buffer of at least 50 feet around the perimeter of the lot.

Section 806 - HEIGHT LIMITATIONS. In Low Density Residential Zones, no building shall be erected, altered, or extended to exceed thirty-eight (38) feet in height from the lowest interior grade or thirty-six (36) feet in height from the lowest exterior grade, whichever is lower. No structure other than a building shall be erected, altered, or extended to exceed thirty (30) feet in height. Accessory buildings, other than a barn, shall in no case exceed 15 feet in height.

Section 807 - YARD REGULATIONS. In Low Density Residential Zones yards of at least the following dimensions are required:

1. Front Yard - not less than the average depth of the front yards of buildings on lots immediately adjacent. However, the front yard depth shall not be less than 30 feet or need it be greater than 60 feet.
2. Rear Yard - not less than 50 feet in depth.
3. Side Yards - each not less than 40 feet in width, except that in one of the side yards a one-story garage, either attached to the principal building or separate therefrom, may be 15 feet from a side line which is not a street line.
4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard provisions.
5. Accessory Buildings - In Low Density Residential Zones accessory buildings other than garages may not occupy any open space other than a rear yard. Accessory buildings, in the aggregate, may occupy not more than 15 per cent of any required rear yard and, if other than a garage, shall be not less than 3 feet from any side or rear lot line. Notwithstanding the foregoing, a private garage that serves dwellings on two separate lots may be built across a common lot line with a party wall by mutual agreement between adjoining property owners provided that there is at least one garage bay on each lot. Any accessory building on a corner lot shall not be less than 5 feet from the rear lot line. Where the average natural slope of a lot exceeds 8 per cent rise or fall directly from the street line, a private garage not over one story in height and housing not in excess of 2 cars may be located in the front or side yard not less than 5 feet from said street line upon receiving a special approval from the Board of Appeals.

Section 808 - BUILDING AREA. The maximum building area shall not exceed ten percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 809 - SIZE AND AREA OF LOT. Lots in Low Density Residential Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least thirty thousand (30,000) square feet; and
2. Minimum width at the street line shall be 100 feet; and
3. Minimum width at the maximum required front yard setback line (60 feet from the street line) shall be 150 feet; and
4. Minimum depth from the highway right of way shall be 200 feet.

Section 810 - SPECIAL PROPERTIES. In the case of publicly owned properties, properties of universities, colleges, cemeteries, or other private institutions, located in Low Density Residential Zones, which comprise at least 6 acres in area and are traversed by interior roads or driveways, the front, side, and rear yard requirements set forth above shall apply only along the exterior public street frontages and boundaries with adjacent properties.

Section 811 - PARKING. Parking requirements shall be as set forth in Article XXVII.

ARTICLE IX: MEDIUM DENSITY RESIDENTIAL ZONES

Section 900 - PURPOSE. The purpose of the Medium Density Residential Zone is to create areas that are almost exclusively residential in nature where there is minimal intrusion of commercial, farming, or other activities that could be detrimental to residential development and occupancy.

Section 901 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted as a matter of right in a Medium Density Residential Zone:

1. A one-family dwelling to be occupied by no more than
 - (a) One family, or
 - (b) One family plus no more than one boarder, roomer, lodger, or other occupant.
2. A two-family dwelling provided that
 - (a) Each dwelling unit is occupied by no more than one family; and

- (b) The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely within the basement area, it may exceed 50%.
- 3. Publicly owned park or playground including accessory buildings and improvements.
- 4. Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to residences in the district in which the substations or similar structures are constructed.
- 5. Day care homes, family day care homes and group family day care homes.
- 6. Community residence.

Section 902 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Medium Density Residential Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

- 1. Church or other places of worship, convent and parish house.
- 2. Cemetery and the buildings and structures incident thereto.
- 3. Public library, public museum, public, parochial and private schools, daycare center, nursery school, and any institution of higher learning including dormitory accommodations.
- 4. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
- 5. Golf course, driving range or miniature golf course.
- 6. Bed and breakfast facilities providing no more than two bedrooms for transients, unless the size of the lot on which the facility is located is at least 30,000 square feet, in which event up to four bedrooms may be used for transients.

Section 903 - PERMITTED ACCESSORY BUILDINGS AND USES. The following accessory buildings or uses are permitted as of right in a Medium Density Residential Zone:

- 1. Off-street garage or parking space for the occupants, users and employees in connection with uses permitted in this Article, but subject to provisions of Section 2707.
- 2. Where the principal use is as a one or two family dwelling, private swimming pool,

tennis courts, and other similar recreational facilities for the principal private use of the occupants of the dwelling.

3. Up to three accessory buildings other than a garage, all such accessory buildings in the aggregate not to exceed a total of 600 square feet in size unless the lot is three acres or larger, in which event the aggregate area of the accessory building may not exceed 2,000 square feet.
4. A temporary building for commerce or industry, where such building is necessary or incidental to the development of a residential area. Such buildings may not be continued for more than one year except upon receipt of a special approval from the Board of Appeals.
5. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.
6. Signs, as regulated by the Town of Ithaca Sign Law.
7. Adult day care facilities serving no more than four clients at any one time.

Section 904 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in a Medium Density Residential Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Elder cottages pursuant to, and subject to, the provisions of Section 2601 of this Ordinance.
2. Home occupation.
3. A second dwelling unit in a building other than the principal building, provided that
 - (a) All of the general criteria set forth elsewhere in this Ordinance for the issuance of a Special Approval have been satisfied;
 - (b) The location of the second dwelling, and the building in which it is located, does not adversely impact in any significant manner the adjoining neighbors;
 - (c) The building containing such second dwelling is located at least 15 feet from any side boundary of the lot, and is not constructed in any required front yard.
 - (d) There is adequate off-street parking for the proposed number of occupants, including occupants of both the principal building and the dwelling unit for

which special approval is sought;

- (e) The floor area of the second dwelling (inclusive of floor area on all floors dedicated to such dwelling) does not exceed 50% of the floor area of the primary dwelling on the lot;
 - (f) The second dwelling is located in a building that is accessory to the principal dwelling;
 - (g) The building containing the primary dwelling does not contain more than one dwelling; and
 - (h) There are no elder cottages or other buildings on the lot containing dwellings other than the building containing the primary dwelling and the building for which special approval is sought.
4. The keeping of domestic animals in accessory buildings, provided that
- (a) The lot on which such accessory building is located is at least two acres in size unless the Zoning Board of Appeals requires a larger lot in order to prevent adverse effects on the adjacent or surrounding neighbors, in which event the lot size shall be the minimum reasonably established by such Board; and
 - (b) No such accessory building shall be nearer than 30 feet to any lot line of any adjoining owner; and
 - (c) There shall be no raising of fur-bearing animals, or kennels for more than 3 dogs over 6 months old.

Section 905 - HEIGHT LIMITATIONS. In Medium Density Residential Zones, no building shall be erected, altered, or extended to exceed thirty-eight (38) feet in height from the lowest interior grade or thirty-six (36) feet in height from the lowest exterior grade, whichever is lower. No structure other than a building shall be erected, altered, or extended to exceed thirty (30) feet in height. Accessory buildings shall in no case exceed 15 feet in height.

Section 906 - YARD REGULATIONS. In Medium Density Residential Zones yards of at least the following dimensions are required:

1. Front Yard - not less than the average depth of the front yards of buildings on lots immediately adjacent. However, the front yard depth shall not be less than 25 feet or need it be greater than 50 feet.
2. Rear Yard - not less than 30 feet in depth.
3. Side Yards - each not less than 15 feet in width, except that in one of the side yards a

one-story garage, either attached to the principal building or separate therefrom, may be 10 feet from a side line which is not a street line.

4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard provisions.
5. Accessory Buildings - In Medium Density Residential Zones accessory buildings other than garages may not occupy any open space other than a rear yard. Accessory buildings, in the aggregate, may occupy not more than 40 per cent of any required rear yard and, if other than a garage, shall be not less than 3 feet from any side or rear lot line. Notwithstanding the foregoing, a private garage that serves dwellings on two separate lots may be built across a common lot line with a party wall by mutual agreement between adjoining property owners provided that there is at least one garage bay on each lot. Any accessory building on a corner lot shall not be less than 5 feet from the rear lot line. Where the average natural slope of a lot exceeds 8 per cent rise or fall directly from the street line, a private garage not over one story in height and housing not in excess of 2 cars may be located in the front or side yard not less than 5 feet from said street line upon receiving a special approval from the Board of Appeals.

Section 907 - BUILDING AREA. The maximum building area shall not exceed twenty percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 908 - SIZE AND AREA OF LOT. Lots in Medium Density Residential Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least fifteen thousand (15,000) square feet; and
2. Minimum width at the street line shall be 60 feet; and
3. Minimum width at the maximum required front yard setback line (50 feet from the street line) shall be 100 feet; and
4. Minimum depth from the highway right of way shall be 150 feet.

Section 909 - SPECIAL PROPERTIES. In the case of publicly owned properties, properties of universities, colleges, cemeteries, or other private institutions, located in Medium Density Residential Zones, which comprise at least 6 acres in area and are traversed by interior roads or driveways, the front, side, and rear yard requirements set forth above shall apply only along the exterior public street frontages and boundaries with adjacent properties.

Section 910 - PARKING. Parking requirements shall be as set forth in Article XXVII.

ARTICLE X: HIGH DENSITY RESIDENTIAL ZONES

Section 1000 - PURPOSE. The purpose of the High Density Residential Zone is to maintain the residential character of certain areas of the Town, to provide a buffer or transition from the less dense residential areas of the Town to areas where multiple residences or commercial activities may be permitted, to provide for more affordable housing, and to encourage more intense development where there is infrastructure already in place to support such development.

Section 1001 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted as a matter of right in a High Density Residential Zone:

1. A one-family dwelling to be occupied by no more than
 - (a) One family, or
 - (b) One family plus no more than one boarder, roomer, lodger, or other occupant.
2. A two-family dwelling provided that
 - (a) Each dwelling unit is occupied by no more than one family; and
 - (b) The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely within the basement area, it may exceed 50%.
3. Publicly owned park or playground including accessory buildings and improvements.
4. Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to residences in the district in which the substations or similar structures are constructed.
5. Day care homes, family day care homes and group family day care homes.
6. Community residence.

Section 1002 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a High Density Residential Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Church or other places of worship, convent and parish house.
2. Cemetery and the buildings and structures incident thereto.

3. Public library, public museum, public, parochial and private schools, daycare center, nursery school, and any institution of higher learning including dormitory accommodations.
4. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
5. Golf course, driving range or miniature golf course.
6. Clinic and nursing or convalescent home, provided that no building so used shall be within 100 feet from any street or within 150 feet of the lot line of any adjoining owner.
7. Clubhouse or lodge, provided that no building so used shall be within 100 feet from any street or within 150 feet of the lot line of any adjoining owner.
8. Bed and breakfast facilities providing no more than two bedrooms for transients, unless the size of the lot on which the facility is located is at least 30,000 square feet, in which event up to four bedrooms may be used for transients.
9. Adult care facility.
10. Child day care center.

Section 1003 - PERMITTED ACCESSORY BUILDINGS AND USES. The following accessory buildings or uses are permitted as of right in a High Density Residential Zone:

1. Off-street garage or parking space for the occupants, users and employees in connection with uses permitted in this Article, but subject to provisions of Section 2707 of this Ordinance.
2. Where the principal use is as a one or two family dwelling, private swimming pool, tennis courts, and other similar recreational facilities for the principal private use of the occupants of the dwelling.
3. Up to three accessory buildings other than a garage, all such accessory buildings in the aggregate not to exceed a total of 600 square feet in size unless the lot is three acres or larger, in which event the aggregate area of the accessory building may not exceed 2,000 square feet.
4. A temporary building for commerce or industry, where such building is necessary or incidental to the development of a residential area. Such buildings may not be continued for more than one year except upon receipt of a special approval from the Board of Appeals.

5. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.
6. Signs, as regulated by the Town of Ithaca Sign Law.

Section 1004 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in a High Density Residential Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Elder cottages pursuant to, and subject to, the provisions of Section 2601 of this Ordinance.
2. Home occupation.

Section 1005 - HEIGHT LIMITATIONS. In High Density Residential Zones, no building shall be erected, altered, or extended to exceed thirty-eight (38) feet in height from the lowest interior grade or thirty-six (36) feet in height from the lowest exterior grade, whichever is lower. No structure other than a building shall be erected, altered, or extended to exceed thirty (30) feet in height. Accessory buildings shall in no case exceed 15 feet in height.

Section 1006 - YARD REGULATIONS. In High Density Residential Zones yards of at least the following dimensions are required:

1. Front Yard - not less than the average depth of the front yards of buildings on lots immediately adjacent. However, the front yard depth shall not be less than 25 feet or need it be greater than 50 feet.
2. Rear Yard - not less than 30 feet in depth.
3. Side Yards - each not less than 10 feet in width, except that in one of the side yards a one-story garage, either attached to the principal building or separate therefrom, may be 7 feet from a side line which is not a street line.
4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard provisions.
5. Accessory Buildings - In High Density Residential Zones accessory buildings other than garages may not occupy any open space other than a rear yard. Accessory buildings, in the aggregate, may occupy not more than 40 per cent of any required rear yard and, if other than a garage, shall be not less than 3 feet from any side or rear lot line. Notwithstanding the foregoing, a private garage that serves dwellings on two separate lots may be built across a common lot line with a party wall by mutual agreement between adjoining property owners provided that there is at least one

garage bay on each lot. Any accessory building on a corner lot shall not be less than 5 feet from the rear lot line. Where the average natural slope of a lot exceeds 8 per cent rise or fall directly from the street line, a private garage not over one story in height and housing not in excess of 2 cars may be located in the front or side yard not less than 5 feet from said street line upon receiving a special approval from the Board of Appeals.

Section 1007 - BUILDING AREA. The maximum building area shall not exceed twenty-five percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 1008 - SIZE AND AREA OF LOT. Lots in High Density Residential Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least nine thousand (9,000) square feet; and
2. Minimum width at the street line shall be 60 feet; and
3. Minimum width at the maximum required front yard setback line (50 feet from the street line) shall be 75 feet; and
4. Minimum depth from the highway right of way shall be 120 feet.

Section 1009 - SPECIAL PROPERTIES. In the case of publicly owned properties, properties of universities, colleges, cemeteries, or other private institutions, located in High Density Residential Zones, which comprise at least 6 acres in area and are traversed by interior roads or driveways, the front, side, and rear yard requirements set forth above shall apply only along the exterior public street frontages and boundaries with adjacent properties.

Section 1010 - PARKING. Parking requirements shall be as set forth in Article XXVII.

ARTICLE XI: MOBILE HOME PARK ZONES

Section 1100 - PURPOSE. The purpose of the Mobile Home Park Zone is to provide an area in which concentrated development utilizing mobile homes may occur to encourage alternative and less costly housing accommodations in the Town.

Section 1101 - MINIMUM AREA. A minimum tract of at least five acres is required for a Mobile Home Park.

Section 1102 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted as a matter of right in a Mobile Home Park Zone:

1. Mobile homes, each to be occupied by not more than

- (a) one family, or
 - (b) one family plus no more than two boarders, roomers, lodgers, or other occupants.
2. Not more than one one-family dwelling (other than a mobile home) to be occupied by no more than one family.
 3. Publicly owned park or playground including accessory buildings and improvements.
 4. Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to residences in the zone in which the substations or similar structures are constructed.
 5. Day care homes, family day care homes and group family day care homes.
 6. Community residence.

Section 1103 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Mobile Home Park Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Child day care center

Section 1104 - PERMITTED ACCESSORY USES. The following accessory buildings or uses are permitted as of right in a Mobile Home Park Zone:

1. Automobile parking and garages, subject to the further requirements of this Article.
2. Structures and open land for recreation, intended for use by the residents of the Mobile Home Park.
3. Such areas and structures as may be necessary for housekeeping activities, such as a common laundry or garden plots. The use of any such area or structure may be limited to residents of the Mobile Home Park.
4. Storage buildings for storage of belongings of the residents of the Mobile Home Park.
3. Maintenance buildings, storage buildings, and one central office building, all of which must be utilized solely in connection with the operation of the Mobile Home Park.
4. Community building for use by the residents of the Mobile Home Park and their guests.

5. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.

Section 1105 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in a Mobile Home Park Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Home occupation.

Section 1106 - HEIGHT LIMITATIONS. In Mobile Home Park Zones the following height restrictions shall apply:

1. No mobile home or one-family dwelling shall be erected, altered, or extended to exceed thirty-eight (38) feet in height from the lowest interior grade or thirty-six (36) feet in height from the lowest exterior grade, whichever is lower.
2. No other building shall be erected, altered, or extended to exceed fifteen (15) feet in height from the lowest exterior grade.
3. No structure other than a building shall be erected, altered, or extended to exceed thirty (30) feet in height from the lowest exterior grade.

Section 1107 - YARD REGULATIONS. In Mobile Home Park Zones the following yard regulations shall apply:

1. Mobile homes shall have the following minimum yard sizes:
 - (a) Front Yard - if on a public road, not less twenty feet in depth from the highway right of way line; if on an interior private road at least twenty feet in depth from the edge of such road if paved, and if not paved, at least twenty-five feet from the edge of the traveled way.
 - (b) Rear Yard - not less than ten feet in depth.
 - (c) Side Yards - each not less than ten feet in width.
2. A one-family dwelling and accessory buildings related to the one-family dwelling, shall be subject to the minimum yard sizes set forth in the High Density Residential Zone unless adjacent to a mobile home, in which event the size of the yard adjacent to the mobile home shall be reduced to the minimum yard size required for a mobile home above.
3. In Mobile Home Park Zones accessory buildings may occupy any open space beyond

the minimum yards set forth above.

4. Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard provisions.

Section 1108 - BUILDING AREA. The maximum building area shall not exceed forty percent of the gross area of the mobile home park. Projections described in Section 2704 are not to be included in computing the percentage.

Section 1109 - LOT AREA. Each mobile home lot shall have a minimum lot area of 5,000 square feet. The arrangement of lots in the park shall facilitate the efficient development of land and permit the convenient access of emergency vehicles.

Section 1110 - SPECIAL REQUIREMENTS. Mobile home parks shall be subject to the following special requirements:

1. Stand Location: The location of the mobile home stand on each lot shall be identified on the site plan.
2. Anchors: The mobile home stand shall be provided with anchors and other fixtures capable of securing and stabilizing the mobile home. These anchors shall be placed at least at each corner of the mobile home stand.
3. Skirting: Each mobile home owner, within thirty (30) days after the arrival of the mobile home in the park, shall be required to enclose the bottom space between the edge of the mobile home and the mobile home stand with a skirt of metal, wood or other suitable material. This skirt shall be properly ventilated and securely attached to the mobile home.
4. Parking: Parking requirements shall be as set forth in Article XXVII.
5. Buffer Yards: A buffer yard at least 50 feet wide shall be provided around the perimeter of the mobile home park. No structures are permitted in the buffer yard and the Planning Board may require that suitable landscaping be provided in order to effectively screen the mobile home park from adjacent properties. Parking spaces are not permitted in the buffer yards.
6. Access Drives and Walkways: Access drives shall be paved with blacktop, concrete, or other solid material. Driveways and walkways shall provide safe access, egress, and traffic circulation within the site. The placement, size, and arrangement of access to public ways shall be subject to the approval of the appropriate highway authority. Where the density of population or school bus routes make it necessary, sidewalks and bus shelters may be required.
7. Open Space and Recreation Areas: The mobile home park owner shall provide

recreation areas on the premises, including but not limited to, play areas. The Planning Board shall review and approve all such areas. Ten percent (10%) of the gross lot area of the mobile home park, exclusive of the area reserved for buffer yards, shall be permanently maintained as open space.

8. Storage Space: The mobile home park owner shall provide storage space in convenient locations for each mobile home lot. This storage space shall be contained in an enclosed and secure structure. Several storage structures may be located in a common building. The minimum dimensions of storage space per lot shall be eight feet high, eight feet deep, and four feet wide.
9. Screening of Waste and Refuse: One or more common areas shall be provided for the disposal of waste, refuse and recyclables. These areas shall contain secure bins of a suitable size. These areas shall be screened from public view by shrubbery or a fence.
10. Signs. A single sign for the mobile home park is permitted. The size and other characteristics shall be regulated by the Town of Ithaca Sign Law.
11. Operating Permits. An operating permit shall be required for all mobile home parks. This permit shall be renewable annually. The Building Inspector shall make periodic inspections of the mobile home park to determine whether such park is in compliance with the terms and conditions of the permit, the Zoning Ordinance and the site plan approval. The fee for the operating permit shall be in accordance with the following schedule based on the number of mobile homes then located in the mobile home park:

1 - 4 units	\$25.00
5 - 9 units	\$50.00
10 - 24 units	\$100.00
25 - 49 units	\$200.00
50 - 100 units	\$400.00
over 100 units	(No. of Units) times (\$4.00)
12. Building Permits. Notwithstanding any other provision of this Ordinance of the Building Code, a building permit shall be required for each mobile home and/or structure to be sited or constructed.

Section 1111 - SITE PLAN APPROVALS. No building permit shall be issued for a structure in a Mobile home Park Zone unless the proposed structure is in accordance with a site plan approved by the Planning Board and, if required, by the Tompkins County Health Department. No subdivision of a mobile home park site plan is permitted without approval of the Town Board, following Planning Board review. No alteration, amendment or change in a mobile home park site plan is permitted without approval of the Planning Board.

ARTICLE XII: MULTIPLE RESIDENCE ZONES

Section 1200 - PURPOSE. The purpose of the Multiple Residence Zone is to permit, where appropriate, the construction and development of multiple-family residences in the Town. At the same time, the Town does not desire the large-scale development of these units to the extent that large areas of the Town would be devoted to such use and single-family residences would be incompatible. Accordingly, additional areas may be zoned as a Multiple Residence Zone upon application for a specific proposal in accordance with the normal rezoning procedures. Generally, such re-zoning will be permitted only in areas where public water and sanitary facilities are available, where public transportation may be readily available, and where other resources and facilities that complement multiple residence occupancy are found. In reaching its decision on whether to rezone to a Multiple Residence Zone, the Town Board shall consider the general criteria set forth in this Ordinance, the most current comprehensive or master plan for the town, and this statement of purpose.

Section 1201 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in a Multiple Residence Zone:

1. One-family dwellings, two-family dwellings and multiple-family dwellings. Each dwelling unit in an multiple residence zone shall be occupied by no more than
 - (a) One family, or
 - (b) One family plus no more than two boarders, roomers, lodgers or other occupants.
2. Day care homes, family day care homes and group family day care homes.

Section 1202 - PERMITTED ACCESSORY BUILDINGS AND USES. Only the following accessory buildings or uses are permitted of right in a Multiple Residence Zone:

1. Automobile parking and garages, subject to the further requirements of this article.
2. Structures or use of open land for recreation, intended for residents of the Multiple Residence Zone, including swimming pools, tennis courts, and other similar recreational facilities.
3. Such uses as may be necessary for housekeeping activities, such as drying yards or structures in which laundry facilities are maintained but any such use must be limited to residents of multiple dwellings.
4. Storage buildings for storage of belongings of the residents of the Multiple Residence Zone.
5. Maintenance buildings and one central office building, all of which must be utilized solely in connection with the operation of multiple-family dwellings in the Multiple Residence Zone.

6. Community building for use by the residents of multiple-family dwellings in the Multiple Residence Zone and their guests.
7. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g. outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Board of Zoning Appeals.

Section 1203 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Multiple Residence Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Bed and Breakfast.
2. Adult care facility.
3. Child day care center.

Section 1204 - ACCESSORY BUILDINGS AND USES AUTHORIZED BY SPECIAL APPROVAL ONLY. The following accessory buildings or uses are permitted in a Multiple Residence Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance:

1. Home occupation.

Section 1205 - MINIMUM AREA FOR MULTIPLE RESIDENCE ZONE. A minimum tract of two (2) acres is required for the development of a Multiple Residence Zone. Such tract shall contain a minimum of 3500 square feet of gross lot area for each dwelling unit to be constructed.

Section 1206 - HEIGHT LIMITATIONS. In Multiple Residence Zones, no building shall be erected, altered, or extended to exceed thirty-eight (38) feet in height from the lowest interior grade or thirty-six (36) feet in height from the lowest exterior grade, whichever is lower.

Section 1207 - YARD REGULATIONS. Except as may be specifically otherwise authorized in this law, in Multiple Residence Zones yards of at least the following dimensions are required:

1. Front Yard - not less than 50 feet in depth.
2. Rear Yard - not less than 50 feet in depth.
3. Side Yards - none required with respect to buildings all on the same lot, but not less than 50 feet from any structure to a side property line.
4. Courts - shall be completely open on one side, with a width not less than the height

of the tallest opposite structure and a depth not more than one and one-half the width.

5. Spaces Between Buildings - the distance between any two structures shall be no less than twenty feet.

The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas.

Section 1208 - BUILDING AREA. The maximum building area shall not exceed thirty percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 1209 - MINIMUM USEABLE OPEN SPACE. Minimum useable open space shall be not less than thirty percent of the lot area. For this purpose 'useable open space' shall mean that portion of the lot area not covered by any structure (as defined in Article I) or driveway, and generally intended to be occupied by suitable vegetation or landscaping.

Section 1210 - SIZE AND AREA OF LOT. Lots in Multiple Residence Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least thirty thousand (30,000) square feet if public sewer facilities are available, otherwise the minimum lot area shall be at least two acres; and
2. Minimum width at the street line shall be 100 feet; and
3. Minimum width at the maximum required front yard setback line (50 feet from the street line) shall be 150 feet; and
4. Minimum depth from the street line shall be 200 feet.

Section 1211 - PARKING. Parking requirements shall be as set forth in Article XXVII.

Section 1212 - ADDITIONAL SPECIAL REQUIREMENTS. Additional special requirements include the following:

1. Access and Sidewalks - Access drives shall be paved with black-top, concrete, or other solid material. Driveways and walkways shall provide safe access, egress and traffic circulation within the site. The placement, size and arrangement of access to public streets shall be subject to the approval of the appropriate highway authority. Where density of population, traffic, bus routes, or other safety issues make it desirable, the developer or applicant for rezoning shall install sidewalks with the approval of the appropriate highway authority.
2. Recreation - The developer or applicant shall provide recreation areas for children on

the premises, such playgrounds, parks, or other recreational facilities, in such amount as may be necessary to protect the health, safety and general welfare of the children and residents in the district.

3. Screening of Waste and Refuse - No waste or refuse shall be placed outside any building in a Multiple Residence Zone except that an area common to all buildings, or a separate area for each building shall be reserved at the rear of the structure or structures. This area shall contain bins, or other receptacles adequate to prevent the scattering of waste and refuse, and shall be planted or fenced so as to be screened from the public view. Such area and receptacles shall not be located in the buffer area set forth above. No refuse shall be burned on the premises.
4. Buffer Areas - No structure shall be placed nearer to any other residence zone, agricultural zone, commercial zone or industrial zone than double the maximum distance of the side yard requirement of the adjoining zone (e.g. if the Multiple Residence Zone adjoins a Low Density Residence Zone, and if the maximum side yard requirement in such Low Density Zone is 40 feet (excluding the 15 foot side yard applicable to garages, as such 15 foot distance is not the maximum side yard requirement), no structure in the Multiple Residence Zone shall be closer than 80 feet to such Low Density Zone). A strip at least ten feet wide within such buffer area shall be suitably planted to screen a Multiple Residence Zone from other present or future residences outside the Zone, or a suitable screening fence shall be erected. The Planning Board, in reviewing the site plan, may alter or waive the vegetative requirement along the public street side.
5. Additional Screening - In addition to the landscaping, screening, fencing and buffer requirements set forth above, the Planning Board in the site plan review process may require additional landscaping, fencing, screening, or earth berm to be provided in any area where the proposed structure or use would, in the opinion of the Planning Board, create a hazardous condition or would detract from the value of neighboring property if such additional landscaping, fencing, screening, or berm were not provided.

Section 1213 - SITE PLAN APPROVAL. No building permit shall be issued for a building or structure within a Multiple Residence Zone unless the proposed building is in accordance with a site plan approved pursuant to the provisions of Article XXIII. In addition to the site plan requirements set forth such provisions, the site plan shall be subject to the following additional requirements as authorized by Town Law Section 274-a:

1. Such site plan shall show, when required by the Planning Board a park or parks suitably located for playground or other recreational purposes.
2. Land for park, playground or other recreational purposes shall not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such finding shall include an evaluation of the present and

anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute. Such evaluation may also include reference to any current Parks, Recreation and Open Space Plan existing in the Town.

3. In the event the Planning Board makes a finding pursuant to paragraph (b) of this section that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof in an amount to be established by the Town Board. In making such determination of suitability, the Planning Board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.
4. Notwithstanding the foregoing, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved pursuant to section two hundred seventy-six of the Town Law or pursuant to the Town of Ithaca Subdivision Regulations (as either may be amended from time to time), the Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of resubdivision of such plat, nothing shall preclude the requiring the reservation of additional parkland or additional money to be donated in lieu thereof.
5. If the Town Board, by resolution or local law has established the amounts, or a formula by which amounts payable in lieu of land reservation may be determined, the amounts payable pursuant to this section shall be as set forth in, or determined by, such local law.

ARTICLE XIII: COMMERCIAL ZONES GENERALLY

Section 1300 - PURPOSE. The purpose of the establishing Commercial Zones and the following regulations is to establish certain areas where retail businesses and other commercial uses of land will be encouraged and to establish standards by which development in these areas shall occur.

Section 1301 - PERMITTED ACCESSORY USES. Permitted Accessory Uses in all Commercial Zones shall be the following:

1. Automobile parking and off-street loading areas, subject to the further requirements

of this Ordinance.

2. Accessory storage buildings, but not to include outside storage.
3. Signs, as regulated by the Town of Ithaca Sign Law.
4. The dwelling of a guard, caretaker or custodian but not more than one dwelling unit per building.
5. Child day care centers upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance.

Section 1302 - MINIMUM AREA FOR COMMERCIAL ZONE. A minimum tract of two (2) acres is required for the development of a Commercial Zone except for a Neighborhood Commercial Zone for which the minimum tract required is one (1) acre and except for a Vehicle Fueling and Repair Zone for which the minimum tract required is 30,000 square feet.

Section 1303 - HEIGHT LIMITATIONS. Except as may be specifically otherwise authorized in this law, in Commercial Zones no building shall exceed thirty-eight (38) feet in height from lowest interior grade nor thirty-six (36) feet in height from lowest exterior grade, and no structure other than a building shall exceed thirty (30) feet in height.

Section 1304 - YARD REGULATIONS. Except as may be specifically otherwise authorized in this law, in Commercial Zones yards of at least the following dimensions are required:

1. Front Yard - not less than 50 feet in depth.
2. Rear Yard - not less than 30 feet in depth.
3. Side Yards - none required with respect to buildings all on the same lot, but not less than 30 feet from any structure to a side property line.
4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard requirements.

The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas.

Section 1305 - BUILDING AREA. The maximum building area shall not exceed thirty percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 1306 - MINIMUM USEABLE OPEN SPACE. Minimum useable open space shall be not less than thirty percent of the lot area. For this purpose 'useable open space' shall mean that portion of the lot area not covered by any structure (as defined in Article I) or driveway, and

generally intended to be occupied by suitable vegetation or landscaping.

Section 1307 - SIZE AND AREA OF LOT. Lots in Commercial Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least thirty thousand (30,000) square feet if public sewer facilities are available, otherwise the minimum lot area shall be at least two acres; and
2. Minimum width at the street line shall be 100 feet; and
3. Minimum width at the maximum required front yard setback line (50 feet from the street line) shall be 150 feet; and
4. Minimum depth from the street line shall be 200 feet.

Section 1308 - PARKING. Parking requirements shall be as set forth in Article XXVII.

Section 1309 - ADDITIONAL SPECIAL REQUIREMENTS. Additional special requirements include the following:

1. Off-street Loading - At least one off-street loading space shall be required for each 20,000 square feet of floor area, including basement.
2. Access and Sidewalks - Access drives shall be paved with black-top, concrete, or other solid material, and, if business is to be carried on in the evening, shall be adequately lighted. No lights shall be placed so as to reflect in an objectionable manner on adjoining residential properties or public streets. Driveways and walkways shall provide safe access, egress and traffic circulation within the site. The placement, size and arrangement of access to public streets shall be subject to the approval of the appropriate highway authority. Unless waived by the Town Board or Planning Board for good cause shown, sidewalks shall be installed by the developer of any commercial zone (except Lake Front Commercial Zones) simultaneously with construction of any commercial buildings on any site.
3. Buffer Areas and Screening - No structure shall be placed closer than fifty feet to any residence zone and thirty feet to any other zone. A strip at least ten feet wide within such buffer area shall be suitably planted to screen a Commercial Zone from present or future residences, or a suitable screening fence shall be erected. No waste or refuse shall be placed outside any building in a Commercial Zone except that an area common to all businesses, or a separate area for each business may be reserved at the rear of the structure or structures. These areas shall contain bins, or other receptacles adequate to prevent the scattering of waste and refuse, and shall be planted or fenced so as to be screened from the public view. Such area and receptacles shall not be located in the buffer area set forth above. No refuse shall be burned on the premises.

4. Additional Screening - In addition to the landscaping, screening, fencing and buffer requirements set forth above, additional landscaping, fencing, screening, or earth berm may be required to be provided by the Planning Board in the site review process in any area where the proposed structure or use would, in the reasonable opinion of the Planning Board, create a hazardous condition or would detract from the value of neighboring property if such landscaping, fencing, screening, or berm were not provided.
5. Supplemental Limitations - In the event that any of the uses permitted in any of the Commercial Zones involve auxiliary, small-scale assembly, repair, processing, fabrication, or cooking, such activity shall take place only in connection with products or services offered for immediate sale or direct service to customers on the premises, and no objectionable noise, smoke, odor, vibration or disorder created thereby shall be experienced beyond the lot lines of said businesses.
6. Displays - In all Commercial Zones except Gasoline and Repair Commercial Zones, no outside displays shall be permitted unless otherwise specifically authorized by this Ordinance.

Section 1310 - DRIVE-THROUGH OPERATIONS. The inclusion in any zone of a use, such as a restaurant, bank, or pharmacy, that can be operated without a drive-up or drive-through facility, does not permit a drive-up or drive-through facility associated with such use unless the provisions applicable to such zone specifically state otherwise.

Section 1311 - SITE PLAN APPROVAL. No building permit shall be issued for a building or structure within a Commercial Zone unless the proposed building is in accordance with a site plan approved pursuant to the provisions of Article XXIII of this Ordinance.

ARTICLE XIV: NEIGHBORHOOD COMMERCIAL ZONES

Section 1400 - PURPOSE. The purpose of the Neighborhood Commercial Zone is to provide areas or centers for shopping and service-oriented uses that are easily accessible to the neighborhoods which they serve, which are not intended to draw customers from considerable distances, or which have low-volume traffic and no significant impacts so as to be minimally intrusive upon residential neighborhoods. These zones shall be located so as to be generally distributed throughout the Town in proportion to the population and shall be limited both in size and in proximity to one another.

Section 1401 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in a Neighborhood Commercial Zone:

1. The following retail uses provided that the interior floor area is 5,000 square feet or less:
 - (a) Retail food store/grocery

- (b) Retail sales of candy, ice cream, gifts, flowers and similar small items
 - (c) Retail store (other than a retail store expressly referred to elsewhere in this Ordinance) where goods are sold from inside the store and rental of goods is not a significant portion of the revenues
 - (d) Arts and crafts gallery/studio
 - (e) Photography store/studio
 - (f) Drugstore/pharmacy
 - (g) Florist
 - (h) Bicycle sales/repairs which may include outside displays
 - (i) Bakery
 - (j) Plant nursery which may include outside displays
 - (k) Hardware store
 - (l) Painting and decorating boutique
 - (m) Bookstore or newsstand
2. The following personal service retail uses provided that the interior floor area is 5,000 square feet or less:
- (a) Bank or other financial institution
 - (b) Laundromat, dry cleaning (self service or pickup)
 - (c) Barber shop or beauty parlor
 - (d) Milliner/dressmaker/tailor
 - (e) Shoe maker/repair
 - (f) Restaurant or coffee shop
 - (g) Caterer
 - (h) Photocopying/related printing
 - (i) Optician
 - (j) Decorator
3. Business, professional, administrative, or governmental office, but excluding a medical or dental clinic.
4. Fire station and emergency medical services
5. The following uses provided that the area on which construction occurs on the land is 5,000 square feet or less, (excluding underground utilities)
- (a) Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to other buildings in the district in which the substations or similar structures are constructed.

Section 1402 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Neighborhood Commercial Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Any of the uses, except caterer, set forth above as being permitted as of right where the interior floor area for such use exceeds 5,000 square feet.
2. The following uses where the construction on the lot exceeds 5,000 square feet of land area but does not exceed 10,000 square feet of land area (excluding underground utilities):
 - (a) Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to other buildings in the district in which the substations or similar structures are constructed.
3. Bank or other financial institution with a drive-through with a maximum of two drive-through lanes served by tellers or automatic teller machines.
4. Furniture and appliance sales and service.
5. Packaging/mailing service.
6. Hotel or motel provided the facility fronts on a state highway.
7. Child day care center and elder care center.
8. Club house, lodge, community center.
9. Mixed use commercial and residential provided the commercial use is a use that would be permitted in a Neighborhood Commercial Zone if it were not in a mixed use facility.
10. Health or fitness center.
11. Any other lawful use, not otherwise specifically referred to in this Ordinance, that both the Planning Board and the Zoning Board of Appeals find is substantially similar to a use permitted as of right in the Neighborhood Commercial Zone and does not have greater adverse effects upon traffic, noise, air quality, parking, or any other attribute reasonably relevant, than a use permitted as of right.

Section 1403 - MAXIMUM BUILDING SIZE. No building in a Neighborhood Commercial Zone shall exceed 7,500 square feet in size (inclusive of all floors except a basement used solely for storage) unless the Planning Board, by special permit, authorizes the size to be increased up to 10,000 square feet. In no event shall a building exceed 10,000 square feet in size (inclusive of all floors except a basement used solely for storage).

ARTICLE XV: OFFICE PARK COMMERCIAL ZONES

Section 1500 - PURPOSE. The purpose of the Office Park Commercial Zone is to provide areas in the Town where office parks involving business offices but not retail sales nor industrial products might be located in a manner that is not totally inconsistent with residential areas but which may serve as transition zones from lower density residential to higher intensity residential and commercial uses and may involve traffic and other impacts that would begin to degrade the residential environment.

Section 1501 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in an Office Park Commercial Zone:

1. Bank or other financial institution with or without a drive-through facility, provided any drive-through facility shall be limited to no more than two drive-through lanes.
2. Business, administrative or professional offices.
3. Medical and dental clinics not involving any overnight occupancy.
4. Optician and related facilities.
5. Municipal or other governmental offices.

Section 1502 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Office Park Commercial Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Any municipal or public utility purpose necessary to the maintenance of utility services involving construction on more than 10,000 square feet of land.
2. Fire station or other public building necessary to the protection of or servicing of a neighborhood.
3. Arts and crafts gallery or studio.
4. Restaurant.
5. Packaging/mailing service.
6. Research and development facility which contains laboratories or other areas that are not offices.
7. Club house, lodge, community center.
8. Hospital, medical or dental clinic that involves overnight occupancy.

Section 1503 - ADDITIONAL PERMITTED ACCESSORY USES. In addition to accessory uses authorized in all Commercial Zones, the following accessory uses are permitted in a Office Park Commercial Zone:

1. Cafeteria or lunchroom.
2. Retail sales of candy, ice cream, baked goods, flowers, and other small items.
3. Child or elder day care center.
4. Health or fitness center.

ARTICLE XVI: COMMUNITY COMMERCIAL ZONES

Section 1600 - PURPOSE. The purpose of the Community Commercial Zone is to provide areas in the Town for a broader range of economic activities which include activities that may draw clientele from all areas in the Town and from outside the Town. It is the intention to locate such areas where there is minimal impact on established residential neighborhoods, where the necessary infrastructure is available, and where transportation facilities can be provided. The uses in this Zone will typically involve more traffic and related noises than in the Neighborhood and Office Park Commercial Zones.

Section 1601 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in a Community Commercial Zone:

1. Any of the uses permitted in a Neighborhood Commercial Zone or the Office Park Commercial Zone that do not require a special permit or approval other than for the size of the facility. Such uses are permitted as of right if the interior floor area is not more than 10,000 square feet.
2. Any of the following uses provided that the interior floor area is 10,000 square feet or less:
 - (a) Bank or other financial institution with drive-through with a maximum of two drive-through lanes served by tellers or automatic teller machines.
 - (b) Building supply which may include outside displays.
 - (c) Drug store with a drive-through with no more than one driving lane passing through the drive-through window area.
 - (d) Electrical shop.
 - (e) Furniture and appliance sales and service.
 - (f) Glass shop.
 - (g) Greenhouse which may include outside displays.
 - (h) Heating shop.
 - (i) Monument works which may include outside displays.
 - (j) Optician.

- (k) Package liquor store.
 - (l) Pet shop, provided such shop does not have any outside pens or runs.
 - (m) Plumbing shop.
 - (n) Printer.
 - (o) Video store.
 - (p) Packaging/mailing service.
3. Hotel or motel of 30 sleeping rooms or less.

Section 1602 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Community Commercial Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance and provided the interior floor area for each store (or if the use is other than as a store, the space occupied by each entity) is no greater than 25,000 square feet unless limited below to a lesser amount:

1. Any of the uses permitted in Neighborhood Commercial Zone or Office Park Commercial Zone upon receipt of a special permit.
2. Any of the uses set forth in Sections 1401, 1402, 1501 and 1601 above where the interior floor area for such use exceeds the maximum permitted allowable in said sections, usually 10,000 square feet.
3. Public library.
4. Theater, skating rink, bowling alley, dance hall, where the activity involved is conducted exclusively inside a building provided that such place of business shall be located at least 200 feet from any residence district.
5. Restaurant or other place for the serving of food, with or without a drive-through facility provided, however, that no new restaurant with a drive-through facility shall be permitted within 1500 feet of the property boundary line of an existing restaurant with a drive-through facility. If alcoholic beverages are served, the place of business shall be located at least 200 feet from a school or church and at least 150 feet from any residence zone. Notwithstanding any other provision of this Ordinance, no such facility with a drive-through shall exceed 10,000 square feet of interior space.
6. Bar or tavern, provided the place of business is located at least 200 feet from a school or church and at least 150 feet from any residence zone.
7. Bank or other financial institution with drive-through with not more than three drive-through lanes served by tellers or automatic teller machines.
8. Drug store or pharmacy with a drive-through with not more than three driving lanes passing through the drive-through window(s) area.
9. Club house or lodge, provided that no building so used shall be within 100 feet of

any street or within 150 feet of the lot line of an adjoining owner.

10. Undertaker.
11. Hotel or motel with more than 30 sleeping rooms.
12. Public parking garage or lot such as a Park-n-ride parking lot.
13. Mixed use commercial and residential provided the commercial use is a use that would be permitted in a Community Commercial Zone if it were not in a mixed use facility.
14. Veterinary office or clinic. No veterinary office or clinic shall exceed 10,000 square feet of interior space.
15. Medical and dental clinics not involving any overnight occupancy.
16. Upholsterer.
17. Car wash, including a car wash drive-through facility, provided the foot-print of the car wash building does not exceed 10,000 square feet.
18. Any other lawful use, not otherwise specifically referred to in this Ordinance, that both the Planning Board and the Zoning Board of Appeals find is substantially similar to a use permitted as of right in the Community Commercial Zone and does not have greater adverse effects upon traffic, noise, air quality, parking, or any other attribute reasonably relevant, than a use permitted as of right.

ARTICLE XVII: VEHICLE FUELING AND REPAIR COMMERCIAL ZONES

Section 1700 - PURPOSE. The purpose of the Vehicle Fueling and Repair Commercial Zone is to provide areas where retail sales of automotive gasoline and related products might occur as well as the sale and repair of automobiles, all in an environment that minimizes the impact of such activities on residential and Neighborhood Commercial Zones.

Section 1701 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in a Vehicle Fueling and Repair Commercial Zone:

1. Vehicle fuel sales station and vehicle repair garage provided that all servicing of vehicles shall take place on private property, and that no repair work, except short-term emergency repairs, be carried on out-of-doors.
2. Car wash, including a car wash that is a drive-through facility.

Section 1702 - PRINCIPAL USE AUTHORIZED BY SPECIAL PERMIT ONLY. The

following use is permitted in a Vehicle Fueling and Repair Commercial Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Convenience store with gasoline sales.
2. Public parking garage or parking lot.
3. Any municipal or public utility purpose necessary to the maintenance of utility services except that substations and similar structures shall be subject to the same set-back requirements as apply to other buildings in the district in which the substations or similar structures are constructed.

ARTICLE XVIII: LAKEFRONT COMMERCIAL ZONES

Section 1800 - PURPOSE. The purpose of the Lakefront Commercial Zone is to provide areas in the Town for coherent development of commercial facilities that are uniquely related to the shore front of Cayuga Lake and are not inherently incompatible with adjacent residential zones.

Section 1801 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in a Lakefront Commercial Zone:

1. Boat Harbor and Marina.

Section 1802 - PRINCIPAL USES AUTHORIZED BY SPECIAL PERMIT ONLY. The following uses are permitted in a Lakefront Commercial Zone upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Restaurant or other place for the serving of food. If alcoholic beverages are served, the place of business shall be located at least 200 feet from a school or church or 150 feet from a residence district.
2. Hotel or motel, provided that the principal building is set back at least 100 feet from the shoreline.
3. Club House or Lodge, provided that no buildings so used shall be within 100 feet of any street, or within 150 feet of the lot line of an adjoining owner.
4. Mixed use commercial and residential provided the commercial use is a use that would be permitted in a Lakefront Commercial Zone if it were not in a mixed use facility and provided that any residential component of any building is set back at least 100 feet from the shoreline.
5. Any municipal or public utility purpose necessary to the maintenance of utility services involving construction on not more than 5,000 square feet of land.

Section 1803 - ACCESSORY USE AUTHORIZED BY SPECIAL PERMIT ONLY. In addition to accessory uses authorized in all Commercial Zones, the following accessory use is permitted in a Lakefront Commercial Zone but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance:

1. Retail sales of candy, ice cream, baked goods, flowers, and other small items.

ARTICLE XIX: LIGHT INDUSTRIAL ZONES

Section 1900 - PURPOSE. The purpose of the Light Industrial Zone is to permit, where appropriate, the construction of research and development oriented industries, high technology enterprises, light manufacturing facilities, and other moderately intensive industrial activities which would not generally be appropriate in residential areas but which may not require the same level of separation from residential areas as more intensive industrial uses. Areas may be zoned as a Light Industrial Zones by the Town Board or upon application for a specific proposal, all in accordance with the normal rezoning procedures. Generally, such re-zoning will be permitted only in areas where public water and sanitary facilities are available, where public transportation may be readily available, and where other resources and facilities that complement multiple light industrial uses are found. In reaching its decision on whether to rezone to a Light Industrial Zone, the Town Board shall consider the general criteria set forth in this Ordinance, the most current comprehensive or master plan for the town, and this statement of purpose.

Section 1901 - PERMITTED PRINCIPAL USES. Only the following buildings or uses are permitted of right in a Light Industrial Zone:

1. Business, administrative or professional offices.
2. Industrial uses employing electric power or other motor power, or utilizing hand labor for fabrication or assembly.
3. Indoor warehousing and indoor storage including self-service storage facilities.
4. Printing, publishing and bookbinding.
5. Research and development facilities utilizing office spaces, indoor scientific laboratories, and other similar indoor spaces.

Section 1902 - ADULT ENTERTAINMENT USES AUTHORIZED BY SPECIAL APPROVAL ONLY. Adult entertainment businesses are permitted in certain Light Industrial Zones, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this Ordinance after receipt of a favorable recommendation for same from the Planning Board, and only upon the conditions set forth below:

1. Adult entertainment businesses are permitted only in those Light Industrial Districts which adjoin a State Highway (e.g. New York State Route 13).

2. The Board of Appeals, after favorable recommendation of the Planning Board, grants a special approval for same in accordance with the provisions of the Special Permits and Special Approvals Article of this Ordinance utilizing the criteria set forth or referred to in said article for the granting of a special approval.
3. The building in which the business is conducted, and the related parking areas, are located at least 150 feet from any highway right of way line, at least 280 feet from the boundary of any other zoning district, and at least 280 feet from any public park, school, or church. For this purpose, the Finger Lakes Trail is considered a public park, and the boundaries of such Trail are deemed to be the lines on each side of the centerline that are parallel to, and twenty feet from, the centerline of the Trail.
4. The building and lot upon which it is located comply in all other respects with the requirements set forth in the provisions of this article governing light industrial zones, except as modified by this section and with the following further exceptions:
 - (a) If the type of adult entertainment business is one specified in Section 2707 the minimum parking requirements shall be those set forth in such section for that type of structure (e.g. if the adult entertainment business is a theater, there shall be one parking space for each five seats).
 - (b) If the type of adult entertainment business is not one specified in Section 2707 the minimum parking requirement shall be 300 square feet of parking area, including lanes and driveways, for each 100 feet of floor area, exclusive of basements used for storage. (e.g. if the adult entertainment business is a massage parlor, the minimum parking area shall be 300 square feet for each 100 feet of floor area).
 - (c) The minimum parking requirements may be reduced in accordance with the criteria and procedures referred to Section 2707.

Section 1903 - PERMITTED ACCESSORY BUILDINGS AND USES. Only the following accessory buildings or uses are permitted of right in a Light Industrial Zone:

1. Automobile parking and off-street loading areas subject to the further requirements of this article.
2. Accessory storage buildings, but not to include outside storage.
3. Signs, as regulated by the Town of Ithaca Sign Law.
4. The dwelling of an owner, operator, or manager, or of a guard, caretaker, or custodian, provided that no more than one dwelling unit per industry shall be established.

5. Guardhouse.
6. Child Day Care Centers upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance.
7. Cafeteria or lunchroom.
8. Recreational facilities including playfields, ballfields, tennis and volleyball courts, swimming pools and fitness centers.
9. Fences up to eight feet in height if approved by the Planning Board as appropriate and necessary for the proposed use.

Section 1904 - MINIMUM AREA FOR A LIGHT INDUSTRIAL ZONE. A minimum tract of ten acres is required for the development of a Light Industrial Zone.

Section 1905 - HEIGHT LIMITATIONS. Except as may be specifically otherwise authorized in this law, in Light Industrial Zones no building shall exceed thirty-eight (38) feet in height from lowest interior grade nor thirty-six (36) feet in height from lowest exterior grade, and no structure other than a building shall exceed thirty-six (36) feet in height.

Section 1906 - YARD REGULATIONS. Except as may be specifically otherwise authorized in this law, in Light Industrial Zones yards of at least the following dimensions are required:

1. Front Yard - not less than 150 feet in depth.
2. Rear Yard - not less than 60 feet in depth.
3. Side Yards - none required with respect to buildings all on the same lot, but not less than 60 feet from any structure to a side property line.
4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard requirements.

The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas.

Section 1907 - BUILDING AREA. The maximum building area shall not exceed thirty percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 1908 - MINIMUM USEABLE OPEN SPACE. Minimum useable open space shall be not less than thirty percent of the lot area. For this purpose 'useable open space' shall mean that portion of the lot area not covered by any structure (as defined in Article I) or driveway, and

generally intended to be occupied by suitable vegetation or landscaping.

Section 1909 - SIZE AND AREA OF LOT. Lots in Light Industrial Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least two acres; and
2. Minimum width at the street line shall be 150 feet; and
3. Minimum width at the maximum required front yard setback line (150 feet from the street line) shall be 200 feet; and
4. Minimum depth from the street line shall be 300 feet.

Section 1910 - PARKING. Parking requirements shall be as set forth in Article XXVII.

Section 1911 - ADDITIONAL SPECIAL REQUIREMENTS. Additional special requirements include the following:

1. Off-street Loading - Same as in Commercial Zones (Section 1309 (1)).
2. Access and Sidewalks - Same as in Commercial Zones (Section 1309 (2)).
3. Buffer Areas and Screening - Same as in Commercial Zones (Section 1309 (3)) except no structure shall be placed closer than sixty feet to any residence zone and thirty feet to any other zone.
4. Additional Screening - Same as in Commercial Zones (Section 1309 (4)).
5. Displays - In all Light Industrial Zones no outside displays shall be permitted unless otherwise specifically authorized by this Ordinance.

Section 1912 - PERFORMANCE STANDARDS. Any use in a Light Industrial Zone shall be so operated as to be in conformity with the following additional standards:

1. Noise. No use shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the land use category stated below when measured at the boundary of the property nearest the receiving land use.

Receiving Land Use Category	Time	Sound Level Limit
Residential Use	7 a.m. - 7 p.m.	65 dBa
	7 p.m. - 7 a.m.	55 dBa

Natural Areas	7 a.m. - 7 p.m.	60 dBA
	7 p.m. - 7 a.m.	50 dBA
All Other	7 a.m. - 7 p.m.	68 dBA
	7 p.m. - 7 a.m.	58 dBA

For any source of sound which emits a pure tone, a discrete tone or impulsive sound, the maximum sound limits set forth above shall be reduced by 5 dBA.

2. Vibration: No activity shall cause or create a discernible steady state or impact vibration at or beyond the boundary of the property.
3. Atmospheric Emissions: There shall be no emission of dust, dirt, smoke, fly ash, or noxious gases or other noxious substances which could cause damage to the health of persons, animals, or plant life.
4. Odor: There shall be no emission of any offensive odor discernible at the boundary of the property.
5. Glare and Heat: No glare or heat shall be produced that is perceptible beyond the boundaries of the property. Exterior illumination shall be shaded and directed to prevent glare or traffic hazard on surrounding properties and streets.
6. Radioactivity and Electromagnetic Interference: No activities shall be permitted which emit dangerous radioactivity. No activities shall be permitted which produce any electromagnetic disturbance adversely affecting the operation of any equipment outside the boundary of the property.
7. Fire and Explosion Hazards: All activities involving, and all storage of flammable and explosive materials, shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire suppression equipment and devices standard in the industry and as may be required by any applicable codes, laws, or regulations. All burning of such waste materials in open fires is prohibited.
8. Vermin: There shall be no storage of material, either indoors or out, in such a manner that it attracts or facilitates the breeding of vermin or endangers public health or the environment in any way.

Section 1913 - SITE PLAN APPROVAL. No building permit shall be issued for a building or structure within a Light Industrial Zone unless the proposed building is in accordance with a site plan approved pursuant to the provisions of Article XXIII.

ARTICLE XX: INDUSTRIAL ZONES

Section 2000 - PURPOSE. The purpose of the Industrial Zone is to permit, where appropriate, manufacturing and other industrial facilities. Areas may be zoned as an Industrial Zone by the Town Board or upon application for a specific proposal, all in accordance with the normal rezoning procedures. Generally, such re-zoning will be permitted only in areas where public water and sanitary facilities are available, where public transportation may be readily available, and where other resources and facilities that complement industrial uses are found. In reaching its decision on whether to rezone to an Industrial Zone, the Town Board shall consider the general criteria set forth in this Ordinance, the most current comprehensive or master plan for the town, and this statement of purpose.

Section 2001 - PERMITTED PRINCIPAL USES. In an Industrial Zone buildings and land may be used for any lawful manufacturing activity and any lawful activity permitted as of right in a Light Industrial Zone, except for the uses expressly enumerated below. Certain uses or facilities, set forth below, are permitted only upon receipt of a special permit from the Planning Board as set forth below.

Section 2002 - PROHIBITED USES. The following uses are prohibited in an Industrial Zone:

1. Dwelling units, except as an accessory use as set forth below.
2. Sales of any products at retail to the general public except as the same may be related to and an incidental by-product of a permitted principal use such as manufacturing.
3. Restaurants of any nature except for cafeterias or other similar facilities that are incidental to and related specifically to a permitted principal use such as manufacturing.
4. Motel.
5. Hotel.
6. Adult entertainment business.
7. Any of the following factories or works: arsenal, blast furnace, boiler works, iron, steel, brass or copper foundry, metal ore, smelting, planing mill, rolling mill and stockyards or slaughter house.
8. The manufacturing or storage of explosives and gas, oil and other flammables or petroleum products.

Section 2003 - PERMITTED ACCESSORY BUILDINGS AND USES. Only the following accessory buildings or uses are permitted of right in an Industrial Zone:

1. Automobile parking and off-street loading areas subject to the further requirements of this article.

2. Accessory storage buildings.
3. Signs, as regulated by the Town of Ithaca Sign Law.
4. The dwelling of an owner, operator, or manager, or of a guard, caretaker, or custodian, provided that no more than one dwelling unit per industry shall be established.
5. Guardhouse.
- 6.. Child Day Care Centers upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this Ordinance.
7. Cafeteria or lunchroom incidental to and related specifically to a permitted use.
8. Recreational facilities including playfields, ballfields, tennis and volleyball courts, swimming pools and fitness centers.
9. Fences up to eight feet in height if approved by the Planning Board as appropriate and necessary for the proposed use.

Section 2004 - PLACEMENT OF ACCESSORY STRUCTURES. Accessory structures or buildings may be placed in any required side or rear yard but no closer than five feet to the boundary of the property. Except as herein otherwise provided, no structures shall be placed in any required buffer zone. Parking, signs, guardhouses, and fences may be placed in a front yard provided the Planning Board finds the location of such structures is in accordance with the criteria for a approval of the site plan and the location is shown on an approved site plan. Signs, guardhouses and fences if placed in a required front yard may also be placed in any required buffer zone that is in the front of the property.

Section 2005 - MINIMUM AREA FOR AN INDUSTRIAL ZONE. A minimum tract of ten acres is required for the development of an Industrial Zone.

Section 2006 - HEIGHT LIMITATIONS. Except as may be specifically otherwise authorized in this law, in Industrial Zones no building shall exceed thirty-eight (38) feet in height from lowest interior grade nor thirty-six (36) feet in height from lowest exterior grade, and no structure other than a building shall exceed thirty-six (36) feet in height.

Section 2007 - YARD REGULATIONS. Except as may be specifically otherwise authorized in this law, in Industrial Zones yards of at least the following dimensions are required:

1. Front Yard - not less than 150 feet in depth.
2. Rear Yard - not less than 60 feet in depth.
3. Side Yards - none required with respect to buildings all on the same lot, but not less

than 60 feet from any structure to a side property line.

4. Greater Yards - Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this Ordinance shall, if more restrictive, supersede the above yard requirements.

The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas.

Section 2008 - BUILDING AREA. The maximum building area shall not exceed thirty percent of the lot area. Projections described in Section 2704 are not to be included in computing the percentage.

Section 2009 - MINIMUM USEABLE OPEN SPACE. Minimum useable open space shall be not less than thirty percent of the lot area. For this purpose 'useable open space' shall mean that portion of the lot area not covered by any structure (as defined in Article I) or driveway, and generally intended to be occupied by suitable vegetation or landscaping.

Section 2010 - SIZE AND AREA OF LOT. Lots in Industrial Zones shall meet the following minimum requirements:

1. Minimum lot area shall be at least two acres; and
2. Minimum width at the street line shall be 150 feet; and
3. Minimum width at the maximum required front yard setback line (150 feet from the street line) shall be 200 feet; and
4. Minimum depth from the street line shall be 300 feet.

Section 2011 - PARKING. Parking requirements shall be as set forth in Article XXVII.

Section 2012 - ADDITIONAL SPECIAL REQUIREMENTS. Additional special requirements include the following:

1. Off-street Loading - Same as in Commercial Zones (Section 1309 (1)).
2. Access and Sidewalks - Same as in Commercial Zones (Section 1309(2)).
3. Buffer Areas and Screening - Same as in Commercial Zones (Section 1309(3)) except no structure shall be placed closer than one hundred feet to any residence zone and fifty feet to any other zone.
4. Additional Screening - Same as in Commercial Zones (Section 1309 (4)).
5. Displays - In all Industrial Zones no outside displays shall be permitted unless

otherwise specifically authorized by this Ordinance.

Section 2013 - PERFORMANCE STANDARDS. Any use in an Industrial Zone shall be so operated as to be in conformity with the performance standards set forth with respect to Light Industrial Zones above.

Section 2014 - SITE PLAN APPROVAL. No building permit shall be issued for a building or structure within an Industrial Zone nor shall any existing building, structure or use in an Industrial Zone be changed unless the proposed building and/or use is in accordance with a site plan approved pursuant to the provisions of Article XXIII.

ARTICLE XXI: PLANNED DEVELOPMENT ZONES

Section 2100 - PURPOSE. The purpose of the Planned Development Zone is to permit, where appropriate, a degree of flexibility in conventional land use and design regulations which will encourage development in an imaginative and innovative way while through the process of review, discussion and law change, insuring efficient investment in public improvements, a more suitable environment, and protection of community interest. This article is intended to relate to both residential and non-residential development, as well as mixed forms of development. There may be uses, now or in the future, which are not expressly permitted by the other terms of this Ordinance but which uses would not contravene the long range comprehensive plan objectives if they adhere to certain predetermined performance and design conditions. The Planned Development Zone is intended to be used to enable these developments to occur even though they may not be specifically authorized by this Ordinance. Areas may be zoned as a Planned Development Zone by the Town Board or upon application for a specific proposal, all in accordance with the normal rezoning procedures. Because the intention is to create self-contained, architecturally consistent and compatible buildings, many times with diverse but related uses, and because the creation of a Planned Development Zone will entail sufficient review to assure the uses within the Zone will have negligible or no adverse effects upon properties surrounding the Zone, a Planned Development Zone may be created in any Zone within the Town. In reaching its decision on whether to rezone to a Planned Development Zone, the Town Board shall consider the general criteria set forth in this Ordinance, the most current comprehensive or master plan for the town, and this statement of purpose.

Section 2101 - ESTABLISHMENT AND LOCATION. With the approval of the Town Board, a Planned Development Zone may be established in any zone in the Town. The establishment of any such Zone shall lie in the sole discretion of the Town Board, as a legislative body. It shall be established by amending the Zoning Ordinance to permit such establishment. The enactment and establishment of such a Zone shall be a legislative act. No owner of land or other person having an interest in land shall be entitled as a matter of right to the enactment or establishment of any such Zone.

Section 2102 - PERMITTED PRINCIPAL AND ACCESSORY USES. In a Planned Development Zone buildings and land may be used for any lawful purpose permitted in the Zone where it is located, plus any other uses which the Town Board may authorize upon findings that such

additional uses

1. Further the health and welfare of the community; and
2. Are in accordance with the comprehensive or general plan for the Town.

Section 2103 - ADDITIONAL REQUIREMENTS. In any rezoning to a Planned Development Zone the Town Board may impose such conditions or limitations that the Town Board, in its legislative discretion, may determine to be necessary or desirable to insure the development conforms with the comprehensive plan of the Town, including limiting the permitted uses, location and size of buildings and structures, providing for open space and recreational areas, and requiring bonds or other assurances of completion of any infrastructure to be built as part of the development.

Section 2104 - MINIMUM AREA FOR A PLANNED DEVELOPMENT ZONE. A minimum tract of two acres is required for the development of a Planned Development Zone.

Section 2105 - YARD AND OTHER REGULATIONS. Yard, height, building coverage, lot size, and any performance standards shall be as set forth in the legislation rezoning the area to a Planned Development Zone. Unless otherwise stated in such legislation, if no such regulations are set forth, the regulations applicable to the Zone in which the Planned Development Zone is located shall govern.

Section 2106 - SITE PLAN APPROVAL. No structure shall be erected or placed within a Planned Development Zone, no building permit shall be issued for a building or structure within a Planned Development Zone, and no existing building, structure or use in a Planned Development Zone be changed, unless the proposed building and/or use is in accordance with a site plan approved pursuant to the provisions of Article XXIII.

ARTICLE XXII: PROCEDURES FOR CREATION OF NEW ZONES

Section 2200 - ZONES TO WHICH APPLICABLE. The procedures set forth in this Article shall govern applications for establishment of a Mobile Home Park Zone, a Multiple Residence Zone, a Commercial Zone of any nature, a Light Industrial Zone, an Industrial Zone, or a Planned Development Zone, all hereinafter referred to as "Zones," and shall be in addition to any requirements specified in any of the Articles governing any of such Zones.

Section 2201 - GENERAL PROVISIONS. The provisions set forth below shall govern establishment of Zones when application for same is made by any person or entity other than the Town of Ithaca. Should the establishment of a Zone be initiated by the Town Board, the procedures to be followed are those set forth in New York State Town Law and this Ordinance governing amendments of a zoning ordinance.

Section 2202 - PROCEDURES FOR CREATION OF A ZONE. Any person or entity

requesting the establishment of a zone shall proceed as follows:

1. The applicant shall have the option to make an informal pre-submission presentation to the appropriate Board or to the Town Planning Staff at which time rezoning application requirements and procedures may be reviewed. A sketch plan or other general description should be prepared by the applicant for use at the pre-submission meeting, to indicate the general nature of the proposal. A purpose of this non-mandatory meeting would be to give the applicant, before incurring substantial expense to comply with the formal application process, an opportunity to discuss the applicant's plans informally to determine if there are substantial reasons known to the Town Staff that would suggest the proposal would not be acceptable to the applicable Town Boards and to provide an opportunity for achievement of a project and rezoning that would be acceptable in the public interest.
2. The applicant shall submit an application to the Town Planner on forms supplied by the Town which shall include such information as the Town Planner may reasonably require to evaluate the proposal. Such application shall be accompanied by any required fees.
3. The applicant shall submit with the application a general site plan which shall be transmitted to the Town Board and which shall show (unless one or more items are waived by the Town Board) property lines, including metes and bounds, adjacent public streets, topography, size and location of existing or proposed structures, and such other plans and information deemed reasonably necessary by the Town Board for adequate study of the proposed plan.
4. The Town Board shall preliminarily determine whether it will consider the application for the rezoning, or deny same. If the Town Board determines that it will entertain the application the Town Board shall refer the matter to the Planning Board for review and recommendation.
5. The applicant shall be notified of the referral and shall be required to provide such additional materials, including any required environmental assessment forms, drawings, elevations, or other documents as the Town Planner may reasonably require to allow a full and complete study of the proposal. Such materials shall be supplied at least ten working days prior to the Planning Board meeting at which the matter will be considered.
6. Upon review of the matter by the Planning Board after such referral, the Planning Board may require such changes in the general site plan as are necessary to meet the requirements of this ordinance and may make any other recommendations which it deems necessary to promote the general health, safety, morals, and welfare of the community. The Planning Board shall then adopt a resolution recommending (a) a finding regarding environmental significance of the proposal, and (b) either approval, approval with modifications, or disapproval of the proposed plan. Before any such resolution is adopted, the Planning Board shall hold a public hearing which shall be heard by the Planning Board within 45 days of the filing of the general site plan and

all related materials with the Planning Board, and such hearing shall be advertised in a newspaper of general circulation in the Town of Ithaca at least five (5) days before such hearing. The Planning Board shall make its recommendation within the forty-five (45) days after the hearing and forward the same to the Town Clerk.

7. The Town Board shall comply with applicable provisions of SEQR.
8. The Town Board shall hold a public hearing on the proposed zone with the same notice required by law in the case of an amendment to the Zoning Ordinance, which public hearing may include any public hearings required by SEQR. If the Town Board establishes such zone after such hearing, it shall define the boundaries thereof, approve the general site plan and impose any modifications and additional requirements as it may determine. Before finally establishing any such zone, the Town Board may refer the application to the Town Planning Board or the Board of Zoning Appeals for such further consideration as the Town Board may require. No building permit shall, in any case, be issued on the basis of a general site plan.
9. Whenever a zone other than a Planned Development Zone is created pursuant to the provisions of this Article, the owner shall be bound by the general site plan as approved and adopted by the Town Board, except that the Planning Board shall have authority to authorize minor changes or additions to the general site plan provided the same do not materially alter the intensity of use or other significant characteristics of the general site plan, and provided the same to not violate any express conditions imposed by the Town Board in creating the zone. In the case of zones other than Planned Development Zones, the Planning Board may authorize changes or additions provided the same do not violate any express conditions imposed by the Town Board in creating the zone.
10. Upon the creation of the zone, unless the general site plan was of sufficient detail and contained sufficient information as to constitute, in the Town Board's discretion, a final site plan, the matter shall be referred to the Planning Board for final site plan approval in accordance with the site plan approval process set forth below.

ARTICLE XXIII: SITE PLAN REVIEW AND APPROVAL PROCEDURES

Section 2300 - PURPOSE. The purpose of site plan review is to provide for the review and approval of development plans to ensure that land development occurs in harmony with surrounding uses, without adversely impacting neighboring parcels, property values, public facilities, infrastructure or the natural environment.

Section 2301 - REQUIREMENT PRECEDING ISSUANCE OF A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY. Before a building permit or certificate of occupancy can be issued for any of the activities for which site plan approval is required, a site plan must be approved by the Planning Board in accordance with these and other applicable provisions.

Section 2302 - APPLICABILITY. The requirements set forth in this Article shall apply to all activities or developments that are referred to elsewhere in this Ordinance as requiring a site plan

approval. In addition, and supplementing such provisions, the requirements of this article shall also apply to the following actions except as to those actions specifically exempted, or for which alternative specific site plan review and approval requirements are established, elsewhere in this Ordinance:

1. All new commercial, industrial or institutional development.
2. All new multi-family housing.
3. Any modification of existing commercial, industrial, institutional or multifamily buildings, for which no previous site plan exists.
4. Any expansion of existing commercial, industrial, institutional or multifamily buildings which involve an increase in the gross floor area of an existing building by more than ten (10) percent in the aggregate since any previous site plan approval.
5. Any conversion of an existing residential structure to a nonresidential use (except as may have occurred in connection with a home occupation established in conformity with the provisions of this Ordinance).
6. Any conversion of an existing nonresidential structure into a residential structure containing three (3) or more dwelling units.
7. Any modification to an existing residential structure which increases the number of dwelling units in the building to three (3) or more dwelling units.
8. Any change of an existing nonresidential building from one type of use specified in this ordinance to another (e.g. conversion of a commercial structure to an industrial facility or conversion from a warehouse to a restaurant).
9. Any other modification to any facility or structure not set forth in the preceding paragraphs, for which final site plan approval was or is presently required by the terms of this Ordinance or any modification to any previously approved site plan, except as otherwise authorized below.

Section 2303 - PROCEDURE.

1. The site plan process incorporates three successive stages, (a) sketch plan review, (b) preliminary site plan approval, and (c) final site plan approval. Final site plan approval is required in all cases prior to the issuance of a building permit or certificate of occupancy. The sketch plan review is at the option of the applicant except as may be required by the Director of Planning if the proposed project is complex, has significant potential effects on the environment, or if other conditions exist such that a sketch review would be beneficial to the applicant or the Town.
2. **Sketch Plan Review.** The sole purpose of sketch plan review is to review generally

and informally the proposed project, advise the applicant as to whether it is reasonable to anticipate a positive response to a formal application, and to highlight any concerns that may be readily apparent to the Planning Board. No vote of approval or disapproval shall be taken with respect to a sketch plan.

3. **Preliminary Site Plan Review.** An applicant may, at his or her discretion, apply for preliminary site plan approval. Further, if the Planning Board determines that an application for final site plan approval is insufficient for an affirmative decision, the Board may grant preliminary site plan approval with such conditions and restrictions as are permitted by Section 274-a of the Town Law or any similar or successor statute.
4. Unless other requirements of this Ordinance govern (e.g. the procedures for creation of Planned Development Zone) the applicant shall make formal application for site plan approval by submitting, at a minimum:
 - (a) One completed and signed Development Review Application.
 - (b) Applicable application fees.
 - (c) Deposit of review fees.
 - (d) One fully completed and signed Short Environmental Assessment Form, Part I (SEAF), or Long Environmental Assessment Form, Part I (LEAF), whichever is required.
 - (e) Estimate of costs of site improvements (excluding cost of land acquisition and professional fees) to be prepared (preferably) by a licensed professional engineer.
 - (f) Four full size dark-line prints of the site plan and 25 reduced copies of all sheets of the plan (the reduced copies to be no larger than 11" by 17") with all required information.
 - (g) All other information required by this Ordinance or other laws, rules or regulations for site plan approval.

The application for site plan approval shall not be deemed complete until all of the above items are received by the Town Planner and the requirements of SEQR have been met.

5. Upon receipt of a complete application, the Planning Board shall hold a public hearing in accordance with the provisions of Town Law Section 274-a or any similar or successor applicable statutes and shall render a decision approving, approving with conditions, or disapproving the site plan.

6. In making its decision, the Planning Board shall have the power to impose conditions and restrictions as authorized by Section 274-a of the Town Law or any similar or successor statute.
7. If preliminary site plan approval is granted, when the developer applies for final site plan approval the same procedures shall again be utilized, except that if the final site plan is in substantial agreement with the site plan that received preliminary site plan approval, no further action under SEQR shall be required. If the final site plan differs significantly from the preliminary site plan, it shall be treated as a new application, including compliance with applicable SEQR requirements.
8. In reviewing the final site plan application following preliminary site plan approval, the Planning Board shall, in the absence of significant new information, confine its review to determining whether the final plan (a) conforms to the preliminary plan, (b) complies with any conditions imposed by the Board in granting preliminary approval, and (c) complies in all other respects with the provisions of the Town Law and this Ordinance.
9. The owner and applicant shall be bound by the final site plan as approved by the Planning Board, and all construction and development shall occur only in accordance with the finally approved site plan, unless specifically otherwise authorized by the provisions of this Ordinance.

Section 2304 - SITE PLAN REQUIREMENTS. The site plan shall include the following items, and such additional items as may be reasonably requested by the Planning Board in order to fully and adequately review the application for approval of the site plan or other permit or authorization being sought, which requirements may be articulated on one or more checklists supplied to applicants for site plan approval or modification. Without limiting the authority of the Planning Board or other reviewing board of the Town with respect to additional items, the minimum items to be included are set forth below with respect to each type of site plan being reviewed.

1. Sketch Plan Requirements. The sketch plan shall include:
 - a. General location in the Town of the proposed development.
 - b. Approximate boundaries of parcel(s) involved.
 - c. Existing land use and proposed land use.
 - d. Approximate location of existing and proposed buildings or other significant structures.
 - e. Approximate location of adjacent or nearby highways.
 - f. General topography of project area.

- g. General indication of potentially significant natural or cultural features on or adjacent to the site (e.g. wetlands, creeks, steep slopes or historic structures).
- h. Existing land uses of immediately adjacent properties.
- i. Written explanation of the character and purpose of the proposed development including the type and density of development, water and sewer systems proposed, and general timetable for the development.

2. Preliminary Site Plan Requirements. The preliminary site plan shall include:

- a. Name and address of all owners of the property and name and address of all persons who have an interest in the property, such as easements or rights-of-way.
- b. Key map, when more than one sheet is required to present site plan.
- c. Vicinity map showing the general location of the property, 1"=1000' or 1"=2000'.
- d. Name of project, which shall not duplicate the name of any other project or subdivision in the county.
- e. Name and seal of each registered land surveyor(s), engineer(s), architect(s) or landscape architect(s) who prepared any of the site plan materials, including the topographic and boundary survey, drainage plans, etc.
- f. Date of site plan and any related documentation, and dates of any applicable revisions.
- g. Map scale (1"=50' or 1"=100') in bar form and north point.
- h. Name of town, county and state.
- i. Exact boundary lines of the tract, indicated by a heavy line, showing location and description of all monuments, giving property metes and bounds to the nearest one tenth foot, angles to the nearest minute, and at least one bearing.
- j. Location of any natural and cultural features within and immediately adjacent of the site including but not limited to streams, lakes, floodplains, ponds, wetlands, structures or sites listed, or eligible for listing, on the state or national registers of historic places, woodlands, brushlands, significant natural habitats, rare plants, viewsheds and unique natural areas, or other features pertinent to review of the proposed project.

- k. Location, size, and use of all existing structures, parking areas, access drives, off-street loading areas, signs, lighting, pedestrian or bicycle facilities, landscaping, and other existing features pertinent to plan review.
- l. Location, size, proposed use, design, and construction materials of all proposed structures, including floor plans, elevations from all four sides of all significant structures showing exterior configuration, dimensions, finishes, fenestrations, colors and other usual building details.
- m. Location, design, dimensions and construction materials of all proposed roads, sidewalks, bike paths, parking areas, fences, retaining walls, and screening.
- n. Size, location, height, design, and construction materials of all proposed signs and exterior lighting, including type of lighting fixtures and amount and area of illumination of any proposed lighting.
- o. Location, design, and construction materials of all proposed pedestrian and bicycle facilities.
- p. Landscaping plan and planting schedule showing locations, species, and size of proposed plantings, and existing landscaping to be retained, including also location and proposed design of any buffers.
- q. Location, design, and construction materials of all proposed water and sewage facilities.
- r. Locations of any existing or proposed fire and other emergency zones, including the location of fire hydrants.
- s. Location, name, and dimensions of each existing highway and alley and each utility, drainage, or similar easement within, abutting, or in the immediate vicinity of the proposed project site.
- t. Existing and proposed site topography represented by contour lines with intervals as required by the Planning Board, but not to exceed five (5) feet, including a grading plan describing the volumes of cut and fill materials and their composition, and including elevations of proposed buildings, signage, lighting, and other features.
- u. Drainage plan, showing of existing and proposed drainage patterns, including a description of method used for analysis, the calculation of drainage area above point of entry for each water course entering or abutting the site, and proposed method of on-site retention if required, and details of any drainage improvements to be made. Generally the method of analysis shall be approved by the Director of Engineering and shall assume that, unless the

Planning Board determines otherwise for good cause shown, that the rate of surface and subsurface run-off from the project site will not increase during or after construction of the project.

- v. Border lines bounding the sheet, one inch from the left edge and one-half inch from each of the other edges. All required information, including signatures, seals, dates and other information shall be within the border lines.
- w. Accurate outlines and descriptions of any areas to be dedicated or reserved for public use or acquisition, with the purposes indicated thereon, and of any areas to be reserved by deed covenant for common uses of all property owners, tenants, or other users of the property in the project.
- x. The plan and profile of each proposed highway in the development, with grade indicated, drawn to a scale of 1" = 50' horizontal, and 1" = 5' vertical, on standard plan and profile sheets. Profiles shall show accurately the profile of the highway or alley along the highway center line and location of the sidewalks, if any.
- y. Reference on the site plan to any separate instruments, including restrictive covenants, which directly affect the land in the project.
- z. Names and addresses of all property owners of all parcels abutting the site, or within 500 feet of the perimeter boundary of the site, including owners of easements or rights of way, together with tax parcel numbers for all such owners.
- aa. Estimate of the cost of improvements (excluding the purchase cost of land) to be prepared by a licensed professional engineer or other qualified professional satisfactory to the Planning Board.
- bb. Three dark-line prints of the proposed site plan and 25 copies of all sheets of the proposed site plan in reduced format (no larger than 11" x 17") and copy of all other items required above (except Development Review Application).
- cc. A certificate signed by the owner and, if applicable, any contract vendee to the effect that (i) the owner owns the land, (ii) the owner or contract vendee caused the land to be surveyed and the site plan to be prepared, (iii) the owner (or, if applicable, the contract vendee) agrees to construct the project in the manner represented by the finally approved site plan and all related approved application documents, and (iv) the owner (or, if applicable, the contract vendee) makes any dedications indicated in any of the site plan documentation and agrees and guarantees to construct any required infrastructure elements set forth on the finally approved site plan.

3. Final Site Plan Requirements. The final site plan shall include:
 - a. All of the items set forth above for preliminary site plan approval, modified if necessary to comply with any conditions imposed as part of the preliminary site plan approval process.
 - b. One original set of the final site plan drawings on mylar, vellum or paper, signed and sealed by the registered land surveyor(s), engineer(s), architect(s) or landscape architect(s) who prepared the site plan materials, to be retained by the Town, and two sets of paper copies of the final site plan drawings.
 - c. Record of application for and approval status of all necessary permits from county, state, and/or federal agencies with copies of all necessary permits or approvals to be provided prior to issuance of any certificate of occupancy.
 - d. Design development drawings for all buildings and construction details of all other proposed structures, roads, water/sewer facilities, and other improvements, including, but not limited to, specifications for water lines, including locations and descriptions of mains, valves, hydrants, appurtenances, etc., and profiles and specifications for sanitary sewers and storm drainage facilities, including locations and descriptions of pipes, manholes, lift stations, and other facilities.
 - e. A certificate signed and sealed by the mortgagee(s), if any, to the effect that the mortgagee consents to the site plan, the construction of the project as shown, and the dedications and restrictions, if any, shown on or referred to on the site plan.

Section 2305 - WAIVER OF REQUIREMENTS. The Town Board in those circumstances where a site plan is required for Town Board review, and the Planning Board in those circumstances where a site plan is provided for Planning Board review, may waive one or more items (e.g., topography) otherwise normally required to be shown on the site plan when the applicable board determines that the circumstances of the application do not require a full site plan for adequate consideration of the applicant's proposal.

Section 2306 - CONSIDERATIONS FOR APPROVAL. The Planning Board's review of a site plan shall include as appropriate, but shall not be limited to, the following considerations:

1. Adequacy, arrangement, and location of vehicular access and circulation, including intersections, road widths, pavement surfaces, off-street parking and loading areas, and traffic controls.
2. Adequacy, arrangement, and location of pedestrian and bicycle traffic access and circulation, control of intersections with vehicular traffic, and appropriate provisions for handicapped persons.
3. Adequacy, location, arrangement, size, design, and general site compatibility of

buildings, lighting, signs, open spaces, paved areas, outdoor waste disposal facilities, and contiguity of open spaces.

4. Adequacy, type, and arrangement of trees, shrubs, and other landscaping, including those on site and those constituting a visual and/or noise-deterring buffer between the applicant's and adjoining lands, including the retention of existing vegetation of value to the maximum extent possible.
5. In the case of a residential property, and in the case of other properties where appropriate, the adequacy and utility of open space for playgrounds and for informal recreation.
6. Compatibility of the project with the surrounding neighborhood, including protection of adjacent properties and the general public against noise, glare, unsightliness, or other objectionable features.
7. Adequacy of storm water, drainage, water supply, sewage disposal facilities and other community infrastructures and services.
8. Adequacy of fire lanes and other emergency provisions.
9. The effect of the proposed development on environmentally sensitive areas including but not limited to wetlands, floodplains, woodlands, steep slopes, water courses or bodies, viewsheds, unique natural habitats, and on other open space areas of importance to the neighborhood or community.
10. The effect of the proposed development on any historic structures listed or eligible for listing on the National Register of Historic Places.
11. The need for, and the adequacy of, any natural or man-made buffers.
12. Whether the design of the project minimizes the increase of impervious surfaces on the site.
13. Compliance with the Town's Comprehensive Plan, Zoning Ordinance, Subdivision Regulations, Water Resources Ordinances, if applicable, and any other applicable laws, rules, requirements, or policies.

Section 2307 - LIMITATIONS ON CONSTRUCTION. No site plan shall be approved which provides for construction or other disturbance of land in environmentally sensitive areas, including but not limited to, wetlands, water courses, steep slopes, unique natural areas, or rare plant or animal habitats, unless the applicant demonstrates with professional evidence reasonably satisfactory to the Planning Board that such construction may occur without adverse environmental effects upon such areas. Nothing in this paragraph is intended to permit construction or other activities in areas where the same are prohibited or regulated by other laws or regulations of the federal, state, county, or local government.

Section 2308 - RESERVATION OF PARKLAND ON SITE PLANS CONTAINING RESIDENTIAL UNITS. If the proposed project includes dwelling units, the Planning Board may, in accordance with the provisions and requirements of Town Law Section 274-a or any similar or successor law, require a park or parks to be shown on the site plan, or, to the extent permitted by Section 274-a, monies in lieu of parkland.

Section 2309 - MODIFICATIONS OF SITE PLANS. A site plan that has received final site plan approval may be modified upon the application of the owner for such modification. Such application shall be in accordance with the provisions of this article and the procedures applicable to such application shall be the same as are applicable to an initial application for site plan approval. Notwithstanding the foregoing, Planning Board approval of a modification shall not be required

1. If the modification does not involve
 - (a) construction of an addition of more than 1,000 square feet of enclosed space whether on one or more stories; nor
 - (b) construction or relocation of more than 3 parking spaces nor construction or relocation of any parking spaces to an area that is not adjacent to the original planned parking area; nor
 - (c) construction, alterations, or renovations affecting the exterior of a building or the site anticipated to cost more than \$20,000.00; nor
 - (d) construction, alteration, or renovation of the interior of a building involving a change in occupancy or use; nor
 - (e) enlargement of an existing or previously approved building that involves an increase of square footage of more than 15% of the existing square footage of the existing or previously approved building; nor
 - (f) Reduction of an existing or previously approved building that involves a decrease of square footage of more than 15% of the existing or previously approved building; nor
 - (g) alteration of traffic flows and access nor a significant increase in the volume of traffic; nor
 - (h) a significant (in the judgment of the Director of Planning) change in the aesthetic appearance of any structure or site plan element including landscape and lighting details from that presented at the time of the prior approval; nor
 - (i) a change in the impacts of the project on surrounding properties, such as an increase in noise, water run-off, light illumination, or obstructions to views; nor

- (j) violation of any express conditions (including, without limitation, buffer zones, setbacks, and similar restrictions) imposed by the Planning Board in granting prior site plan approval, or
2. If the modification does not involve a movement or shift of a location of one or more buildings more than two feet laterally or six inches vertically from the location or elevation shown on the final site plan where
- (a) such shift does not alter proposed traffic flows or access; and
 - (b) such shift does not directly violate any express conditions (including, without limitation, buffer zones, setbacks, etc.) imposed by the Planning Board in granting prior site plan approval.

The numerical criteria for the exceptions from the requirement of obtaining Planning Board approval are an aggregate maximum (i.e. if a 700 square foot addition is constructed without obtaining Planning Board approval pursuant to paragraph 1(a) above, construction of a second addition larger than 300 square feet would require Planning Board approval of a modified site plan).

This waiver of the requirement of Planning Board approval is not intended to permit construction in violation of any other provision of this Ordinance including setback, side yard, and similar regulations, nor the requirement to obtain a building permit in those circumstances when otherwise required by the terms of this Ordinance or by the Building Code.

A demolition, or a proposed demolition, of an existing building, or of a previously approved building on a previously approved site plan, is a modification of a site plan subject to the terms of this section.

Section 2310 - LETTER OF CREDIT. If the Planning Board determines it is necessary to ensure that all items on the site plan that are needed to provide for adequate traffic flow, utilities, and other similar infrastructure items, are constructed in accordance with the approved final site plan and any other pertinent specifications and requirements, no building permit shall be issued for a project with an approved final site plan until the applicant has furnished to the Town Engineer an irrevocable letter of credit in an amount to be recommended by the Town Engineer and approved by the Planning Board to ensure such construction. In determining whether to require such a letter, the Planning Board shall find that such infrastructure is so integral to the project that its construction must occur in order to provide for a safe and useful environment for the community and the occupants and users of the project. The Planning Board may, in its discretion, accept in lieu of a letter of credit other evidence or promise of completion of required facilities for the site if it determines that such other evidence adequately ensures such completion. Nothing in this paragraph shall alter any other requirement for letters of credit related to construction of facilities intended to be dedicated to the Town.

Section 2311 - COMPLETION OF IMPROVEMENTS. No final certificate of occupancy or certificate of compliance shall be issued until all improvements shown on the final site plan as approved by the Planning Board, reasonably necessary to the proper and safe operation and occupancy of any completed facilities, are installed or until a sufficient performance guarantee, such as a letter of credit, has been provided to the Town for improvements not yet completed. The need for, and sufficiency of, such performance guarantee shall be determined by the Town Engineer after consultation with the Building Inspector or other persons designated by the Planning Board. The Planning Board may waive the requirement for such performance guarantee if, in its discretion, it determines that the guarantee is not needed.

Section 2312 - EXPIRATION OF SITE PLAN APPROVAL.

1. Except when a rezoning has occurred based upon a preliminary or general site plan any approval of a preliminary site plan may be revoked by the Planning Board, after a public hearing and upon written notice in person or by mail to the applicant
 - (a) If a fully complete application for final site plan approval has not been submitted to the Planning Board within eighteen months of the date preliminary approval was granted, or
 - (b) If an application is submitted within such eighteen month period, such application is not diligently prosecuted by the owner to enable the Planning Board to grant final site plan approval within twenty-four months of the date preliminary approval was granted.
2. The Planning Board may, when compliance with the foregoing time periods would create a significant hardship for the owner, extend the time periods for such periods and upon such conditions as the Planning Board may reasonably determine.
3. Unless work has materially commenced in accordance with the final site plan within one year from the issuance of the building permit authorizing such work, or within thirty-six months of the date the Planning Board gave final site plan approval, whichever is earlier, not only the building permit but the site plan approval (both final and preliminary) shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the granting of any site plan approval. The Planning Board, upon request of the applicant, after a public hearing, and upon a finding that the imposition of the time limits set forth above would create an undue hardship on the applicant, may extend the time limits for such additional periods as the Planning Board may reasonably determine. An application for such extension may be made at the time of filing of the original application or at any time thereafter up to, but no later than, six months after the expiration of the time limits set forth above.

For the purposes of this section, work will not have "materially commenced" unless, at a minimum, (i) a building permit, if required, has been obtained; (ii) construction equipment and tools consistent with the size of the proposed work have been brought to and been used on the site; and (iii) substantial excavation (where excavation is

required) or significant framing, erection, or construction (where excavation is not required) has been started and is being diligently pursued.

ARTICLE XXIV: SPECIAL PERMITS AND SPECIAL APPROVALS

Section 2400 - PURPOSE. The purpose of this article is to set forth regulations, procedures, and conditions that apply to certain permitted uses which, because of size, intensity, or other special factors, warrant special evaluation of each individual case by either the Planning Board or the Zoning Board of Appeals.

Section 2401 - REQUIREMENT PRECEDING ISSUANCE OF A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY. Before a building permit or certificate of occupancy can be issued for any of the structures or activities for which either a special permit or a special approval is required, such a permit or approval shall be obtained in accordance with these and other applicable provisions.

Section 2402 - APPLICABILITY. The requirements set forth in this Article shall apply to all construction, activities, uses or developments that are referred to elsewhere in this Ordinance as being allowed only upon receipt of a special permit or special approval. Special permits shall be issued by the Planning Board. Special approvals shall be issued by the Zoning Board of Appeals. Any change of use of an existing structure to a use that requires a special permit or special approval shall be subject to the requirements of this article.

Section 2403 - PROCEDURE.

1. The applicant shall have the option to make an informal pre-submission presentation to the appropriate Board at which time special permit or special approval (hereafter collectively referred to as "special authorization") application requirements may be reviewed. A sketch plan or other general description should be prepared by the applicant for use at the pre-submission meeting, to indicate the general nature of the proposal.
2. Unless other requirements of this Ordinance govern the applicant shall make formal application for special authorization to the appropriate Board by submitting, at a minimum:
 - (a) One completed and signed application form prescribed by the Board hearing the matter. If a Development Review Application is submitted for a site plan review and special permit, no additional application shall be required.
 - (b) Applicable application.
 - (c) Deposit of review fees to the extent required by this Ordinance or any other Town law or resolution.

- (d) One fully completed and signed Short Environmental Assessment Form, Part I (SEAF), or Long Environmental Assessment Form, Part I (LEAF), whichever is required.
- (e) Such other information or documentation as may be deemed reasonably necessary or appropriate by the reviewing staff person or Board to adequately consider the application.

The application for special authorization shall not be deemed complete until all of the above items are received by the Town Planner (for special permits) or Town Building Code and Zoning Enforcement Officer (for special approvals) and the requirements of SEQR have been met.

- 3. Upon receipt of a complete application, the appropriate Board shall hold a public hearing in accordance with the provisions of Town Law Section 274-b or any similar or successor applicable statutes and shall render a decision approving, approving with conditions, or denying the special authorization. Such hearing may be combined with any other hearing relating to the same proposal (e.g. site plan approval and special permit hearings may be combined).
- 4. In making its decision, the reviewing Board shall have the power to impose conditions and restrictions as authorized by Section 274-b of the Town Law or any similar or successor statute.

Section 2404 - WAIVER OF REQUIREMENTS. The reviewing Board may waive one or more of the normal application requirements when it determines that the particular circumstances do not require all of the full application materials for adequate consideration of the request for special authorization.

Section 2405 - CONSIDERATIONS FOR APPROVAL. The reviewing Board's determination of an application for special authorization shall include findings consistent with any special criteria set forth in this Ordinance relating to the specific use or activity for which approval is being sought, and shall also include as appropriate, but shall not be limited to, findings that the following standards have been met:

- 1. The health, safety, morals and general welfare of the community in harmony with the general purpose of this Ordinance (including the specific purposes related to the zone in which the premises are located) are being promoted, except that as to all public buildings and educational buildings wherein the principal use is research, administration, or instruction, the same shall be presumed to exist.
- 2. The premises are reasonably adapted to the proposed use, and such use will fill a neighborhood or community need, except that all publicly owned or educational buildings are deemed to be adapted to the proposed use and are deemed to fill a neighborhood or community need.

3. The proposed use and the location and design of any structure will be consistent with the character of the district in which it is located.
4. The proposed use will not be detrimental to the general amenity or neighborhood character in amounts sufficient to devalue neighboring property or seriously inconvenience neighboring inhabitants.
5. Operations in connection with the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibrations, illumination, or other potential nuisance, than the operation of any permitted use in the particular zone, except that as to all public buildings, churches, and educational institutions the determination shall be whether the presumed benefit of such a use is outweighed by the objectionable impacts of such use on nearby properties.
6. Community infrastructure and services, including but not limited to protective services, roadways, garbage collection, schools, and water and sewer facilities are currently, or will be, of adequate capacity to accommodate the proposed use.
7. The proposed use, building design, and site layout comply with all the provisions of this Ordinance and, to the extent considered by the reviewing board, with other regulations and ordinances of the Town, with the Building Code and all other state and federal laws, rules and regulations, and with the Town's Comprehensive Plan.
8. The proposed access and egress for all structures and uses are safely designed and the site layout provides adequate access for emergency vehicles.
9. The general effect of the proposed use upon the community as a whole, including such items as traffic load upon public streets and load upon water and sewerage systems is not detrimental to the health, safety and general welfare of the community, except that as to all public, religious and educational uses, the determination shall be whether the presumed benefit of such a use is outweighed by the detrimental effect of the proposed use upon the health, safety, and general welfare of the community.
10. The lot area, access, parking, and loading facilities are sufficient for the proposed use and access, parking and loading facilities are adequately buffered to minimize their visual impact.
11. Natural surface water drainage is adequately managed in accordance with good engineering practices and in accordance with any applicable Town local law or ordinance, and existing drainage ways are no altered in a manner that adversely affects other properties.
12. To the extent reasonably deemed relevant by the reviewing Board, the proposed use or structure complies with all the criteria applicable to site plan review set forth in this Ordinance.

Section 2406 - MODIFICATIONS OF SPECIAL PERMITS OR SPECIAL APPROVALS. A special authorization that has been issued may be modified upon the application of the owner for such modification. Such application shall be in accordance with the provisions of this article and the procedures applicable to such application shall be the same as are applicable to an initial application for a special authorization. Notwithstanding the foregoing, no approval shall be required if the change is a modification set forth in Section 2309 as not requiring approval of a modification to a site plan. The waiver of the requirement for approval of a modification to a special permit or special approval is subject to the same conditions, and subject to the same limitations as pertain to modifications to approved site plans.

Section 2407 - EXPIRATION OF SPECIAL PERMIT OR SPECIAL APPROVAL. Unless work has materially commenced (as defined in Section 2312 (3)) in accordance with the special authorization within one year from the issuance of the building permit authorizing such work, or within thirty-six months of the date the reviewing Board approved the special authorization, whichever is earlier, not only the building permit but the special authorization shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the approval of any special authorization. The reviewing Board, upon request of the applicant, after a public hearing, and upon a finding that the imposition of the time limits set forth above would create an undue hardship on the applicant, may extend the time limits for such additional periods as the reviewing Board may reasonably determine. An application for such extension may be made at the time of filing of the original application or at any time thereafter up to, but no later than, six months after the expiration of the time limits set forth above.

ARTICLE XXV: NON-CONFORMING USES.

Section 2500 - NONCONFORMING LOTS OF RECORD. In any Zone in which a one family dwelling is permitted, a one family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance creating the non-conformity, provided

1. Such lot was a valid, lawfully existing lot prior to the adoption or amendment of this Ordinance which created the non-conformity; and
2. The non-conformity of the lot relates to size or area; and
3. All other provisions of this Ordinance, including yard requirements, are complied with, or a variance from such compliance has been obtained from the Board of Appeals.

In addition, upon receipt of a special approval from the Board of Appeals, a two family dwelling may be constructed on such a lot if permitted by the regulations of the zone, subject to the conditions set forth above, and subject to any conditions (such as occupancy or dwelling unit size) that govern two-family dwellings in the zone in which the dwelling is located.

Section 2501 - NONCONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. Such nonconforming use must not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. Such nonconforming use must not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance; and
3. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land must conform to the regulations specified by this Ordinance for the Zone in which such land is located.

Section 2502 - NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.
2. Should such structure be destroyed by any means, in whole or in part, it may be reconstructed in accordance with the provisions of Section 2508 below.
3. Should such structure be moved for any reason for any distance whatever, it must thereafter conform to the regulations for the Zone in which it is located after it is moved.

Section 2503 - NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the Zone under the terms of this Ordinance as amended, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located may be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located or to a use permitted pursuant to Section 2507 below.;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or

amendment of this Ordinance, but such use must not be extended to occupy any land outside such building;

3. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use must thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed;
4. When a nonconforming use of a structure, or structure and land in combination, ceases for a period of one year, the structure or structure and land in combination must not thereafter be used except in conformance with the regulations of the zone in which it is located;
5. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure eliminates the nonconforming status of the land;
6. Where a non-conforming use exists in an area that has been or now requires site plan approval for any change of use, the non-conforming use may not be changed to any other use permitted in the zone until site plan approval has been obtained pursuant to the terms of this Ordinance.

Section 2504 - INTERRUPTION OF NON-CONFORMING USE. Notwithstanding the provisions above regarding cessation of non-conforming uses, for purposes of determining whether a non-conforming use has ceased for a period of one year there shall be excluded from the calculation of the year period any period of time during which a non-conforming use was suspended solely because of a national emergency or temporary government restrictions (other than zoning restrictions). Upon termination of the national emergency or the temporary government restriction, the calculation of the year period shall resume.

Section 2505 - DWELLINGS ON NON-CONFORMING LOTS. Notwithstanding the provisions above prohibiting enlargement of non-conforming uses, if only a one-family dwelling or a legally existing two-family dwelling and related accessory buildings are present on a lot that is of a size or area less than that otherwise permitted in the Zone in which the lot is located, and such lot is a valid non-conforming lot, such dwelling may be enlarged or altered provided

1. The existing dwelling is in conformance with all requirements of this Ordinance except for the fact that it is located on a lot that is less than the required size or area which lot was of record at the time of the adoption or amendment of this Ordinance creating the non-conformity;
2. Such alteration or enlargement does not violate any other provisions of this Ordinance (e.g., yard, height, or other restrictions); and
3. If such dwelling is a single family dwelling, upon completion of such enlargement or alteration the building and lot continue to be used only as a single family dwelling,

provided, however, that upon receipt of a special approval from the Board of Appeals, a single family dwelling may be enlarged to a two-family dwelling, subject to the conditions set forth above, and subject to any conditions (such as occupancy or dwelling unit size) that govern two-family dwellings in the zone in which the dwelling is located.

Section 2506 - CONTINUATION OF CONSTRUCTION. Nothing in this Ordinance is deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently prosecuted and completed within two years after the effective date of the adoption or amendment making the use non-conforming.

Section 2507 - ALTERATIONS IN USE. Except as prohibited above, and subject to the requirement of obtaining site plan approval if required, a non-conforming use may be changed to another non-conforming use of the same or more restrictive classification and when so changed to a more restrictive use, it shall not again be changed to a less restrictive use. The order of the classification of restrictiveness from the most restrictive to the least restrictive shall be as follows:

Conservation Zones
Agricultural Zones
Low Density Residential Zones
Lakefront Residential Zones
Medium Density Residential Zones
High Density Residential Zones
Mobile Home Park Zones
Multiple Residence Zones
Neighborhood Commercial Zones
Lakefront Commercial Zones
Office Park Commercial Zones
Community Commercial Zones
Vehicle Fueling and Repair Commercial Zones
Light Industrial Zones
Industrial Zones

Section 2508 - RESTORATION. Nothing herein shall prevent the continued use and substantial restoration and continued use of a non-conforming building damaged by fire, flood, earthquake, act of God, or act of the public enemy, provided that

- (a) Such restoration is located on, and no larger than, the footprint of the structure prior to its destruction; and
- (b) Such restoration is completed within one year of the damage; and
- (c) The use of the building and the manner in which it was used prior to the loss is recommenced within one year of the damage.

The time limits set forth above may be extended by the Board of Appeals in cases of practical difficulty or unnecessary hardship using the same criteria as are applied in determining applications for an area variance. An application for an extension shall be brought no later than six months after the expiration of the year period, or six months after the expiration of any previously granted extension.

Section 2509 - BOARD OF APPEALS DETERMINATION. The Board of Appeals shall have the jurisdiction to hear and determine any claims as to whether a particular use is a valid non-conforming use, or whether a non-conforming use has been improperly extended or enlarged, or any other matter relating to the non-conforming uses. Such jurisdiction may be exercised by an appeal from a decision of the Code Enforcement Officer as hereinafter provided, or by direct application to the Board in those instances where there is no application for a permit or certificate before the Code Enforcement Officer. Any such direct application to the Board of Appeals shall be made on such forms and contain such information as the Board and/or the Code Enforcement Officer may determine and shall be delivered to the Code Enforcement Officer for submission to the Board.

Section 2510 - VARIANCE CRITERIA. In the event an application is made to the Board of Appeals for a variance to enlarge or alter a non-conforming use, the Board shall apply the same criteria in determining the matter as would be applicable if the application had been made for property that was otherwise conforming. For example, if the application is to enlarge a building that already encroaches on a required side yard, the Board shall use the criteria applicable to considering an area variance. If the application is to change the use to another non-conforming use (which is not permitted pursuant to **Section 2507** above), the Board shall use the criteria applicable to considering a use variance.

Section 2511 - AMORTIZATION OF CERTAIN NON-CONFORMING USES RELATING TO PRE-1991 RESIDENTIAL OCCUPANCIES.

1. Notwithstanding any other provisions of this Ordinance and in an effort to provide for generally uniform limitations regarding residential occupancy throughout the residential zones of the Town, the non-conforming occupancies referred to in this section shall be terminated as set forth below.
2. This section shall apply to residential occupancies in all zones in which residential occupancies are permitted or occur including any special land use zones which include occupancy of dwellings as a permitted use.
3. On and after March 1, 2006, notwithstanding whether a valid non-conforming use or occupancy existed at the time of the enactment of this Zoning Ordinance, or at the time of any amendment to this Ordinance limiting occupancy (including the amendment of 1991 to an earlier version of this Ordinance limiting occupancy), no dwelling unit shall be occupied except in the manner specifically permitted by the applicable provisions of this Ordinance and any non-conforming occupancy in a dwelling unit which may have existed prior to the date of the enactment of this section shall be terminated.

4. The limitations imposed by this section shall not apply to buildings for which variances from the occupancy requirements of this Ordinance have been granted by the Board of Appeals, either before or after the enactment of this section, or to buildings for which different occupancy requirements were established by local laws or resolutions creating or regulating multiple residence zones adopted either before or after the enactment of this section.

5. A non-conforming use due to be terminated pursuant to this section may be extended upon application for a special approval for such extension from the Board of Appeals. Such approval shall not be granted unless the applicant establishes and the Board of Appeals finds that, notwithstanding the fifteen year period for amortizing a non-conforming use created by the 1991 amendment referred to above, termination of the non-conforming use would cause serious financial harm to the property owner not balanced or justified by the advantage to the public in terms of more complete and effective zoning accruing from the cessation of such use. In making this determination the Board shall consider, among other factors (including the factors set forth elsewhere in this Ordinance relating to the issuance of special permits or approvals), (i) the nature of the non-conforming use; (ii) the cost of converting to a conforming use; (iii) the amount of investment that existed in the property on March 1, 1991, or if the zoning change creating the non-conformity was adopted after March 1, 1991, the amount of such investment on the date of such later zoning change; (iv) the detriment caused by the non-conforming use; (v) the character of the neighborhood; (vi) the ability of the landowner to have amortized the cost of the landowner's investment over the period between March 1, 1991 (or such later zoning change date) and the required termination of such use; and (vii) whether an additional reasonable amount of time is needed by the owner to amortize the owner's investment. In making its determination the Board shall disregard, as irrelevant, any costs for purchase of a non-conforming building or property or costs to repair, maintain, improve or enlarge a non-conforming property, incurred after March 1, 1991, or, if the non-conformity was created by a subsequent zoning change, any such costs incurred after such change. If the extension is granted, the Board of Appeals shall set a fixed additional period for the extension of time before the non-conforming use must be terminated.

ARTICLE XXVI: SPECIAL REGULATIONS

Section 2600 - MOBILE HOMES AND TRAILERS. Trailer camps or parks and trailers or mobile homes for occupancy shall be prohibited in all zones except Mobile Home Park Zones and except as follows:

1. One mobile home may be placed on a vacant lot in a residence or agricultural zone for use as temporary housing during the construction of a permanent dwelling on said lot for a period not to exceed 18 months, provided that said mobile home shall be occupied by the owner of record of said lot.

Such eighteen month period may be extended by permission of the Board of Appeals, upon good cause shown by the owner of the land on which the mobile home is located, and after a public hearing on same.

Said mobile home must be removed upon the completion of construction although the 18 month time limit may not have fully expired.

2. Upon special approval of the Board of Appeals to be reviewed each year, one mobile home for each property owner shall be permitted in all Agricultural and Low Density Zones, provided that one of the occupants of said mobile home shall be a full time agricultural employee of the property owner or a bona fide agricultural student doing agricultural work for the property owner.

Section 2601 - ELDER COTTAGES. Elder cottages shall be permitted as accessory uses, upon obtaining special approval from the Board of Appeals, and subject to the following provisions and conditions:

1. Use Limitations: An elder cottage shall not be occupied by more than two persons,
 - (a) Who shall be the same persons enumerated on the application for the elder cottage,
 - (b) Who shall be persons 55 years of age or older, and
 - (c) At least one of such persons shall be a parent or grandparent of one of the owners and occupants of the principal dwelling on the lot where the elder cottage is located.
2. Dimensional Limitations:
 - (a) The elder cottage shall not exceed 750 square feet in total floor area.
 - (b) Notwithstanding any other provisions of this Ordinance, the minimum size of the elder cottage may be reduced to no less than 250 square feet of enclosed floor area.
 - (c) The elder cottage shall not exceed one story in height and under no circumstances shall the total height exceed 20 feet.
3. Location Requirements:
 - (a) An elder cottage shall, subject to the further limitations of this Section, be located only on a lot where there already exists a one-family or two-family dwelling.
 - (b) No elder cottage shall be located within the front yard of any lot.
 - (c) No elder cottage shall be permitted on a non-conforming building lot.

- (d) No more than one elder cottage shall be located on any lot.
- (e) The erection of the elder cottage shall be otherwise in conformity with all other provisions of the Zoning Ordinance including lot coverage and side and rear yard setbacks.

4. Building Requirements:

- (a) An elder cottage shall be clearly subordinate to the principal building on the lot and its exterior appearance and character shall be in harmony with the existing principal building.
- (b) An elder cottage shall be constructed in accordance with all applicable laws, regulations, codes and ordinances, including the Building Code. If an elder cottage is a factory manufactured home or component, in addition to complying with any other law, it shall bear an Insignia of Approval or other equivalent, legally recognized indicia of compliance with applicable laws, issued by the N.Y. State Fire Prevention and Building Code Council or the N.Y. State Division of Housing and Community Renewal.
- (c) An elder cottage shall be constructed so as to be easily removable. The cottage's foundation shall be of easily removable materials so that the lot may be restored to its original use and appearance after removal with as little expense as possible. No permanent fencing, walls, or other structures shall be installed or modified that will hinder removal of the cottage from the lot.
- (d) Adequate water supply and sewage disposal arrangements shall be provided, which may include connections to such facilities of the principal building. If a cottage is located in an area where electrical, cable, and/or telephone utilities are underground, such utilities serving the elder cottage shall also be underground.
- (e) It shall be disclosed at the time of application whether the proposed inhabitants of an elder cottage will have a car. If so, an adequate area for parking shall be required for the expected number of cars.

5. Special Approval:

- (a) The construction or placement of an elder cottage on a lot shall not occur until special approval for same is granted by the Board of Appeals.
- (b) The special approval shall be for a period of one year (unless earlier terminated as hereinafter set forth) and thereafter may be renewed annually by the Building and Zoning Enforcement Officer upon receipt of an application for same provided that the circumstances obtaining at the time of the original application have not changed.

- (c) The special approval shall terminate 120 days after
 - (i) The death or permanent change of residence of the original occupant or occupants of the elder cottage, or
 - (ii) Any of the occupancy requirements set forth in this Section are no longer met.

Without limiting other indicia of a permanent change of residence, continuous absence from the elder cottage of a person for a period of 180 consecutive days shall be considered to be a permanent change of residence.

During the 120 day period following any of the events set forth in subparagraphs (i) and (ii) above, the unit shall be removed and the site restored so that no visible evidence of the elder cottage and its accessory elements remains. If the elder cottage has not been removed by the end of the 120 day period, in addition to the existing sanctions in the Zoning Ordinance, actions to insure removal may be taken, including removal and salvage by the Town with a lien imposed to defray any costs incurred. Such lien may be added to the real estate taxes applicable to the lot on which the elder cottage is located and collected in the same way as any other tax payable to the Town.

6. Procedure For Obtaining A Special Approval:

- (a) The application for original issuance of a special approval and renewal shall contain such information as the Board of Appeals or Building and Zoning Enforcement Officer may require to adequately review the qualification for granting the approval, but, for an original application shall contain at a minimum:
 - (i) Name of owner of the lot.
 - (ii) Name of occupants of principal building.
 - (iii) Name of proposed occupants of the elder cottage.
 - (iv) Age of proposed occupants of the elder cottage.
 - (v) Relationship of elder cottage occupants to owners and occupants of the principal building.
 - (vi) Sketch plan or survey, which shall be drawn to scale, showing
 - (A) Location of all existing buildings, structures, drives,

- walkways and the layout of utility services,
 - (B) Proposed location and size of the elder cottage,
 - (C) Proposed water, septic, and other utility connections,
 - (D) Proposed landscaping and screening if any is contemplated.
- (vii) Sketches, drawings, pictures or other materials which adequately describe the layout and appearance of the proposed elder cottage.
 - (viii) Agreement to remove the elder cottage when it no longer qualifies as such.
 - (ix) Consent for the Town to enter on the property and to remove the elder cottage if the owner fails to timely remove it, as set forth below.
- (b) By applying for a special approval for the erection of an elder cottage, the owner of the lot on which the elder cottage is to be located, for himself or herself, his or her heirs, successors and assigns, irrevocably consents to the entry of the Town and its authorized officials and agents upon the property, after notice and an opportunity to be heard before the Board of Appeals, for the purpose of removing the elder cottage in the event the requirements for maintenance of same are no longer met, and further agrees that any costs incurred by the Town in so removing the cottage shall become a lien upon the property on which the cottage was located subject to collection in the manner set forth above.
 - (c) The granting of a special approval shall be governed, in addition to the provisions set forth in this Section, to the general provisions relating to granting of special approvals and approval of site plans. The Board of Appeals shall have the authority, in determining whether to grant the special approval, to review the site plan and apply the criteria relating to site plan approvals that the Planning Board uses in granting site plan approvals pursuant to Sections 46 et. seq. The Board of Appeals shall have the further authority when granting special approval, to impose such reasonable conditions as the Board may deem necessary to minimize the impact of the addition of an elder cottage upon the lot on which it is being located as well as the neighborhood in which it is being located.
7. Limitation on Variances: Notwithstanding any other provisions of this Ordinance there shall be no variances granted for extension of time for removal of an elder cottage except that the Board of Appeals may, upon making the same findings that would normally be required for the granting of a use variance, extend the time for removal of the elder cottage for one additional six month period.

8. Definition of Owner: For the purposes of this Section, the term "owner" as applied to ownership of a principal building shall mean a natural person
 - (a) Who owns at least a 50 percent interest in the real property and related buildings, whether individually or as a tenant in common; or
 - (b) Who owns the real property and related buildings with no more than one other individual or entity as co-joint tenants or tenants by the entirety, in either event each of the co-joint tenants or tenants by the entirety having identical interests.

Section 2602 - EXTRACTION OR DEPOSIT OF FILL AND RELATED PRODUCTS.

1. In any zone no more than 50 cubic yards of fill, sod, loam, sand, gravel, stone or similar materials (hereinafter referred to collectively as "fill") shall be deposited or removed or offered for sale in any one year, except in connection with a public work on the property or the removal of silt or other recently accumulated material that blocks a normal flow of a water course, without obtaining an approval pursuant to this section.
2. For the purposes of this section, movement of fill from one area on a site to another location on the site shall be considered a deposit and removal and shall be subject to the fill permit requirements of this section if the requisite volume of fill is being moved, unless such activity is an activity specifically excepted from the requirements of this section by the provisions set forth below.
3. If the application is for deposit or extraction of more than 50 but less than 250 cubic yards of fill, the approval may be given by the Town Engineer. If the application is for deposit or extraction of 250 cubic yards or more, special approval shall be obtained from the Board of Appeals.
4. In applying for such approval, the applicant shall submit to the Town Engineer a plan of the proposed project, showing property lines, and adjacent public ways, grades and depths of proposed deposit or removal, soil types or fill types to be deposited or removed, water courses, erosion control during and after construction, projected duration of project, proposed regrading and replanting of the property upon completion of the operation, and such other items as the Board of Appeals or Town Engineer may require to adequately review the proposed project.
5. In those cases requiring a special approval from the Board of Appeals, the Board shall not act until the Town Engineer has reviewed such plan and advised the Board that in his professional opinion the plan adequately protects the property and surrounding properties from significant adverse consequences of such deposit or removal, including, when completed, adverse drainage, erosion, visual or other adverse impacts. Before issuing a special approval, the Board shall make the same findings as are required for the Engineer's opinion. In considering the proposed use

the Board shall take into account the distance of the operation from neighboring property and public ways, the possible detriment of such use to the future development of the land in question, and significant nuisance or detriment of the operation to neighboring landowners and to the community as a whole.

6. The Board may impose such conditions upon the applicant as it deems necessary to protect the general welfare of the community, which may include a time limit upon operations, standards for performance, and the requirement that a performance bond be posted to insure compliance with the requirements of this ordinance and with any further reasonable conditions imposed by the Board.
7. In the event that the proposed movement of material involves the deposit or extraction of more than 2,500 cubic yards, the matter shall first be referred to the Planning Board for its recommendation before the Board of Appeals makes its final decision.
8. In the event that the proposed movement of fill involves the deposit or extraction of less than 250 cubic yards, the Town Engineer may grant written approval provided that the Engineer determines, before issuing the approval that the proposed plan
 - (a) Provides for appropriate erosion control during and after construction;
 - (b) Protects against adverse drainage on the subject property and surrounding properties;
 - (c) Provides for appropriate revegetation when necessary;
 - (d) Provides for appropriate slope controls; and
 - (e) Does not adversely affect properties surrounding the designated site both during and after removal or deposit of the fill.

The Town Engineer may impose such reasonable conditions upon the applicant as the Engineer deems necessary to protect the general welfare of the community, which may include a reasonable time limit upon operations, reasonable standards for performance, and the requirement that a performance bond or other security in a reasonable amount be posted to insure compliance with the requirements of this Ordinance and with any further reasonable conditions imposed by the Engineer.

9. The following are excepted from the requirements set forth above:
 - (a) Any normal building operation in connection with a legal building permit, such as excavation, filling, or grading, shall be excepted from the provisions of this Section provided, however, that this exception shall apply only where the total amount of material moved from one place to another place on the construction site is less than 700 cubic yards and where the total amount of

material removed from the construction site to an off-site location (or brought to the construction site from an off-site location) is less than 500 cubic yards.

For the purpose of this section a "construction site" consists of the larger of the following areas:

- (i) An area of 30,000 square feet in which the proposed construction is to be located; or
 - (ii) The area contained within the footprint of the proposed structure plus an additional 50 feet adjacent to the perimeter of the proposed structure.
- (b) Removal or deposit of fill in connection with the construction of a septic field or septic system on an individual lot pursuant to a permit obtained from the Tompkins County Health Department.
 - (c) Removal or deposit of fill in connection with construction in accordance with a site plan approved by the appropriate Town authority (e.g. Town Board, Town Planning Board or Board of Appeals) provided that such construction occurs within three years of the final approval of such authority. Notwithstanding the foregoing, if fill is being removed to or from another site in the Town, and if the plans for the removal from, or deposit on, such other site were reviewed by the Town Engineer and the Board granting such approval was advised of the results of such review and specifically included the proposed disposition of such fill in its approval, no further approval under this Section shall be required provided the construction occurs within the time limits set forth above. If the disposition of fill was not specifically approved by the applicable Board in connection with any such approvals, this exception shall not apply and the applicant shall be required to obtain special approval for the deposit or removal of fill relative to such other site in accordance with the terms of this Section.
 - (d) Removal, movement, or deposit of not more than 500 cubic yards of fill in an Agricultural Zone in any three year period in conjunction with one or more bona fide agricultural uses.
 - (e) Removal or deposit of fill in connection with construction of roads and other facilities in a subdivision approved in accordance with the requirements of the Town of Ithaca Planning Board provided, however, that
 - (i) Plans for such construction showing in sufficient detail the proposed removal and/or deposit of fill (including, when removal from or deposit on to an off-site location is contemplated, adequate plans of such off-site location showing the required information relative to the disposition or removal of fill to or from same) were submitted to the Planning Board and approved by the Town Engineer in conjunction

with the subdivision approval; or

- (ii) The Planning Board expressly waived the requirement of submission of such drawings and the total amount of fill to be either deposited or removed is less than 500 cubic yards.

Section 2603 - LIMITATIONS ON VEHICLE REPAIR GARAGES AND GASOLINE SALES STATIONS. No part of any building used as a vehicle repair garage or gasoline service station and no filling pump, lift or other service appliance shall be erected within 25 feet of any residence zone or in any required side yard.

Section 2604 - TELECOMMUNICATIONS FACILITIES.

1. **Purpose.** The purpose of these supplemental regulations is to promote health, safety, and the general welfare of the residents of the Town of Ithaca; to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures and by encouraging alternative technologies that would minimize the need for multiple towers; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment, and appropriate landscaping.
2. **Special Permit, Site Plan Approval and Variance.** So long as telecommunications facilities are deemed, under New York law, to be a utility, telecommunications facilities may be constructed anywhere in the Town of Ithaca but only if the person seeking to erect same shall have obtained a special permit and site plan approval from the Planning Board in accordance with this section and the other provisions of this ordinance governing issuance of special permits and site plan approvals prior to any construction. If the proposed height of the telecommunications facility exceeds the permitted height of structures in the zoning district in which the facility is proposed to be located, notwithstanding any other provisions of this ordinance, a height variance from the Board of Appeals shall also be required.
3. **General Criteria.** No special permit or renewal thereof or modification of a current special permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:
 - (a) is necessary to meet current or reasonably expected demands for services;
 - (b) conforms with all federal and state laws and all applicable rules or regulations promulgated by the Federal Communications Commission (the "FCC"), Federal Aviation Administration (the "FAA"), or any other federal agencies having jurisdiction;

- (c) is considered a public utility in the State of New York;
- (d) is sited, designed and constructed in a manner which minimizes (i) visual impact to the extent practical and (ii) adverse impacts upon migratory and other birds and other wildlife;
- (e) complies with all other requirements of this Ordinance, unless expressly superseded herein;
- (f) is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility;
- (g) when including the construction of a tower, such tower is designed to accommodate future shared use by at least two (2) other telecommunication service providers. Any subsequent location of telecommunication equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower and if the tower's original design was adequate to accommodate the proposed additional equipment. However, the additional equipment will require site plan review and issuance of a building permit before construction occurs. At the option of the Building and Zoning Enforcement Officer there may be required, before issuance of a building permit, an engineer's certificate or report to the effect that with the proposed additional equipment the existing tower continues to be safe and meets all then currently applicable design and construction criteria in accordance with generally accepted good engineering practices and generally accepted industry standards.

4. **Co-Location.** The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any special permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunications facility or upon an existing structure. The application shall include an adequate inventory report specifying existing telecommunications facility sites and structures exceeding seventy-five per cent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.

The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one (1) or more of the following reasons:

- (a) the planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and reasonably anticipated future use for those facilities;

- (b) the planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
- (c) existing or approved telecommunications facilities or other structures do not have space and cannot be modified to provide space on which proposed equipment can be placed so it can function effectively and reasonably;
- (d) other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
- (e) the property owner or owner of the existing telecommunications facility or other structure refuses to allow such co-location.

5. **Priority of Siting Locations.** In determining whether a site is appropriate, and if it is determined a need exists for the telecommunications facility, the preferential order of location, to the extent the same may be, or may be made, technically feasible, is as follows:

- (a) Co-located on existing telecommunications towers;
- (b) Co-located on any other existing radio or other tower that would not require any increase in height nor significant noticeable structural additions to accommodate the telecommunications facility;
- (c) Within any industrial zones or existing planned development zones that permit industrial activities;
- (d) Within any light industrial zones or existing planned development zones that permit light industrial activities;
- (e) Within any existing community commercial zones or existing planned development zones which permits all of the activities permitted in a community commercial zone;
- (f) On any other property in the Town.

6. **Dimensional Standards.**

- (a) A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any attached antennae. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not, except as set forth below, contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, relief may be granted by specific permission of the Planning Board

on a case-by-case basis if it is determined by such Board after submission of competent evidence, that the waiver of this requirement will not endanger the life, health, welfare or property of any person. In granting any such waiver, the Board may impose any conditions reasonably necessary to protect the public or other property from potential injury.

- (b) All telecommunication facilities shall be located on a single parcel.
- (c) All telecommunication facilities shall comply with the setback, frontage, minimum lot size, and yard standards of the underlying zoning district and the fall zone requirements of this article. To the extent there is a conflict, the more restrictive provision shall govern. The size of the leased or owned lot, together with any land over which the applicant has obtained an easement, shall be, at a minimum, sufficiently large to include the entire fall zone. All lots leased or owned for the purpose of construction of a tower as part of telecommunications facility shall conform, at a minimum, to the lot size requirements of the underlying zoning district or the size of lot necessary to encompass the entire fall zone (to the extent easements for any part of the fall zone that extends outside the minimum lot sized permitted in the zoning district have not been obtained), whichever requirement results in a larger lot.
- (d) Notwithstanding provisions to the contrary of any other article of this ordinance, the front, side, and rear yard requirements of the underlying zoning district in which a telecommunications facility is erected shall apply not only to a tower, but also to all tower parts including guy wires and anchors, and to any accessory buildings.

7. Lighting and Marking.

- (a) Towers shall not be artificially lighted and marked beyond the requirements of the FAA.
- (b) Notwithstanding the preceding paragraph, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety and would not unduly adversely affect residents of any surrounding property.

8. Appearance and Buffering.

- (a) The use of any portion of a telecommunications facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
- (b) The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking as set forth above shall otherwise:

- (i) have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Planning Board, or
 - (ii) be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
 - (c) Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
 - (d) Each application for a proposed facility shall be accompanied by a SEQR Full Environmental Assessment Form ("Full EAF"). A Visual Environmental Assessment Form ("Visual EAF") shall be required as an addendum to the Full EAF. The Planning Board may require submittal of a more detailed visual analysis based on the contents of the Visual EAF.
 - (e) The facility shall have appropriate vegetative buffering, reasonably satisfactory to the Planning Board, around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
 - (f) Without limiting the requirements of the preceding paragraph, existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall occur in connection with the telecommunications facility prior to the granting of special permit and site plan approval. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
 - (g) The Planning Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate tower designs to more clearly identify adverse impacts for the purpose of their mitigation.
 - (h) Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunications facility shall not be stored or parked on the Facility site.
9. **Access and Parking.**
- (a) Access ways shall make maximum use of existing public or private roads to

the extent practicable. New access ways constructed solely for telecommunication facilities must be at least twelve (12), but no more than twenty-four (24) feet wide, and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

- (b) The road surface (driveways) shall be centered within access ways and shall not comprise more than 60% of the width of the access way.
- (c) Parking areas shall be sufficient to accommodate the usual number of service vehicles expected on the premises at any one time. Space off of public highways shall be provided (not necessarily in parking areas) to accommodate the greatest number of service vehicles expected on the premises at any one time.
- (d) Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

10. Security.

- (a) Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least eight (8) ft. in height, the top foot of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site. The Planning Board may waive the requirement of fencing if, in its discretion, it determines that other forms of security are adequate, or that, by reason of location or occupancy, security will not be significantly compromised by the omission, or reduction in size, of the otherwise required fencing.
- (b) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- (c) There shall be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.
- (d) A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

11. Engineering and Maintenance.

- (a) Site plans for all telecommunication facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry

standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers ("IEEE") and the American National Standards Institute ("ANSI").

- (b) Every Facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the Building and Zoning Enforcement Officer. Any unsafe condition revealed by such report shall be corrected within ten days of notification of same to the record landowner on which the facility is constructed. The time period for correction may, on application of the landowner or owner of the facility, be extended by the Planning Board if it is impracticable to complete the correction within said ten days and if there is no imminent danger to life, limb, or other person's property. If the unsafe condition is not corrected within the applicable time period, or if the required inspection is not provided to the Town the special permit for construction of the facility may, after a hearing by the Planning Board on at least ten days' prior notice to the landowner of record given by certified mail, return receipt requested, or other equally effective manner of providing notice, be revoked by such Board. Revocation may occur only if the Board finds either (a) that the required inspection has not been provided or (b) that there is an unsafe condition which poses a risk of bodily injury or significant property damage. Upon such revocation, the facility shall be removed or dismantled to the point of removing all unsafe conditions.
- (c) A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by the FCC or any permit granted by FCC.
- (d) The municipality, at the expense of the applicant, may employ its own consultants to examine the application and related documentation. In addition, the applicant shall reimburse the Town for the costs of the Town, including the time of the Building and Zoning Enforcement Officer, in reviewing the application. The consultants that the Town may retain include, but are not limited to, professional structural and/or electrical engineers, attorneys, and other experts reasonably required by the Town to competently and fully evaluate any application and the resulting construction. Such consultants may be requested, among other matters, to make recommendations as to whether the criteria for granting the special permit have been met, including whether the applicant's conclusions regarding need, co-location, safety analysis, visual analysis, and structural inspection, are valid and supported by generally accepted and reliable engineering and technical data and standards, and whether the telecommunications facility as constructed is in compliance with the approved plans and in accordance with generally accepted good engineering practices and industry standards.

- (e) To assure sufficient funds are available to the Town to pay for the consultants referred to in the preceding subparagraph, any applicant shall be required to deposit Review Fees in escrow, in accordance with the terms of any Town of Ithaca law, ordinance or resolution, as the same may amended from time to time. Notwithstanding the provisions of any such law, ordinance or resolution, the minimum initial escrow deposit for any telecommunication facility application which anticipates construction of any type of tower shall be \$5,000 or the minimum prescribed by such law, ordinance or resolution as in effect at the date of the application, whichever is greater.

12. **Removal.**

- (a) At the time of submittal of the application for a special permit for a telecommunications facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
- (b) At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the telecommunications facility and property restoration, with the municipality as the assignee, in an amount approved by the Planning Board, but not less than fifty thousand (\$50,000) dollars.
- (c) At times of modification of the special permit, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunications facility and property restoration.

13. **Application.** The application for a special permit for the construction of a telecommunications facility shall include, without altering any other application requirements set forth in this Article or elsewhere in this ordinance:

- (a) A completed project application form in such detail and containing such information as the Town Planning Board may require.
- (b) Completed Full EAF and Visual EAF.
- (c) Site plan in accordance with the requirements for site plans generally, and if more detailed, in accordance with the site plan requirements of this section including, without limitation

- (i) The exact location including geographic coordinates of the proposed telecommunications facility including any towers, guy wires and anchors, if applicable;
 - (ii) The maximum height of the proposed facility, including all appurtenances;
 - (iii) A detail of tower type, if any, including engineering drawings from the tower manufacturer (monopole, guyed, free-standing, or other);
 - (iv) The location, type and intensity of any lighting on the tower;
 - (v) Property boundaries and names of all adjacent landowners;
 - (vi) Proof of the landowner's consent to the erection of the facility and agreement to abide by the ordinance if the applicant is not the landowner;
 - (vii) The location of all other structures on the property and all structures on any adjacent property within one hundred feet of the property lines, together with the distance of these structures from any proposed tower;
 - (viii) The location, nature and extent of any proposed fencing, landscaping and screening; and
 - (ix) The location and nature of any proposed utility easements and access roads or drives.
 - (x) Engineer's certification that the telecommunication facility and all related components have been designed in accordance with generally accepted good engineering practices and in accordance with generally accepted industry standards, and if constructed in accordance with the plans the entire facility (including the soils of the site itself) will be safe, will be in accordance with all applicable governmental building codes, laws and regulations and in accordance with generally accepted good engineering practices and industry standards, including without limitation, acceptable standards as to stability, wind and ice loads, and bird protection.
- (d) Agreement that the applicant will negotiate in good faith with any subsequent applicant seeking to co-locate a telecommunications facility on the initial applicant's structures. This agreement shall commit the initial applicant and landowner and their respective successors in interest to:
- (i) Respond in a timely, comprehensive manner to a request for

information from a potential shared-use applicant.

- (ii) Negotiate in good faith for shared use by third parties.
- (iii) Allow shared use if an applicant agrees in writing to pay reasonable charges for same.
- (iv) Make no more than a reasonable charge for shared use, based upon generally accepted accounting principles. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference or causing uses on the site to emit electromagnetic radiation in excess of levels permitted by the FCC.
- (e) The agreement for removal of the facility referred to above.
- (f) Copies of all documents submitted to the FCC or any other governmental agency having jurisdiction.
- (g) Any applicable application or other fees, including any deposits required by the Town for application to the costs of any consultants retained by the Town as provided above.

14. Miscellaneous.

- (a) Any special permit or site plan permit granted hereunder shall be valid only for the dimensions and number of structures for the telecommunications facility contained in original application as so approved. Any subsequent changes or modifications shall require a new application for same following the procedures set forth in this section.
- (b) In considering the application the Planning Board may, if the application is granted, impose such reasonable conditions as either body may deem necessary to minimize any adverse impacts of the facility or its construction, or to assure continued compliance with the terms of this ordinance.
- (c) Whenever reference is made to an engineer's certificate or report in this section, the same shall be provided by a professional engineer licensed in the State of New York who is reasonably satisfactory to the Planning Board.

ARTICLE XXVII:

GENERAL PROVISIONS

Section 2700 - BUILDING FLOOR AREA. No dwelling in any zone shall be erected or altered so as to provide for less than 600 square feet of net enclosed floor area.

Section 2701 - SIDE YARD ON CORNER LOT. On a corner lot in a residence zone the yard width on the side street shall be at least one-half the required front yard for adjoining properties on the side street, but in no event less than 10 feet. On a corner lot in any other zone, the yard depth on both streets shall be equal to the required front yard for adjoining properties on both streets.

Section 2702 - PORCHES AND CARPORTS. In determining the percentage of building coverage or the size of yards for the purpose of this ordinance, porches and carports, open at the sides but roofed, shall be considered a part of the building.

Section 2703 - FENCES AND WALLS. The provisions of this ordinance shall not apply to fences or walls, not over 6 feet high above the natural grade, nor to terraces, steps, unroofed porches, or other similar features not over 3 feet above the level of the floor of the ground story or 3 feet above grade, whichever is lower.

Section 2704 - PROJECTIONS IN YARDS. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, pilasters, leaders, chimneys, cornices, eaves and ornamental features, provided that no such projection may extend more than four feet into any required yard.

Bays including their cornices and eaves, may extend not more than four feet into any required yard provided that the sum of such projections on any wall shall not exceed one-third the length of such wall.

An open fire balcony or fire escape may extend not more than four feet into any required yard.

Section 2705 - REDUCTION OF LOT AREA. No lot shall hereafter be reduced or altered so as to result in a lot or structure that does not meet the minimum area and yard requirements of this ordinance. In the event a lot upon which stands a building is changed in size or shape, without an appropriate approval or variance, so that the area and yard requirements of this ordinance are no longer complied with, such building shall not thereafter be occupied or used until it is altered, reconstructed or relocated so as to comply with these requirements. The provisions of this Section shall not apply when a portion of a lot is taken for a public purpose.

Section 2706 - MORE THAN ONE BUILDING ON A LOT. Other than in a multiple residence zone, there shall not be more than one principal building on any lot in any residential zone (the term "residential zone" for the purposes of this section means Low Density, Lakefront, Medium Density, High Density, and Multiple Residential Zones and Conservation Zones). When there is more than one principal building on a lot in any non-residential zone or in a multiple residence zone, the space between such buildings must be at least equal to the sum of the side yards, or the sum of the rear and the front yards, as the case may be, calculated as if each building was located on its own individual lot in such zone.

Section 2707 - PARKING FACILITIES.

1. **All zones.** The following provisions apply to all zones unless there are express provisions applicable to a specific zone set forth below or elsewhere in this Ordinance, in which event the express provision shall govern.
 - (a) If permitted or existing in a zone, the following uses shall be provided with the following off-street parking facilities:
 - (i) School or other educational institutions - two spaces for each class room.
 - (ii) Hospital, sanitarium or nursing or convalescent home - One space for each two beds.
 - (iii) Medical clinic - Four spaces for each doctor, or for each office in which a medically-trained person is regularly in attendance, whichever figure is larger.
 - (iv) Rooming house, tourist house or bed and breakfast - One space for each room offered to rent.
 - (v) Fraternity or sorority house or membership club - One space for each four beds, or one space for each five members, whichever figure is larger.
 - (vi) Churches or other houses of worship - One space for each four seats or one space for each five members, whichever figure is larger.
 - (vii) Research and Development Facilities - One space for each 300 square feet of gross floor area or one space per employee, whichever yields the higher number of spaces.
 - (viii) Multi-family dwellings: Every building in any zone housing or designed to house more than two families shall provide in connection with it and on the same lot garage space or off-street parking space for automobiles equivalent to the number of dwelling units provided in such dwellings, plus one space for every three dwelling units.
 - (b) Notwithstanding any other provisions of this Ordinance, if an existing or proposed project permitted in any zone (including the uses set forth in subparagraph (a) above as well as the uses referred to in various zones referenced below) meets the following criteria, the Planning Board may authorize the required minimum number of parking spaces to be reduced by no more than 20%. The criteria are: that the reduction in the number of parking spaces will not adversely affect traffic flow on the project site, will

leave adequate parking for all of the reasonably anticipated uses or occupancies in the project, and will not otherwise adversely affect the general welfare of the community.

(c) If the Planning Board permits a reduction in the required number of parking spaces, the Planning Board may impose such reasonable conditions as may, in the judgment of the Planning Board, be necessary to assure that such reduction will meet the criteria set forth above. In any event, unless expressly waived by the Planning Board, such reduction shall be subject to the following additional conditions:

(i) Any space that is made available by the reduction in the required number of parking spaces may not be used for construction of any structures.

(ii) Any land made available by virtue of such reduction be landscaped with grass or other vegetation approved by the Planning Board.

(iii) If, any time within five years after construction of the project is completed (completion of construction to be the date a permanent certificate of occupancy has been issued by the Town for the entire project), the parking is found to be inadequate because

(A) the demand for parking spaces on the project site exceeds on more than two occasions annually the number of parking spaces available; or

(B) the traffic flow through the parking area creates an undesirable or hazardous condition by reason of the reduction of parking spaces; or

(C) there is repeatedly undue congestion in the parking areas by reason of the reduction of parking spaces;

then the developer or subsequent owner of the project will install additional parking spaces up to the minimum number that would have been otherwise required by the terms of this Ordinance without granting any reduction. Unless waived by the Planning Board, the granting of the requested reduction in parking shall be conditioned on the developer or applicant executing an agreement in form acceptable to the Planning Board and acceptable for recording in the Tompkins County Clerk's Office agreeing to install the additional parking spaces as may be required by the above conditions.

(iv) In the event there is (whether before or after the five year period set forth above) any significant change in use, or a subdivision of the

project site, or a sale of a portion of the site, with respect to which a reduction in the required number of parking spaces has been granted, such change, subdivision, or sale may be conditioned upon a requirement that additional parking spaces be required up to the minimum that would have otherwise been required but for the reduction granted pursuant to these provisions.

- (d) Parking spaces shall be surfaced with black-top, compacted gravel, or other dust-free material, and must be graded so as to drain properly.
- (e) The Planning Board, in conducting site plan reviews, is authorized, for good cause shown and providing there is no adverse effects on the project, on the surrounding properties, or on the neighborhood, to allow a reduction of the standard size of a parking space to less than the otherwise required 180 square feet, exclusive of circulation and turning areas.

2. All zones except Mobile Home Park Zones:

- (a) If permitted or existing in a zone, the following uses shall be provided with the following off-street parking facilities:
 - (i) One and Two Family Dwellings - Two garage or off-street parking spaces for each dwelling unit. No parking shall be located more than 200 feet from the dwelling unit it is intended to serve. Notwithstanding any other provision herein, off-street parking spaces outside of garages may be located in any required front yard provided that no more than 15% of any required front yard is so occupied.
 - (ii) Buildings with more than two dwelling units - One garage or lot parking space shall be provided for each dwelling unit, plus one additional lot space for every three dwelling units. No parking shall be located farther than 200 feet from the dwelling unit it is intended to serve.
 - (iii) Any of the uses specifically enumerated below in Commercial Zones:
The same number of spaces as are required in a Commercial Zone.
- (b) Unless authorized by the Planning Board during site plan review processes, or by the Board of Appeals as a variance, no parking is permitted in any required front, side or rear yard.
- (c) The Planning Board is authorized to permit parking in a required front, side or rear yard in course of considering site plan approval, provided the Planning Board finds:

- (i) That the particular use, nature, or location of the proposed project or building, requires that parking be in one of such yards;
 - (ii) It is not practicable to limit parking to areas outside the required yards;
 - (iii) Parking in such yards does not significantly adversely affect adjacent properties or the character of the neighborhood; and
 - (iv) No such parking will occur in any buffer areas.
- (d) In conducting any required site plan review, if the Planning Board finds, utilizing the site plan criteria set forth elsewhere in this Ordinance, that the particular use, nature, or location of the project under review, or other circumstances, require that parking be to the rear of the principal building on the site to mitigate or avoid adverse effects on the project, on adjacent properties, or on the neighborhood generally, the Planning Board shall have the authority to require the parking to be so located.

3. Agricultural Zones:

- (a) Agricultural activities other than set forth below: A minimum of one parking space shall be provided for every two (2) employees or, in the case of uses authorized by special permit only, one space for each 2500 square feet of interior floor area, excluding basements used for storage, whichever results in the larger number of required spaces.
- (b) Dwelling units: As set forth above in paragraph 2 entitled “All zones except Mobile Home Park Zones.”
- (c) Retail sales or road side stands: one space for each 200 square feet of enclosed floor area.

4. Mobile Home Park Zones.

- (a) Dwelling units: One garage or lot parking space shall be provided for each mobile home, plus one additional lot space for each 3 mobile homes. No parking lot shall be located farther than 100 feet from the dwelling unit it is intended to serve. Parking spaces and access to same shall be paved with asphalt, concrete, or other solid material.
- (b) Any of the uses referred to above in paragraph 1 entitled “All zones”: The number of spaces required by the terms of paragraph 1 entitled “All zones.”
- (c) Any of the uses specifically enumerated below in paragraph 5 entitled “Commercial Zones”: The same number of spaces as are required by the

terms of paragraph 5 entitled “Commercial Zones.”

5. **Commercial Zones.** Parking requirements shall be as follows:
 - (a) Commercial buildings: A minimum of 300 square feet of parking area, including lanes and driveways, shall be provided for each 100 square feet of floor area, excluding basements used for storage, except in the case of the following uses, for which off-street parking shall be provided in accordance with the following schedule:
 - (i) Office or bank building: one space for each 200 square feet of office or bank floor area.
 - (ii) Auditorium, stadium, theater, or other place of public assembly; Funeral home or mortuary; or restaurant: one space for each 5 seats.
 - (iii) Bowling alley: three spaces for each lane.
 - (iv) Retail store: one space for each 200 square feet of ground floor plus one space for each 500 feet of sales area on all other floors combined.
 - (v) Hotel, motel: one space for each guest room, which space must be available at night.
 - (vi) Skating rink and dance hall: parking spaces equal in number to 20 per cent of the maximum capacity of the facility (maximum number of persons) authorized for fire protection purposes.
6. **Light Industrial Zones.** Light Industrial Buildings: A minimum of one parking space shall be provided for every two (2) employees or one space for each 1200 square feet of interior floor area, excluding basements used for storage, whichever results in the larger number of required spaces, except in the case of the following uses for which off-street parking shall be provided as follows:
 - (a) Office building: one space for each 200 square feet of office floor area.
 - (b) Warehouse: one space for each two employees or one space for each 2500 square feet of interior space, whichever is greater.
7. **Industrial Zones.** Industrial Buildings: A minimum of one parking space shall be provided for every two (2) employees or one space for each 1200 square feet of interior floor area, excluding basements used for storage, whichever results in the larger number of required spaces, except in the case of the following use for which off-street parking shall be provided as follows:
 - (a) Office building: one space for each 200 square feet of office floor area.

- (b) Warehouse: one space for each two employees or one space for each 2500 square feet of interior space, whichever requires the greater number of parking spaces.

Section 2708 - APPROVAL OF COUNTY HEALTH DEPARTMENT. No building permit, special permit, special approval, or certificate of occupancy issued under the terms of this ordinance shall become or remain valid unless the holder thereof complied with rules and regulations of the Tompkins County Health Department under the terms of the Tompkins County Sanitary Code. Where minimum lot sizes are specified in this ordinance, the same shall be subject to the approval of the Tompkins County Health Department or any successor agency, and if such Department or successor requires larger lots to comply with the County Sanitary Code or any other local, county, state or federal law, rule or regulation, the requirements of such Department or successor shall govern.

Section 2709 - ABANDONED CELLAR HOLES AND BUILDINGS. Within one year after work on any excavation for a building has begun, any excavation for a building shall be covered over or refilled by the owner to the normal grade. Any building substantially destroyed by any cause shall be rebuilt or demolished within one year. Any excavation or cellar holes remaining after the demolition or destruction of a building from any cause shall be covered over or filled by the owner within one year.

Section 2710 - AGRICULTURAL LANDS IN COUNTY AGRICULTURAL DISTRICTS. Notwithstanding any other provisions of this Ordinance, mobile homes may be located in any zone on or adjacent to lands used in agricultural production located in an Agricultural District created pursuant to Agriculture and Markets Law Section 303 or any replacement or successor statute (such homes being sometimes hereafter referred to as “farm labor homes” and such districts sometimes being referred to as a “County Agricultural District”) subject to the following:

1. Such mobile home shall be physically located within a County Agricultural District.
2. If more than one mobile home is to be located on a farm, no building permit shall be issued for such second or additional mobile home unless the proposed mobile home is shown on, and located in accordance with, a site plan approved pursuant to the provisions of Article XXIII.
3. Such mobile home shall only be used in connection with the operation of a farm and shall be leased to, or occupied by, only persons who are, or families at least one member of which is, employed by the farm operator operating the lands on which the mobile home is located.
4. In conducting the site plan review, in addition to any other authority granted the Planning Board by the Ordinance, the Board is authorized to reduce the minimum lot size from that otherwise required by the terms of the Ordinance to the minimum permitted by the Tompkins County Health Department, if on-site septic systems are to be used, or 15,000 square feet, whichever is larger.

5. The farm labor home shall be subject to the same residential set-back and other yard requirements of the zone in which the same is located.
6. The provisions prohibiting more than one principal building on a lot are waived for farm labor homes in a County Agricultural District.
7. Such mobile home shall be removed if not utilized for housing farm laborers for three or more successive years, or if the property on which the mobile home is located ceases to be a farm operation for a period of three or more years.
8. Any site plan approval granted under this section shall be for a period requested by the applicant, but in no event longer than five years, provided that the same shall be renewed for additional periods of up to five years each upon application of the farm operator if the conditions relating to the granting of the initial site plan approval still exist.
9. For the purpose of this section, the term “land used in agricultural production” shall have the same meaning as set forth in Agriculture and Markets Law Section 301 (4) or any replacement or successor statute.

ARTICLE XXVIII: ADMINISTRATION

Section 2800 - ENFORCEMENT. This ordinance shall be enforced by the Director of Building and Zoning or any other person designated by the Town Board, and duly appointed deputies, all herein collectively referred to from time to time as the Code Enforcement Officer.

Section 2801 - APPLICATIONS FOR APPROVALS, REMEDIES OR RELIEF. Every applicant for any approval, remedy or any other relief under this Article or any other Article of this Zoning Ordinance shall disclose the information required by Section 809 of the General Municipal Law.

Section 2802 - PERMIT TO BUILD. No principal building or accessory building, nor any other structure, including but not limited to, tanks, power and pump stations, swimming pools, and signs (except as permitted by the Town of Ithaca Sign Law), in any district, shall be begun, erected, constructed, enlarged, improved, renovated, repaired, or altered, without a permit to build, issued by the Code Enforcement Officer, except that no building permit shall be required for:

1. Repairs, alterations, or renovations to existing buildings provided that the repairs, alterations, or renovations:
 - (a) Cost less than \$10,000.00;
 - (b) Do not materially affect structural features of the building;

- (c) Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
 - (d) Do not involve the installation or extension of electrical, plumbing, or heating systems;
 - (e) Do not include the installation of solid fuel burning heating appliances and associated chimneys and flues; and
 - (f) In the case of buildings that are subject to site plan approval procedures, do not materially alter the exterior appearance of the building.
2. An accessory building in an agricultural or residential district, provided that such building:
- (a) Costs less than \$3,000.00;
 - (b) Is less than 12 feet in height;
 - (c) Does not involve the installation or extension of electrical, plumbing, or heating systems; and
 - (d) Does not include the installation of solid fuel burning heating appliances and associated chimneys and flues.
3. Parking spaces in Lakefront Residential Zones, Low, Medium, and High Density Residential Zones, Mobile Home Park Zones, Conservation Zones and Agricultural Zones provided that such parking spaces cost less than \$10,000.00.

This waiver of the permit to build requirement for alterations, accessory buildings, and parking spaces shall in no case relieve the property owner from compliance with other provisions of this ordinance or of the New York State Uniform Fire Prevention and Building Code, or any successor ordinances or statutes.

No permit to build shall be issued except pursuant to written order of the Board of Appeals, where the proposed construction, alteration, or use would be in violation of any provision of this Ordinance. No such permit shall be issued, except pursuant to written order of the appropriate authority granting variances where the proposed construction, alteration, or use would be in violation of any provision of the New York State Uniform Fire Prevention and Building Code or any successor statute.

Every application for a building permit shall state in writing the intended use of the building and shall be accompanied by a plot plan with all dimensions shown indicating the size and shape of the lot and buildings.

Every such application for a building permit shall also contain additional information such as the

intended number of occupants, the number of rooms, statement as to whether any portion will be occupied by the owner or will be leased, and such application shall be accompanied by an interior plan showing number and layout of rooms, and such application and such plan shall contain such additional information as may be reasonably required by the Code Enforcement Officer or as may be required from time to time by the Town Board.

Every application for a building permit shall be accompanied by a fee computed in accordance with the most recent local law, ordinance, or resolution adopted by the Town Board establishing such fees, including, without limitation, the local law regarding same adopted on or about December 12, 1994, to be effective January 1, 1995, as the same may have been subsequently amended.

Unless there has been substantial progress in the work for which a building permit was issued, said building permit shall expire one year from the date of issue.

Section 2803 - CERTIFICATE OF OCCUPANCY. A Certificate of Occupancy shall be required for all work for which a building permit is required to be issued under this Ordinance or under any other Ordinance or Local Law of the Town of Ithaca or under the New York State Uniform Fire Prevention and Building Code or any successor statute. Further, a Certificate of Occupancy shall be required for all buildings which are converted from one general occupancy classification to another and such classifications are defined in part 701 of Title 9 of the Official Compilation of Codes, Rules and Regulations of the State of New York, or any successor rules or regulations. The issuance of building permits and Certificates of Occupancy shall be governed, in addition to the requirements of this Ordinance, by the requirements of the New York State Uniform Fire Prevention and Building Code, the rules and regulations promulgated thereunder, and any similar or successor statutes, and in accordance with the requirements of any laws, ordinances, rules or regulations of the Town of Ithaca including, without limitation, Local Law No. 1 of the year 1981 as the same has been subsequently amended. The fee for the issuance of a Certificate of Occupancy shall be the fee established in the most recent local law, ordinance, or resolution adopted by the Town Board establishing such fee, including, without limitation, the local law regarding same adopted on or about December 12, 1994, to be effective January 1, 1995, as the same may have been subsequently amended.

Section 2804 - ZONING BOARD OF APPEALS. There is hereby established a Zoning Board of Appeals which shall function in the manner prescribed by law (except as the same may be superseded by the terms of this Ordinance as set forth below).

1. (a) There shall be five members of the Zoning Board of Appeals. The members of the Zoning Board of Appeals shall be residents of the Town of Ithaca and shall be appointed by the Town Board to serve for terms as prescribed by law. Vacancies occurring in said Board by expiration of term or otherwise shall be filled in the same manner. No person who is a member of the Town Board shall be eligible for membership on the Zoning Board of Appeals.
- (b) There may be appointed additionally up to two alternate members of the Zoning Board of Appeals, either of which alternate may substitute for a regular member of the Board in the event such regular member is unable to

serve because of a conflict of interest, illness, extended (longer than one month) absence from the Town, or is otherwise disqualified. Alternate members shall be appointed by resolution of the Town Board for terms established by the Town Board. The chairperson of the Zoning Board of Appeals may designate an alternate member to substitute for a regular member in the event a regular member is unable to participate because of any reason enumerated above. To the extent this provision is inconsistent with Town Law Section 267 (11) it is intended to supersede such section, in accordance with Municipal Home Rule Law Section 10 1 (ii) d (3). All other rights, responsibilities and procedures related to alternate members set forth in said Section 267 shall apply.

2. The Town Board shall designate the Chairperson of the Board of Zoning Appeals. The Board of Zoning Appeals shall choose its own Vice-Chairperson who shall preside in the absence of the Chairperson. In the absence of both the chairperson and vice-chairperson, the Zoning Board of Appeals shall choose one of its number as acting chairperson. Such chairperson, or the party acting as chairperson in the chairperson's absence, may administer oaths and compel the attendance of witnesses. The Zoning Board of Appeals may appoint a secretary who shall take minutes of all its meetings and keep its records.
3. The Zoning Board of Appeals shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this ordinance and all its resolutions and orders shall be in accordance therewith.
4. Any person aggrieved by any decision of any officer of the Town charged with the enforcement of this ordinance may take an appeal to the Zoning Board of Appeals.
5. The Zoning Board of Appeals shall, in accordance with the provisions of this Ordinance and in accordance with the provisions of Town Law Sections 267 et. seq. hear and determine appeals from any refusals of a building permit or certificate of occupancy by the person designated by the Town Board, or review any order or decision of said person where such order or decision is based upon the requirements of this ordinance.
6. The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use and area variances (as the same are defined in Town Law Section 267). In doing so, in addition to any other requirements set forth in this Ordinance, the Zoning Board of Appeals, in determining whether to grant a use or an area variance shall consider all of the matters set forth in Town Law Section 267-b including specifically the considerations set forth in Section 267-b 2 and 3 or any successor statute.
7. The Zoning Board of Appeals shall also hear and decide all matters referred to it or upon which it is required to pass by the terms of this ordinance. In deciding such matters referred to it by the terms of this ordinance and in granting special approval

the Zoning Board of Appeals shall follow the procedures and apply the criteria set forth in the article of this Ordinance entitled Special Permits and Special Approvals.

8. At the option of the Zoning Board of Appeals, it may refer a matter to the Planning Board for a recommendation before taking action. Such referral shall not extend the time within which the Zoning Board of Appeals, by law, must act. Failure of the Planning Board to timely respond to such a referral shall not preclude action by the Zoning Board of Appeals nor otherwise affect the validity of any actions taken by the Zoning Board of Appeals.
9. In granting variances or special approvals the Board may impose upon the applicant such reasonable conditions as are directly related to and incidental to the proposed use of the property or the period of time such variance or special approval shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance or approval may have on the neighborhood or community.
10. Unless work has commenced in accordance with the variance or special approval given by the Zoning Board of Appeals within one year from the issuance of the building permit authorizing such work, or within eighteen months of the granting of such variance or special approval, whichever is earlier, not only the building permit but the variance or special approval shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the issuance of such special approval or variance.

Section 2805 - PLANNING BOARD. There is hereby established a Planning Board which shall function in the manner prescribed by law (except as the same may be superseded by the terms of this Ordinance as set forth below).

1. (a) There shall be seven members of the Planning Board. The members of the Planning Board shall be residents of the Town of Ithaca and shall be appointed by the Town Board to serve for terms as prescribed by law. Vacancies occurring in said Board by expiration of term or otherwise shall be filled in the same manner. No person who is a member of the Town Board shall be eligible for membership on the Planning Board. To the extent reasonably possible, and in the sole discretion of the Town Board, one or more of the members may be an Agricultural Member as defined in Section 271 of the Town Law.
- (b) There may be appointed additionally up to two alternate members of the Planning Board, either of which alternate may substitute for a regular member of the Board in the event such regular member is unable to serve because of a conflict of interest, illness, extended (longer than one month) absence from the Town, or is otherwise disqualified. Alternate members shall be appointed by resolution of the Town Board for terms established by

the Town Board. The chairperson of the Planning Board may designate an alternate member to substitute for a regular member in the event a regular member is unable to participate because of any reason enumerated above. To the extent this provision is inconsistent with Town Law Section 271 (15) it is intended to supersede such section, in accordance with Municipal Home Rule Law Section 10 1 (ii) d (3). All other rights, responsibilities and procedures related to alternate members set forth in said Section 271 shall apply.

2. The Town Board shall designate the chairperson of the Planning Board. The Planning Board shall choose its own vice-chairperson who shall preside in the absence of the Chairperson. In the absence of both the chairperson and vice-chairperson, the Planning Board shall choose one of its number as acting chairperson. Such chairperson, or the party acting as chairperson in the chairperson's absence, may administer oaths and compel the attendance of witnesses. The Planning Board may appoint a secretary who shall take minutes of all its meetings and keep its records.
3. The Planning Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this ordinance and all its resolutions and orders shall be in accordance therewith.
4. The Planning Board shall, in accordance with the provisions of this Ordinance and in accordance with the provisions of Town Law Sections 271 et. seq. hear and determine site plan approval requests, special permit requests, subdivision applications, and such other matters as may be referred to such Board under this Ordinance or otherwise.
5. The Planning Board, in making any determination shall have the powers granted to Planning Boards by, and shall apply the procedures and criteria set forth in, this Ordinance, the laws of the State of New York, and any other law, ordinance, or resolution duly adopted at any time by the Town Board or Planning Board.
6. In granting site plan approvals, special permits, subdivision approvals, or in taking any other actions in response to any application, the Board may impose upon the applicant such reasonable conditions as are directly related to and incidental to the proposed use of the property or the period of time such special permit or other approval shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such permit or approval may have on the neighborhood or community.
7. Unless work has commenced in accordance with the site plan approval or special permit given by the Planning Board within one year from the issuance of the building permit authorizing such work, or within eighteen months of the granting of such approval or special permit, whichever is earlier, not only the building permit but the approval or special permit shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the issuance of such approval or

special permit.

8. In making recommendations to the Town Board and the Zoning Board of Appeals, the Planning Board shall determine that:
 - (a) There is a need for the proposed use in the proposed location.
 - (b) The existing and probable future character of the neighborhood in which the use is to be located will not be adversely affected.
 - (c) The proposed change or use is in accordance with a comprehensive plan of development of the Town.

Section 2806 - POSTING OF NOTICES. In addition to any other notice required by law, a public notice shall be posted by the applicant on the property that is the subject of certain applications as set forth in this section.

1. The sign shall be so posted in the following circumstances:
 - (a) If a variance, special approval, or determination is being sought from the Zoning Board of Appeals, the notice shall be posted before the initial Zoning Board of Appeals public hearing on the matter.
 - (b) If a subdivision approval, a site plan approval, or special permit is being sought from the Planning Board, the notice shall be posted before the first Planning Board public hearing on the application.
 - (c) If a determination is being sought which requires affirmative action by both the Zoning Board of Appeals and the Planning Board, the notice shall be posted before the first public hearing before either Board occurs.
 - (d) If the application is for rezoning of a parcel or parcels of land in conjunction with a proposed development on same a notice shall be posted and it shall be posted prior to the initial Planning Board hearing on the proposed rezoning. If the rezoning is a rezoning generally of the neighborhood independent of a particular application for a particular project, or is a rezoning of an area of more than 300 acres, there shall be no posting requirement unless the Town Board directs such posting. In such event the Town Board may designate the location and frequency of such posting, which may be different than otherwise required hereunder.
2. The posting shall occur at least 14 and not more than 30 days before the first meeting of the Board at which the matter is to be heard as set forth above.
3. The sign shall be posted in a location clearly visible from the roadway at or near the center of each of the property lines of the property under consideration which

property line fronts on an existing public or private roadway. If the road frontage exceeds 1,000 feet, signs shall be posted at 500 foot intervals along the frontage. When the Town Planner or Town Building Inspector and Zoning Enforcement Officer finds that the particular circumstances of an application warrants more signs than required by this provision, the applicant shall post such additional signs as may be directed by either of such officers.

4. Such signs shall be continuously maintained by the applicant and displayed facing the roadway until final action has been taken by the Board involved approving or denying the application or appeal, or until the application is withdrawn. Signs shall be removed within 15 days of the final action or withdrawal of the application.
5. The required signs shall be obtained from the Town Planner, Town Building Inspector and Zoning Enforcement Officer, or Town Clerk and shall contain the information set forth on the form of sign supplied by the Town. There shall be no fee for the first sign. If additional signs are required the applicant shall pay a non-refundable fee for each subsequent sign or replacements thereof. The fee shall be \$3.00 per sign.
6. Failure to post or maintain the signs as provided in this section shall not be a jurisdictional defect and any action taken by any Board in connection with the application shall not be nullified or voidable by reason of the failure to comply with this section. However, the failure to post or maintain the sign may be grounds, should the Board involved in its discretion so determine, to deny the application sought or to decline to hear the matter at the scheduled meeting date by reason of the failure to have the appropriate signs installed and/or maintained. The appropriate Board may, on good cause shown, waive the requirement of the posting of signs as called for by this section.

Section 2807 - ENTRY AND INSPECTION. The Code Enforcement Officer shall have the right to enter upon, examine and inspect, or cause to be entered, examined and inspected, any building or property, for the purpose of carrying out the provisions of this Ordinance after reasonable written notice of intent to examine or inspect has been provided to a property owner, and permission of the owner has been granted. If such permission is denied, access shall be pursued by the Attorney for the Town, who shall be notified by the Code Enforcement Officer of such denial. Pending the granting of such access or inspection, no further permits, certificates of occupancy or other approvals shall be granted by the Code Enforcement Officer or any other agency or board of the Town.

Section 2808 - VIOLATIONS AND PENALTIES. Pursuant to Section 268 of the Town Law any person, firm, corporation or other entity violating any provision of this Ordinance shall be deemed guilty of an offense and upon conviction thereof shall be subject to a fine or to imprisonment as provided in Section 268. Each week's continued violation shall constitute a separate offense.

Notwithstanding any other provisions of this Ordinance the Planning Board or the Zoning

Board of Appeals may refuse a special permit, special approval, preliminary or final site plan approval to an applicant as long as the applicant, or any person or entity under the control of or controlled by the applicant, is in default in the performance of any actions required of them pursuant to law or pursuant to conditions imposed in connection with a previously granted special permit, special approval, or final site plan approval in the Town of Ithaca.

Section 2809 - AMENDMENTS. This ordinance may be amended as provided by law.

Section 2810 - VALIDITY. The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

Section 2811 - EXISTING ZONING ORDINANCE AMENDED, RE-ADOPTED AND RE-ENACTED. The existing Zoning Ordinance of the Town of Ithaca, New York, as amended, adopted October 25, 1954, is hereby re-enacted, re-adopted and amended to read as set forth in this Ordinance, except as expressly provided otherwise in this Ordinance. This re-adoption and re-enactment and the adoption of any amendment shall not affect any pending, or prevent any future prosecution of any, action to abate any violation existing at the time this Ordinance is re-adopted, re-enacted and amended, if the use is in violation of the provisions of this ordinance as re-adopted, re-enacted and amended. Nothing herein shall be deemed to change the status of non-conforming uses created by virtue of the Zoning Ordinance adopted October 25, 1954, as amended, if such uses remain non-conforming under the provisions of this Ordinance, as re-adopted, re-enacted and amended.

Section 2812 - FEES. The fees, escrow deposits, review costs, public hearing fees and inspection fees for subdivision, variance, site plan and other similar applications and approvals, and for building permits, Use Permits, Operating Permits and any other similar permit, shall be as set forth in the most recent local law, ordinance, or resolution adopted by the Town Board establishing such fees, deposits and costs including, without limitation, the local law regarding same adopted on or about December 12, 1994, to be effective January 1, 1995, as the same may have been subsequently amended, together with the related schedule of application and review fees contained therein.

Section 2813 - WHEN EFFECTIVE. This revised and restated ordinance shall become effective April 1, 2004, herein referred to as the "Effective Date".

Section 2814 - TRANSITION PROVISIONS.

1. This revised, restated and amended Ordinance shall apply to all applications for building permits, site plan approvals, subdivision approvals, special approvals, special permits, or any other approval or authorization hereunder, submitted on or after the Effective Date.
2. If a completed application is submitted prior to the Effective Date and if such application is diligently prosecuted to conclusion, the application shall be governed by the provisions of the zoning ordinance in effect immediately prior to the Effective

Date, unless the applicant elects by written notice accompanying the application or delivered within a reasonable time after submission of the application to be governed by the provisions of this revised, restated and amended ordinance as in effect on and after the Effective Date. For the purposes of this section only, an application shall be deemed “completed” if it contains all required information, materials, and fees normally and reasonably required by the appropriate Town official(s) (e.g. Director of Planning with respect to subdivision, special permit, rezoning, planned development area, and site plan approval applications, the Director of Building and Zoning with respect to building permit, variance, and special approval applications, and the Director of Engineering with respect to fill permit applications) including initial SEQR forms, to commence the review process by the appropriate Town official or board. An application shall be deemed “diligently prosecuted to conclusion” if the applicant promptly responds to any inquiries and promptly supplies any additional information reasonably required by the reviewing Town officials and/or boards, appears at all required scheduled public hearings, and otherwise cooperates so as to permit and enable the appropriate Town officials and/or boards to adequately and completely review the application and render a decision on same within a reasonable period of time of its submission, and in any event within nine months of its submission.

3. The Town Board may, with respect to a specific application, if an applicant demonstrates
 - (a) severe, adverse economic impact will result to the applicant if the revised, restated ordinance is applied to the applicant’s application because of a substantial expenditure of funds by the applicant prior to the adoption of the revised, restated ordinance and in reliance upon the provisions of the ordinance in effect prior to the Effective Date; or
 - (b) delay in rendering a decision by the applicable official or board is due to the failure of such official or board to act within a reasonable period of time and not due to any failure or default by the applicant;

extend by no more than four additional months the privilege of having the application be governed by the provisions of the zoning ordinance in effect prior to the Effective Date, or extend by no more than four additional months the nine month period within which diligent prosecution of the application must be completed to obtain the benefit of utilizing the pre-Effective Date ordinance provisions. An application for extension under this subsection must be made prior to, or within 30 days after, the end of any applicable period by written request to the Town Clerk or Town Supervisor setting forth the requested relief and the grounds for same.