

Town of Caton

Zoning Law

Adopted on December 31, 1991
 Regulation of Wind Energy Conversion Systems on April 10, 2006
 Regulation of Mobile Homes Amended on December 11, 2006
 Regulation of Adult Use Amended on February 12, 2007
 Zoning Board of Appeals Amended on November 12, 2007
 Signs Amended on March 10, 2008
 Site Plan/Conditional Use Approval Process Amended on January 13, 2010

ARTICLE 1 TITLE, PURPOSE, AND AUTHORITY	4
ARTICLE 2 INTERPRETATION	5
SECTION 2.0 INTERPRETATION, SEPARABILITY AND CONFLICT.	5
SECTION 2.1 DEFINITIONS.	5
ARTICLE 3 ESTABLISHMENT OF DISTRICTS	22
SECTION 3.0 APPLICATION OF REGULATIONS.....	22
SECTION 3.1 NAMES OF ZONING DISTRICTS.....	22
SECTION 3.2 ZONING MAP.	23
SECTION 3.3 INTERPRETATION OF DISTRICT BOUNDARIES.....	23
ARTICLE 4 USE REGULATIONS.....	25
SECTION 4.0 AGRICULTURAL RESIDENTIAL DISTRICT (A-R).....	25
SECTION 4.1 RESIDENTIAL DISTRICT (R-1)	25
SECTION 4.2 ACTIVITIES PROHIBITED IN ALL DISTRICTS	25
SECTION 4.3 PROHIBITED INDUSTRIAL ACTIVITIES.	26
ARTICLE 5 AREA BULK REGULATIONS - DENSITY CONTROL.....	29
SECTION 5.0 PURPOSE.	29
SECTION 5.1 DENSITY CONTROL SCHEDULE (AREA AND BULK SCHEDULE).	29
SECTION 5.2 CORNER LOTS.	30
SECTION 5.3 PROJECTIONS INTO REQUIRED YARDS.	30
SECTION 5.4 COMPLIANCE WITH MAXIMUM AVERAGE RESIDENTIAL DENSITY.....	30
SECTION 5.5 SIDE YARDS FOR MULTI-FAMILY DWELLING UNITS.....	30
SECTION 5.6 DISTANCE BETWEEN PRINCIPAL BUILDINGS ON SAME LOT.	30
SECTION 5.7 EXCEPTIONS TO FRONT YARD REQUIREMENTS FOR PRINCIPAL STRUCTURES.	31
SECTION 5.8 GENERAL EXCEPTION TO HEIGHT REGULATIONS.....	31
ARTICLE 6 FLOOD DAMAGE PREVENTION DISTRICT.....	32
SECTION 6.0 INTENT.	32
ARTICLE 7 RESIDENTIAL CLUSTER DEVELOPMENT.....	33
SECTION 7.0 INTENT.	33
SECTION 7.1 AUTHORIZATION TO GRANT OR DENY RESIDENTIAL CLUSTER DEVELOPMENT.....	33
SECTION 7.2 STANDARDS GOVERNING RESIDENTIAL CLUSTER DEVELOPMENT.	33
SECTION 7.3 REVIEW OF RESIDENTIAL CLUSTER DEVELOPMENT PLANS.	35
SECTION 7.4 PUBLIC HEARING ON RESIDENTIAL CLUSTER DEVELOPMENT.	35
ARTICLE 8 PLANNED RESIDENTIAL DISTRICT	36
SECTION 8.0 INTENT.	36
SECTION 8.1 PERMITTED USES.	36
SECTION 8.2 STANDARDS GOVERNING PLANNED RESIDENTIAL DISTRICT.....	36

SECTION 8.3	SPECIAL PROVISIONS APPLYING TO THE PLANNED RESIDENTIAL DISTRICT (PRD).	37
SECTION 8.4	PROCEDURES FOR ESTABLISHING A PLANNED RESIDENTIAL DISTRICT.	37
ARTICLE 9	CONDITIONAL USES	39
SECTION 9.0	INTENT.	39
SECTION 9.1	AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.	39
SECTION 9.2	APPLICATION FOR CONDITIONAL USE.	40
SECTION 9.3	STANDARDS GOVERNING CONDITIONAL USES.	40
SECTION 9.4.	APPLICATION FOR AN AREA VARIANCE.	42
SECTION 9.5	REFERRAL OF CERTAIN ACTIONS TO THE COUNTY PLANNING BOARD.	42
SECTION 9.6	AGRICULTURAL DATA STATEMENT.	42
SECTION 9.7	SEQR	42
SECTION 9.8	PUBLIC HEARING ON CONDITIONAL USE.	43
SECTION 9.9	NOTIFICATION OF ACTION.	43
SECTION 9.10	APPEAL.	43
ARTICLE 10	SITE PLAN APPROVAL	44
SECTION 10.0	INTENT.	44
SECTION 10.1	AUTHORIZATION.	44
SECTION 10.2	CONCEPT PLAN CONFERENCE.	44
SECTION 10.3	SITE PLAN APPLICATION.	46
SECTION 10.4	SITE PLAN REQUIREMENTS.	46
SECTION 10.5	PUBLIC HEARING.	47
SECTION 10.6	NOTIFICATION OF DECISION ON SITE PLAN.	48
SECTION 10.7	AMENDMENTS.	48
SECTION 10.8	EXPIRATION, CHANGE OF USE, REVOCATION, AND ENFORCEMENT.	48
SECTION 10.9	APPEAL.	49
ARTICLE 11	DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS	50
SECTION 11.0	GENERAL.	50
SECTION 11.1	LOTS AND BLOCKS.	50
SECTION 11.2	STREET, ROAD, AND PAVEMENT DESIGN.	50
SECTION 11.3	OFF-STREET PARKING.	52
SECTION 11.4	OFF STREET LOADING AND UNLOADING REQUIREMENTS.	55
SECTION 11.5	SIGNS.	56
SECTION 11.6	ACCESSORY BUILDINGS, STRUCTURES AND USES.	60
SECTION 11.7	DRIVEWAY STANDARDS.	61
SECTION 11.8	FENCES, WALLS, HEDGES AND SCREEN PLANTING.	61
SECTION 11.9	STEEP SLOPE GUIDELINES.	62
SECTION 11.10	DRAINAGE SYSTEM AND EROSION CONTROL.	63
SECTION 11.11	OPEN SPACE, PARKS AND PLAYGROUNDS.	64
SECTION 11.12	UTILITIES.	65
SECTION 11.13	INDIVIDUAL LOT MANUFACTURED MOBILE HOMES.	65
SECTION 11.14	MANUFACTURED MOBILE HOME PARKS.	67
SECTION 11.15	EXCAVATIONS FOR SOIL MINING.	71
SECTION 11.16	LIGHT INDUSTRIAL USE REGULATIONS.	72
SECTION 11.17	SOLAR ENERGY SYSTEMS AND SOLAR ACCESS.	73
SECTION 11.18	WIND ENERGY CONVERSION SYSTEMS (WINDMILLS).	74
SECTION 11.19	HOME OCCUPATION.	79
SECTION 11.20	KENNEL STANDARDS.	80
SECTION 11.21	SATELLITE TV ANTENNAS, PHONE AND MICROWAVE TOWERS.	80
SECTION 11.22	TOWNHOUSE AND MULTI-FAMILY DEVELOPMENTS.	81
SECTION 11.23	GASOLINE FILLING STATIONS, SERVICE AND REPAIR GARAGES, AUTOMOBILE SALES AREAS.	82
SECTION 11.24	TWO PRINCIPAL RESIDENTIAL STRUCTURES ON A LOT IN SINGLE OWNERSHIP FOR AGRICULTURAL PURPOSES.	84
SECTION 11.25	SINGLE-FAMILY RESIDENCES ON LESS THAN TWO-ACRE LOT.	84
SECTION 11.26	ADULT USES AND ADULT LIVE ENTERTAINMENT	84
SECTION 11.27	NUDIST RESORT(S), CAMP(S), OR DEVELOPMENT(S)	85
SECTION 11.28	RACE TRACK	86
ARTICLE 12.	NON-CONFORMING BUILDINGS, USES AND LOTS	88
SECTION 12.0	CONTINUATION OF NON-CONFORMING BUILDINGS AND LOTS.	88

SECTION 12.1	DISCONTINUANCE.	88
SECTION 12.2	NECESSARY MAINTENANCE AND REPAIRS.	88
SECTION 12.3	CHANGE TO OTHER NON-CONFORMING USE.....	88
SECTION 12.4	CONSTRUCTION STARTED PRIOR TO THIS ZONING LAW.....	88
SECTION 12.5	EXISTING UNDERSIZED LOTS.....	88
SECTION 12.6	ALTERATIONS.....	89
SECTION 12.7	RESTORATION.	89
SECTION 12.8	REDUCTION IN LOT AREA.....	90
ARTICLE 13.	GENERAL EXCEPTIONS.....	91
SECTION 13.0	PUBLIC PROPERTIES.	91
SECTION 13.1	PUBLIC UTILITIES.	91
ARTICLE 14.	ZONING BOARD OF APPEALS.....	92
SECTION 14.0	ESTABLISHMENT AND DUTIES.	92
ARTICLE 15.	ADMINISTRATION.....	94
SECTION 15.2	CERTIFICATE OF OCCUPANCY.....	95
ARTICLE 16.	AMENDMENTS.....	96
SECTION 16.1	ADVISORY REPORT BY TOWN PLANNING BOARD.	96
SECTION 16.2	PUBLIC NOTICE AND HEARING.	96
SECTION 16.4	PROTEST BY OWNERS.....	97
SECTION 16.5	DECISION BY TOWN BOARD.....	97
ARTICLE 17.	REMEDIES.....	98
SECTION 17.0	PENALTY.	98
SECTION 17.1	ALTERNATIVE PENALTY.....	98
ARTICLE 18.	FEE SCHEDULE	99
ARTICLE 19.	EFFECTIVE DATE	100
APPENDIX A	101
SECTION 1.0 -	MEETING.	101
SECTION 2.0 -	MINUTES.	101
SECTION 3.0 -	REFERRALS TO THE TOWN PLANNING BOARD.	101
SECTION 4.0 -	PUBLIC NOTICE AND HEARING.	101
SECTION 6.0 -	VARIANCES.	103
SECTION 7.0 -	APPLICATION.	104
SECTION 8.0 -	AUTOMATIC REVOCATION.	105
SECTION 9.0 -	RELIEF FROM DECISIONS.	105

Article 1 TITLE, PURPOSE, AND AUTHORITY

The following is a Law duly adopted by the Town Board of Caton, Steuben County, New York on December 30, 1991 to wit:

A LAW to promote the health, safety, and general welfare of the Town of Caton; regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes; creating districts for said purposes, and establishing the boundaries, thereof; establishing a Zoning Board of Appeals to determine and vary the application of such regulations and restrictions in harmony with their general purposes and intent, and in accordance with general and specific rules herein contained; and providing for the enforcement of such Law. This Law shall be known and may be cited as the "Zoning Law of the Town of Caton".

IN PURSUANCE of authority conferred by Article 16 of the Town Law and Article 10 of the Municipal Home Rule Law of the State of New York, and in accordance with a comprehensive plan designed to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to provide for the accommodation of solar energy systems, equipment, and access to sunlight necessary therefore; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, with reasonable consideration, among other things, of the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of property, and encouraging the most appropriate use of the land throughout the Town; and also in pursuance of Article 9 of the Town Law, to the extent applicable, the Town Board of the Town of Caton, in the County of Steuben, State of New York, hereby ordains, enacts and publishes as follows.

Article 2 INTERPRETATION

Section 2.0 Interpretation, Separability and Conflict.

Following rules of construction of language shall apply to the text of this Law.

1. *Words used in the present tense include the future tense.*
2. *Words used in the singular include the plural, and words used in the plural include the singular.*
3. *Words used in the masculine form shall also include the feminine.*
4. *The word "lot" includes the word "plot" or "parcel".*
5. *The word "person" includes an individual, firm or corporation.*
6. *The word "shall" is always mandatory; the word "may" is always permissive.*
7. *The words "used" or "occupied" as applied to any land or building shall be construed to include the words intended, arranged or designed to be used or occupied".*
8. *A "building" or "structure" includes any part thereof.*
9. *the phrases, "to erect", "to construct", and "to build" a building, each has the same meaning and includes to excavate for a building and to relocate a building by moving it from one location to another.*

If any section, paragraph, subdivision, or provision of this Law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision judged invalid, and the rest of this Law shall remain valid and effective.

This Law shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect.

This Law is not intended to abrogate or annul any easement, covenant, or any other private agreement. Such private agreements shall not allow what the Law prohibits.

Whenever the requirements of this Law are at variance with the requirements of other lawfully adopted rules, regulations, laws, or ordinances, the law with the most restrictive provisions or those imposing the higher standards shall govern.

Section 2.1 Definitions.

The following words or phrases as used in this Law are defined as follows:

ABANDONMENT - To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

ACCESSORY STRUCTURE - A structure detached from and subordinate to a principal structure on the same lot and used for purposes customarily incidental to those of the principal structure. Accessory structures include, but are not limited to, portable, demountable or permanent enclosures, shade structures, carports, garages and storage sheds.

ACCESSORY USE - A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS – A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or serving; topless hair care or massages; service or entertainment where the servers or entertainers wear only pasties or G-strings or both; adult arcade; adult cabarets; adult motels; adult visual theaters; adult theaters; escort agencies; nude model studios; nude encounter studios, massage studios not operated by medical professionals or certified massage therapists, body painting studios ;touching and encounter businesses, and sex shops as defined by the American Planning Association (APA) Planning Advisory Service (PAS) Report Number 495/496. “Body piercing and/or tattoo parlors or specialists” are not defined as an adult live entertainment establishment. Adult Entertainment Establishments customarily exclude minors by reason of age.

ADULT CABARET – A restaurant or similar commercial establishment which regularly features:

1. *Persons who appear in a state of nudity; or*
2. *Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or*
3. *Films, motion pictures, video cassettes, video cable, satellite internet connections, slides, other photographic reproductions, CD’s, DVD’s, or any other form of digital and/ or electronic media which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.*

ADULT JUICE BAR- An Adult Cabaret, which does not serve and/or provide alcohol

ADULT MOTEL – A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, CD’s, DVD’s, slides, other photographic reproductions, or any other digital and/ or electronic media which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this adult type of visual reproductions.

ADULT VISUAL THEATER – A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, CD’s, DVD’s, or any other form of digital and/ or electronic media regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

ADULT THEATER – A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

ADULT USE – An adult use is an adult arcade, adult bookstore, adult video store as defined in these regulations, or any similar use not involving adult live entertainment.

ADULT ARCADE – Any place which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing “specified sexual activities” or “specified anatomical areas”.

ADULT BOOKSTORE OR ADULT VIDEO STORE - A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

Books, magazines, periodicals or other printed matter, or photographs, films motion picture, videocassettes or video reproductions digital video disks (DVD’s), compact disks (CD’s), slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas”; or

Instruments, devices, or paraphernalia, which are primarily intended, labeled, designed, advertised or promoted for use in connection with “specified sexual activities”.

A commercial establishment may have principal business purposes that do not involve the offering for sale or rental of material depicting or describing: “specified sexual activities” or “specified anatomical areas” and still be categorized as “ADULT” BOOKSTORE or “ADULT” VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe “specified sexual activities” or “specified anatomical areas”. For purposes of this definition, “principal business purpose” shall mean twenty-five percent (25%) or more of any of the following:

1. *The number of different titles or kinds of such merchandise;*
2. *The number of copies or pieces of such merchandise;*
3. *The amount of floor space devoted to the sale and/or display of such merchandise; or*
4. *The amount of advertising which is devoted to such merchandise, either in print or broadcast media.*

AGRICULTURAL USE - The raising of agricultural products including farm animals, livestock, poultry, dairy products, farm crops, fruit, vegetables and nursery stock whether for gain or otherwise. This term does not include livery or boarding stables, or manufacturing or processing of agricultural products as the principal use.

ALTERATION - As applied to a building or structure, a change or rearrangement in the structural parts or existing facilities of such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location to another.

APPROVED - Approved by the enforcement officer under the regulations of this Law, or approved by an authority designated by Law or other Laws.

AREA, BUILDING - The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of terraces, and uncovered steps.

AREA, LOT - The total area within the lot boundary lines excluding any area included in a public street right-of-way.

ATTIC - That space of building which is immediately below and wholly or partly within the roof framing.

AZIMUTH SOLAR - The angular distance between true South and the point on the horizon directly below the sun. Values to the East of South (in the morning) shall be negative. Values to the West of South (in the afternoon) shall be positive.

BARNYARD - Any area of land adjacent to or associated with the barn, accessory, or out buildings used for the storage of agricultural equipment, product, livestock, poultry including the incidental or customary processing of farm products.

BANNER – A sign intended to be displayed either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, fabric of any kind, or other flexible material.

BASEMENT - A story partly below finished grade, but having at least one-half of its height measured from floor to ceiling, but no less than four feet, above average finished grade.

BODY PIERCING AND/OR TATTOO PARLOR OR SPECIALIST – An establishment providing body piercings and/or tattoos as licensed by NYS Public Health Law.

BOARDING HOUSE - A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three, but no more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be deemed a boarding house.

BUFFER - An area of land forming a visual and/or physical separation or barrier between two uses. In the case of a visual barrier the land shall be covered with natural plantings or man-made material to provide a continuous physical screen preventing visual access and reducing noise.

BUILDING - Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY - See "ACCESSORY STRUCTURE".

BUILDING, DETACHED - A building surrounded by open space on the same lot.

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

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

BUILDING, SEMI-DETACHED - A building attached by a party wall to another building normally of the same type or another lot, but having one side yard.

BUILDING GROUP - A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

BUILDING LINE - The line, established by statute, local law or ordinance, beyond which the exterior surface of a building on any side shall not extend, as specifically provided by law. In the instance of a cantilevered section of a building or projected roof or porch, said line shall coincide with the most projected surface.

BULK - A term to describe the size, volume, area, and shape of buildings and structures, and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building; and all open spaces required in connection with a building, or other structure, or tract of land.

BULLETIN BOARD – A type of changeable copy sign that displays copy in a casement made of glass, plastic or other material.

CAMPGROUND - Any parcel of land on which may be located one or more cabins, camping vehicles, tents or other accommodations of a design or character suitable for seasonal or other temporary living purposes including summer cabin colony, vacation resort, day camp, and travel trailer park, but not including a standard design manufactured home, manufactured/mobile home park, boarding house or motel.

CELLAR - Any space in a building the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building.

CERTIFICATE OF OCCUPANCY - A certificate issued by the Zoning Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this Law and such adjustments thereto granted by the Board of Appeals.

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

COMMERCIAL VEHICLE - A vehicle of more than FIVE (5) ton capacity used for the transportation of persons or goods primarily for gain.

COMMUNITY POLE - A sign owned and maintained by the Town Board, or by a group of businessmen as approved by the Town Board, and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the community.

CONDITIONAL USE - Uses that may be permitted in the Zoning Law as specified in Article 4, Section 4.0.3, subject to site plan approval.

CONDOMINIUM - A building or group of buildings, in which residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

CONTINUOUS PARCEL - A track of land under the control of the applicant or his agent that is not divided by any natural or man-made barriers such as existing roads and highways, rivers, areas with slopes greater than 35%, and not bisected by water bodies.

CONTRACTOR'S YARD - Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery, or vehicles, or parts thereof, which are in active use by a construction contractor.

COTTAGE, CAMP OR CABIN DEVELOPMENT - Any parcel of land on which are located two or more cottages, cabins, or other accommodations of a design or character suitable for seasonal or other temporary living purposes, including a summer colony or resort, but not including a Manufactured/mobile home park, boarding house, hotel or motel.

COVERAGE - That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

CREMATORY - Any place, however designated, operated for the purpose of reducing deceased bodies to ashes.

DISTRICT OR ZONE - That portion of the Town within which specific uses are permitted according to the destination applied thereto in Section 4.0 and in conformity with the provisions of this Law.

DRIVE-IN MOVIE - An open lot or part thereof, with appurtenant facilities devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

DUMP - A lot or land used primarily for the disposal by abandonment, burial, burning or any other means and for whatever purposes, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste materials of any kind.

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

DWELLING, IN-GROUND - A dwelling that is constructed principally below the finished average grade elevation of the lot on which it is located and with at least one wall open for a height of at least 6 feet and/or special light and ventilation designs.

DWELLING, ONE-FAMILY - A building containing one dwelling unit only. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, ONE-FAMILY DETACHED - A dwelling unit accommodating but a single family and having two side yards. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, ONE-FAMILY SEMI-DETACHED - A dwelling unit having one party wall and one side yard. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, TWO-FAMILY - A building containing two dwelling units. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, MULTI-FAMILY - A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING GROUP - A group of three or more, but not over ten attached single- or two-family dwellings with party walls between. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING UNIT - One room or rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, sanitary and sleeping facilities.

For the purposes of this law, this shall include sectional, modular and residential design manufactured mobile home units provided they meet the standards of this Law and the International Building Code. It shall not include motel, hotel, standard design manufactured homes, substandard mobile homes, trailers or lodging establishments.

ESTABLISHMENTS SERVING ALCOHOL - Include, but are not limited to the following:

BAR - A business establishment licensed by the State of New York to serve alcoholic beverages and which establishment is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.

NIGHT CLUB - a place of entertainment whose principal use is provision of music and space for dancing by patrons, or entertainment of any kind on a lot that serves alcoholic beverage(s).

FACTORY MANUFACTURED HOME (note: see Modular Home) - Manufactured housing bearing the insignia of approval issued by New York State.

FAMILY - A "family" consists of any single person or group of persons who live together in a one-dwelling unit and maintain a common household.

FARM ANIMALS - Shall include but not be limited to domestic animals and livestock normally associated with agricultural operations and not household pets; including but not limited to cattle, sheep, horse, hogs, goats, poultry and fowl.

FENCE - An artificially constructed barrier of wood, masonry, stone, wire metal or any other manufactured material or combination of materials erected for the enclosed of yard areas.

FINISHED GRADE - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade - in computing height of buildings and other structures or for other

purposes - shall be the average elevation of all finished grade elevations around the periphery of the building.

FLOOR AREA - The aggregate sum of the gross horizontal area of the several floors of the building or buildings, measured from the exterior walls or from the centerlines of walls separating the buildings.

A. In particular, the "floor area" of a building or buildings shall include:

1. *Basement space.*
2. *Elevator shafts and stairwells at each floor.*
3. *Floor space for mechanical equipment, with structural head room of six feet or more.*
4. *Penthouses.*
5. *Attic space (whether or not a floor has actually been laid) providing structural headroom of six 6 feet or more.*
6. *Interior balconies and mezzanines.*
7. *Enclosed porches.*
8. *Accessory uses, not including space for accessory off-street parking.*

B. However, the "floor area" of a building shall not include:

1. *Cellar space, except that cellar space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.*
2. *Elevator and stair bulkheads, accessory water tanks, and cooling towers.*
3. *Floor space used for mechanical equipment, with structural headroom of less than six (6) feet.*
4. *Attic space: whether or not a floor has actually been laid, providing structural headroom of less than six (6) feet.*
5. *Uncovered steps; exterior fire escapes.*
6. *Terraces, breezeways, open porches, and outside balconies and open spaces.*
7. *Accessory off-street parking spaces*

GARAGE, SERVICE/REPAIR - An enclosed building used for the indoor repair of motor vehicles, including painting and the sale of parts and accessories. A junk yard or auto salvage yard is not to be construed as a garage.

GARAGE FILLING STATION - An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing, (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.

GRAVEL PIT - A lot or land or part thereof used for the purpose of extracting stone, sand, gravel, or top soil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building.

HOME OCCUPATION - An accessory use which, is clearly incidental to or secondary to the residential use of a dwelling unit and does not change the character thereof, and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by one or more occupants of such dwelling unit and in which not more than one person not residing in such dwelling is employed.

HOSPITAL - A building containing beds for four or more patients, and used for the diagnosis, treatment, or other care of ailments, and shall be deemed to be limited to places for the diagnosis treatment, or other care of human ailments.

HOTEL - A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one or more dining rooms.

JUNK YARD - An area of land with or without buildings used for or occupied by the storage, keeping, abandonment or the salvage of junk material, including processing such as sorting, baling, packing, disassembly, exchange and/or purchase and sale of materials, and including scrap metals or other scrap, used or salvaged building materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof. A lot on which two or more wrecked or broken down vehicles or major parts thereof are stored for 3 months or more shall be considered to meet this definition of a junk yard.

KENNEL - Any place at which there are kept four or more dogs more than four months of age or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

LOT - A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same and which abuts and is accessible from a private or public street.

LOT, CORNER - A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle or intersection does not exceed 135 degrees.

LOT, DEPTH OF - The mean distance from the front street line of a lot to its rear line.

LOT, THROUGH - A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

LOT COVERAGE - See "COVERAGE".

LOT FRONTAGE - A lot line which is coincident with the right-of-way line of a public road or which is measured 30 feet from the center line of a private road.

LOT LINES - The lines bounding a lot as defined herein.

LOT WIDTH - The width of a lot measured along the rear line of the required front yard.

MANUFACTURED/MOBILE HOME - A dwelling unit that is manufactured as a relocatable self-contained living unit, which is designed to be transported on a permanent chassis and to be installed on a site with or without a permanent foundation when connected to utilities and includes all required plumbing, heating, and electrical systems contained therein. This does not include

Department of Motor Vehicle registered recreation vehicles, travel trailers or dwelling units that are prebuilt in one or more parts and transported to and assembled on a permanent foundation.

MANUFACTURED/MOBILE HOME – ABANDONDED An existing, non-conforming mobile home which:

1. *has not been inhabited for a year or more or*
2. *has been disconnected from the septic system and water service.*

MANUFACTURED/MOBILE HOME, RESIDENTIAL DESIGN - A manufactured/mobile home built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code, which meets or exceeds all of the following criteria:

1. *The manufactured home has a minimum width of 14 feet and has a minimum of 720 square feet of living space.*
2. *The pitch of the roof has a minimum nominal 3/12 pitch; and has a type of shingle commonly used in standard residential construction.*
3. *The exterior siding consists of vinyl or aluminum lap siding, wood, Masonite, or other materials similar to the exterior siding commonly used in standard residential construction.*
4. *All towing devices, wheels, axles, and hitches must be removed.*

MANUFACTURED/MOBILE HOME, STANDARD DESIGN - A manufactured/mobile home built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code, which does not meet the criteria of a Residential Design Manufactured Home.

MANUFACTURED/ MOBILE HOME – STANDARD DESIGN, EXISTING A standard design manufactured/mobile home on an individual lot located in the Town of Caton at the time of the zoning law, as amended, which may be replaced in kind or larger.

SUBSTANDARD MANUFACTURED/MOBILE HOME - A mobile home which does not meet the Federal Manufactured Housing Construction and Safety Standards Act of June 15, 1976 regardless of the date of construction.

MANUFACTURED/MOBILE HOME PARK - A contiguous parcel of land divided into five (5) or more home space lots, for sale or lease on which mobile homes will be placed for non-transient use.

MANUFACTURED/MOBILE HOME SPACE (LOT) - The site in a mobile home park that is rented to an individual for the exclusive right of occupancy which can accommodate one mobile home, off-street parking, private outdoor space and patios, storage buildings and other accessory structures.

MASSAGE STUDIO –An establishment offering message therapy and/ or body work by a massage therapist licensed under New York State Law or under the direct supervision of a licensed physician.

MODULAR HOME - A single family dwelling which is constructed according to the standards set forth in local or state building codes, and may consist of two or more sections transported to the site in a manner similar to a manufactured home, or a series of panels or room sections transported on a

truck and erected or joined together on the site. Modular homes may or may not have an integrated chassis.

MOTEL - A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes, but is not limited to, every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

NON-CONFORMING BULK - That part of a building, other structure or tract of land which does not conform to one or more of the applicable bulk regulations of this Zoning Law, either following its effective date or as a result of subsequent amendment thereto.

NON-CONFORMING USE - Any use of a building, other structure or tract of land which does not conform to the use regulations for the district in which such use is located, either at the effective date of this Zoning Law or as a result of subsequent amendment thereto.

NUDIST RESORT, CAMP, OR DEVELOPMENT – Any temporary residence establishment, campground, resort, hotel, motel, club, building group or association of landowners that encourages or allows its residents/guest to appear in a common space in the nude.

NURSING OR CONVALESCENT HOME - A building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

NURSING SCHOOL, DAY CARE - Any place, however designated, operated for the purpose of providing daytime care or instruction for five or more children from two to five years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries, and day care centers.

OPERATING PERMIT - A renewable license to operate a mobile home park in the town, in compliance with Section 11.14 of this Law.

PARKING SPACE - An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

PLANNED NEIGHBORHOOD BUSINESS DISTRICT - One or more convenience commercial uses proposed as a unit and sized to serve a specific residential neighborhood, in conformance with Article 8.

PLANNED INDUSTRIAL DISTRICT - One or more industrial uses proposed as a unit, in conformance with Article 8.

PLANNED RESIDENTIAL DISTRICT - A form of residential development characterized by a unified site design, providing density increases, a mix of building types and providing common open space. It permits the calculation of densities over the entire parcel and involves additional requirements as set forth in Article 7.

PREMISES - A lot together with all the buildings and uses thereon.

RACE TRACK (or 'racetrack' or 'racing track') - A facility built for the purpose of racing animals (e.g. horse racing or greyhound racing), motor vehicles, mountain bikes, off-road vehicles or athletes. A race track may also include grandstands or concourses and associated parking areas, food concessions and other accessory uses. A race track is either managed by a membership organization or is a commercial operation for which a fee is charged.

REFLECTOR - A device for which the sole purpose is to increase the solar radiation received by the solar collector.

RESIDENCES - See "DWELLING UNIT".

RESIDENTIAL CLUSTER DEVELOPMENT - A flexible zoning technique whereby a subdivision may be laid out on smaller lot sizes than required in the Zoning Law, provided that the overall density requirements are met for the total parcel.

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

RIDING ACADEMY - Any establishment where horses are kept for riding, driving or stabling for compensation.

RIGHT-OF-WAY - The property under ownership or easement normally (STREET-WIDTH) used for movement of vehicles, including, but not restricted to, the pavement area.

ROADSIDE STAND - A light structure with a roof, either attached to the ground or movable, not for year-round use and at which only local produce is offered for sale to the general public.

SATELLITE TELEVISION ANTENNA - An antenna the purpose of which is to receive television and/or radio signals from orbiting satellites.

SETBACK - The required distance in feet from any survey boundary forming a lot or contiguous parcel to any building located on such lot.

SIGN - Any structure or device, or part thereof, attached, painted or presented on a structure or device which shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or which is in the nature of, an announcement, direction or advertisement and is viewable from a public place. A "sign" shall have the intent to display a message and does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, drive, movement, or event. A sign does not include a registered vehicle with a state authorized license plate and inspection nor shall it include collectables, decorations, or antiques.

SIGN, ABANDONED – A sign that is no longer in use and/or displays a commercial message of a business that no longer exists at such location.

SIGN, ACCESSORY - Any "sign", other than the primary identification sign which relates to the property, expression, view, business or profession conducted or to a commodity or service sold or offered upon the premises.

SIGN, AREA - The area within the shortest lines that can be drawn around the outside perimeter of a sign including all decorations and lights, but excluding the supports if they are not used for advertising purposes. Each separate face of a sign shall be counted as part of the sign area, except that any neon tube, string of lights, or similar device shall be deemed to have minimum dimensions of one foot.

SIGN, AWNING – Any visual message incorporated into an awning attached to a building.

SIGN, COMMERCIAL – A sign which promotes a commercial enterprise and/or advertises a product or service.

SIGN, CONSTRUCTION – A type of on-site temporary sign which denotes the architect, engineer, contractor, and the like working upon the premises where the construction is proposed or underway.

SIGN, COPY-CHANGE – A sign that is designed so that its characters, letters, illustrations or other content can be changed, altered or rearranged without physically altering the surface of the sign. This includes manual, electrical, electronic, or other variable message signs.

SIGN, DIRECTIONAL – An on-site sign which serves solely to designate the location of or direction to any premise or area located on the premises. These signs include arrows, enter/exit signs and the like.

SIGN, FREESTANDING – Any sign not attached to or part of any building but is separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs, and monument signs.

SIGN, ILLUMINATED - Means a "sign" designed to give forth any artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

DIRECTLY ILLUMINATED - A sign which incorporates any artificial lighting as an inherent part of feature or which depends for its illumination on transparent or translucent material or electricity or radio-activated or gaseous material or substance.

FLASHING - An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use. This includes neon-flashing signs and copy-change signs with images that flash to draw attention to the sign.

INDIRECTLY ILLUMINATED - A sign illuminated with an artificial light which is separated from or is not an intrinsic part of the sign itself.

SIGN, MONUMENT – A freestanding sign with a base affixed to the ground, where the length of the base is at least two-thirds the horizontal length of the sign area.

SIGN, NAME PLATE – A wall sign which indicates the name, occupation, or profession of each occupant on the premises.

SIGN, NON-COMMERCIAL – A sign which displays a message that is representative of a personal expression, view, faith, or the like. Such sign is not connected with or engaged in the pursuit of a commercial enterprise.

SIGN, NON-TRADITIONAL – A sign which is made of non-traditional media for communication such as streamers, balloons and inflatables. The sign shall be measured by the maximum extent that is visible at any one given time. Such signs include representational signs.

SIGN, OFFSITE - Means a "sign" which directs attention to a property, expression, view, business, commodity, service, entertainment or the like conducted, sold, or offered elsewhere than on the premises and only incidentally on the premises if at all.

SIGN, ON-SITE - Means a "sign" which directs attention to a property, expression, view, business, commodity, service, entertainment or the like conducted, sold, or offered on the premises.

SIGN, PERMANENT – A sign constructed of durable materials and intended to exist for the duration of time that the use or occupant is located on the premises.

SIGN, PORTABLE - Any sign capable of being easily transported or moved and that are generally leased or rented by the property owner.

SIGN, PRIMARY IDENTIFICATION - An on-site sign which directs attention to the primary use of the property. Such signs may be a freestanding sign, wall sign, projecting sign, window sign, or non-traditional sign.

SIGN, PROJECTING – A sign which is attached to the building wall, structure, or device and which extends horizontally more than nine inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

SIGN, REAL ESTATE – A temporary sign used for the sale or rental of a piece of property. Such sign shall be allowed to remain until the sale/lease of said property.

SIGN, REPRESENTATIONAL - Any three-dimensional sign which is built so as to physically represent the object advertised.

SIGN, TEMPORARY – A sign displayed for a fixed length of time. Temporary signs are intended to be removed after the temporary purpose has been served. Included are for sale, for lease, or for rent signs, political signs, service signs, special-event signs, construction signs, signs to special or temporary events and the like.

SIGN, WALL – A sign which is painted on or attached to the outside of a building, structure, or device with the face of the sign in the plane parallel to such wall and not extending more than nine inches from the face of such wall.

SIGN, WINDOW – A sign viewable from a sidewalk, street or other public place, painted or affixed on glass or other window material or located inside within four feet of the window, but not including graphics in connection with customary window display or products.

SINGLE OWNERSHIP - Possession of land under single or unified control, whether by sole, joint, common or other ownership or by a lease having a term of not less than thirty years, regardless of any division of such land into parcels for the purpose of financing.

SITE PLAN - Maps and supporting information required under Article 10 for Conditional Uses as specified in Section 4.3.

SOLAR COLLECTOR - A device, or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy, and that contributes to a structure's energy supply, and components for containing and supporting such device.

SOLAR COLLECTOR, DETACHED - A solar collector, as defined herein physically detached from the structure for which solar energy is to be supplied.

SOLAR ENERGY SYSTEM - A complete design or assembly consisting of a solar energy collector (herein called a solar collector), an energy storage facility (where used), and components for the distribution of transformed energy (to the extent that they cannot be used jointly with a conventional energy system). Passive solar energy systems are included in this definition, but not to the extent that they fulfill other functions such as structural and recreational.

SOLAR ENERGY SYSTEM, PASSIVE - A solar energy system as defined herein which incorporates no mechanical or active parts.

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

STABLE, PUBLIC - A building or use in which any horses or other livestock is kept for remuneration, hire or sale.

STORY - The part of a building comprises between a floor and the floor or roof next above it. A basement shall be considered a story. A collar shall not be considered a story.

STORY, HALF - That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half the floor-to-ceiling height of the story below. An attic with a finished floor shall be considered a half story.

STREET (ROAD) - An existing public or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plan approved by the Town Planning Board and/or recorded in the office of the County Clerk.

STREET, (ROAD) LOCAL - A street or road designed primarily to provide access to abutting properties.

STREET, PRIMARY (ROAD, PRIMARY) - A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic areas.

STREET, (ROAD) PRIVATE - A road or street that serves no more than two principal uses and is built to town specifications that remains in the ownership of and is maintained by the developer or development association and is not dedicated to the town.

STREET, (ROAD) PUBLIC - A road or street built to town specifications that is dedicated to the Town, County or State for maintenance.

STREET, (ROAD) SECONDARY - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a primary street.

STRUCTURE - A static construction of building materials, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, fences, reviewing stands, gasoline pumps, mobile dwellings, (whether mobile or stationary at the time), and the like.

STRUCTURE, ACCESSORY - A structure detached from and subordinate to a principal building on the same lot used for purposes customarily incidental to those of the principal building. Accessory structures include but are not limited to, portable, demountable or permanent detached enclosures, shade structures, carports, garages, and storage sheds. Accessory structures are non-habitable, have no sewer and exceed 120 sq. ft.

SWIMMING POOL - An artificial pool of water having a depth at any point of more than eighteen (18) inches and a surface area of greater than one hundred (100) square feet, designed or intended for the purpose of bathing or swimming and including all appurtenant equipment.

SWIMMING POOL, PRIVATE - A swimming pool operated as an accessory use to a residential dwelling unit or units and located on an individual residential lot.

SWIMMING POOL, PUBLIC - A public or privately owned pool open to the general public or on a membership basis and having appropriate dressing room facilities, recreation facilities and off-street parking area.

TATTOO PARLOR OR SPECIALIST – SEE BODY PIERCING AND/OR TATTOO PARLOR OR SPECIALIST.

TOWNHOUSE - A building consisting of a series of three or more one-family attached dwelling units having common party walls. (See also BUILDING, SEMI-DETACHED).

TRAILER, HOUSE - (See MANUFACTURED/MOBILE HOME).

TRAILER, PARK - (See MANUFACTURED/MOBILE HOME PARK).

TRANSPORTATION TERMINAL - A building or part of a building or premises for the storage and/or transfer of goods, wares and merchandise for the owner or others by truck transport.

TRAVEL TRAILER - A unit which is used or designed to be used, for seasonal and/or temporary living or sleeping purposes, and which is customarily standing on wheels or rigid supports.

USE - This term is employed in referring to:

1. *The purpose for which any buildings, or other structures, or land may be arranged, designed, intended, maintained, or occupied;*

2. *Any occupation, business activity, or operation conducted in a building or other structure, or on land.*

VACATION RESORT - Any area of land on which are located two or more cabins, cottages, or a hotel or group of buildings, containing living and sleeping accommodations hired out for compensation, which has a public lobby serving the guests, and may contain one or more dining rooms and recreation facilities of a design and character suitable for seasonal or more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.

VETERINARY HOSPITAL - A building for the treatment of animal illness including kennels or other similar facilities for boarding animals.

WAY - A thoroughfare, however designated, permanently established for passage of persons or vehicles.

WIND ENERGY CONVERSION SYSTEM (WINDMILL, WECS) - Any mechanical device designed for the purpose of converting wind energy into electrical or mechanical power.

WIND ENERGY CONVERSION SYSTEM, COMMERCIAL/INDUSTRIAL - A WECS for the primary purpose of sale, resale or off-site use of electrical or mechanical power with a generation capacity greater than 25kw.

WIND ENERGY CONVERSION SYSTEM, RESIDENTIAL - A WECS for the primary purpose of on-site residential use of electrical or mechanical power with a generation capacity of 25 kw or less.

WIND ENERGY CONVERSION SYSTEM, TOTAL HEIGHT - The height above grade of the tower and the furthest vertical extension of the rotor blade.

WIND ENERGY CONVERSION SYSTEM, HUB HEIGHT - The height above grade of the fixed portion of the tower to the center of the turbine hub.

YARD, REQUIRED - That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, FRONT - A yard extending along the full length of the front lot line between the side lot lines, not including any land within the right-of-way of public or private streets.

YARD, REAR - A yard extending along the full length of the rear lot line, between the side lot lines.

YARD, SIDE - A yard situated between the building and the side line of a lot and extending from the front yard rear line (or from the front lot line, if there is no required front yard) to the rear yard front line (or rear lot line).

ZONING OFFICER - The duly appointed Code Enforcement Officer of the Town of Caton.

Article 3 ESTABLISHMENT OF DISTRICTS

Section 3.0 Application of Regulations.

- A. Except as hereinafter provided: No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, move, or altered, unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building is located.
- C. No lot shall be occupied by more than one principal use, except as otherwise permitted and regulated herein.
- D. No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Law shall be included as part of a yard or other open space similarly required for another building.
- E. No building permit shall be issued for any lot that is reduced in size that its area or any of its dimensions or open spaces shall be smaller than required by this Law.
- F. The Code Enforcement Officer shall, prior to issuing a building permit, be satisfied that the issuance of such permit is not in violation of the Land Subdivision Rules and Regulations of the Planning Board or any other ordinance, laws or regulations of record. Cases which appear in violation of the Subdivision Regulations may be referred to the Chairman of the Zoning Board of Appeals and the Chairman of the Town Planning Board for review and recommendation.

Section 3.1 Names of Zoning Districts.

- A. In order to fulfill the purpose of this Zoning Law, the Town of Caton establishes the following Zoning Districts:
 - 1. *A-R - Agricultural Residential*
 - 2. *R-1 - Residential*
 - 3. *FDPD - Flood Damage Prevention District*
- B. This Law also establishes flexible districts that may be applicable anywhere in the Town that specified criteria and conditions are met:
 - 1. *RCD - Residential Cluster Development*
 - 2. *PRD - Planned Residential District*

Section 3.2 Zoning Map.

The location and boundaries of said zoning districts are shown on the map designated "Official Zoning Map of the Town of Caton", adopted on December 30, 1991 and certified by the Town Clerk. Said map, together with everything shown thereon and all amendments thereto, is hereby adopted and is declared to be an appurtenant part of this Zoning Law.

Section 3.3 Interpretation of District Boundaries.

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

- A. Centerlines and Right-of-Way Lines: Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a centerline or right-of-way of such street, highway, public utility or watercourse is moved not more than twenty (20) feet.

- B. Lot or Boundary Lines: Where district boundaries are indicated as approximately following the City boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

- C. Parallel to Lot or Boundary Lines: Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.

- D. District boundaries shall be determined by use of the scale of the Zoning Map. In no instances shall a District boundary be set at less than the minimum lot depth required in the Density Control Schedule.

- E. In the event of a questionable District boundary, the questionable boundary shall be referred to the Zoning Board of Appeals, and they shall, to the best of their ability, establish the exact boundary.

- F. The copy of the Zoning Map showing any such determinations under this section shall be on file at the office of the Town Clerk.

- G. Precise zone boundary determinations made by the Zoning Board of Appeals in accordance with the above rules shall be considered final and conclusive, and may only be altered by amendment of the Zoning Map by the Town Board.

- H. Lots Divided by Zoning District Lines: Where a lot is divided by a district boundary line, the regulations for each respective district shall apply except:
 - 1. *In all cases where a lot in one ownership, other than a through lot, is divided by a district boundary so that fifty percent (50%) or more of such lot lies in the less restricted district, the regulations prescribed for such less restricted district shall*

apply to the more restricted portion of said lot for a distance of 30 feet from the zoning district boundary. For purposes of this Law, the more restricted district shall be deemed that district which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations set higher standards with respect to setback, coverage yard, screening, landscaping and similar requirements.

2. *In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.*

I. Buildings Divided by Zoning District Lines: Where a district boundary line divides a building existing on the effective date of this Law, so that fifty percent (50%) or more of such building lies within the less restricted district, the regulations prescribed by this Law for such less restricted district (as defined in H above) shall apply to the entire building. Such provisions shall apply only if, and as long as, the building is in single ownership and its structural characteristics prevent its use in conformity with the requirements of each district.

Article 4 USE REGULATIONS

Any use defined in Article 2 Definitions and not specifically listed in this Article is prohibited.

Section 4.0 *Agricultural Residential District (A-R).*

- A. Intent: The Agricultural Residential District is intended to conserve those areas in the Town suitable for farm and agricultural uses, to promote and encourage a suitable environment for family living, to make provision for certain kinds of commercial uses which are most appropriately located adjacent to major highways or which are necessary to service the immediate needs of people in residential areas, to provide for the establishment of industrial uses essential to a balanced economic base, and to regulate such industrial development so that they will not be detrimental or hazardous to the surrounding community and the citizens thereof, nor will they create serious problems of compatibility with other kinds of land uses. The topographic and soil conditions in the Town may limit development of these uses in many areas. Therefore, Development Guidelines as specified in Article 11 shall be applied where appropriate to ensure the health, safety and general welfare of the community and to maintain rural nature of the country-side.

Section 4.1 *Residential District (R-1).*

- A. Intent: To promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the older established residential areas in the Town.

Section 4.2 *Activities Prohibited in All Districts.*

- A. No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the New York state Department of Environmental Conservation or otherwise causes objectionable odors or fumes or which is poisonous or injurious to human, plant or animal life.
- B. The practice of soil stripping, except as otherwise permitted and regulated in this Law, shall be limited to incidental filling of areas within the Town to bring them up to grade, except insofar as is necessary or incidental to excavations for cellars and other structures.
- C. No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire explosion, electromagnetic disturbances, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.
- D. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way.
- E. The placement or burying of any waste, garbage, trash, construction and demolition debris, hazardous material, or low level nuclear waste as defined herein: Except by special license of the Town Board.

1. *"Construction and demolition debris" means uncontaminated solid waste resulting from the construction, remodeling, repair and demolition of structures and roads;*

and uncontaminated solid waste consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm related cleanup. Such waste includes, but is not limited to, bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, non-asbestos insulation, roofing shingles, asphalt pavement, glass, plastics that are not sealed in a manner that conceals other wastes, electrical wiring and components containing no hazardous liquids, and metals that are incidental to any of the above, asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, carpeting, furniture, appliances, tires, drums and containers, fuel tanks, uncontaminated concrete, asphalt pavement, brick, soil, tone, wood chips and yard waste.

2. "Solid waste," as used hereinabove, means the same as that term is defined under 6 NYCRR Section 360-1.2 (a), as the same presently exists and as it may be amended from time to time.

F. Any temporary residential design manufactured/mobile home as business office or construction field office, emergency residential use or as a second principal residence.

Section 4.3 Prohibited Industrial Activities.

No manufacturing use or light industry is permitted, no manufacturing use, nor any trade, industry, use or purpose that is noxious or offensive by reason of the excess emission of odor, dust smoke, toxic or noxious fumes, radiation gas, noise, vibration, or excessive light, or any combination of the above, which is dangerous and prejudicial to the public health, safety, and general welfare shall be permitted.

Type	Any use defined in Article 2 Definitions and not specifically listed in this Article is prohibited. P - Permitted C - Conditional "Blank" - Prohibited	Zone:	
		(A-R)	(R-1)
Accessory:			
Accessory	Accessory structure and uses customarily incident to any uses mentioned herein and located on the same lot as the principal use	P	P
Accessory	Accessory structures and uses customarily incident to any uses mentioned in Section 4.0.2 and not located on the same lot as the principal use	C	C
Accessory	Satellite television antennas --- ground mounted <8' in diameter	P	P
Accessory	Wind energy conversion systems (windmills) (WECS), residential	P	P
All types:			
All types	All uses/activities and structures within the Flood Damage Prevention District	C	C
All types	Parking lots	C	
All types	Temporary standard design manufactured/mobile home as Business office or construction field office, emergency residential use or as a second principal residence.	C	C

Business/commercial uses:			
Business	Adult Live Entertainment Establishment	C	
Business	Adult Use	C	
Business	Agricultural produce - sale of products grown, raised or produced on the premises	P	P
Business	Agriculture - including the keeping of fowl or farm animals on over four (4) acres	P	P
	Agriculture - including the keeping of fowl or farm animals on less than two (2) acres	C	
Business	Agriculture - including the keeping of fowl or farm animals on over two (2) acres	P	
Business	Agriculture - not including the keeping of fowl or farm animals	P	P
Business	Airport	C	
Business	Automobile repair garage	C	
Business	Bank	C	
Business	Bar or nightclub		
Business	Body piercing and/or tattoo parlor or specialist	C	
Business	Bowling alley	C	
Business	Car washing station	C	
Business	Convenience/mini-market	C	
Business	Department store/general merchandise	C	
Business	Drive-in movie	C	
Business	Drug store	C	
Business	Equipment rental or sales yard	C	
Business	Farm implements, machinery sales and service	C	
Business	Funeral home	C	
Business	Gasoline filling station	C	
Business	Grocery store	C	
Business	Home occupation	P	P
Business	Laundry or dry cleaning plant	C	
Business	Massage Studio	C	
Business	Motel/hotel	C	
Business	Motor vehicle sales and service	C	
Business	Newspaper offices and printing shops	C	
Business	Nudist Resort, Camp or Development	C	
Business	Offices – general	C	
Business	Offices - more than one practicing professional	C	
Business	Offices - one practicing professional	C	
Business	Personal commercial/service establishments	C	
Business	Private school		C
Business	Racetrack	C	
Business	Restaurant	C	
Business	Retail business or service, not otherwise specifically mentioned herein with the exception of “Establishments Serving Alcohol,” which are not permitted	C	
Business	Riding academy	C	
Business	School conducted for profit	C	
Business	Self-service laundry	C	
Business	Theater or concert hall	C	
Business	Veterinarian office, animal hospital or kennels	C	

Business	Wholesale business or service, not otherwise specifically mentioned herein	C	
Dwellings:			
Dwelling	Boarding house	C	C
Dwelling	Factory manufactured homes, modular homes.	P	P
Dwelling	Manufactured/Mobile home park	C	
Dwelling	Manufactured/Mobile Homes, Residential Design	P	
Dwelling	Manufactured/Mobile Homes, Standard Design	P	
Dwelling	Multi-family dwelling	C	
Dwelling	Single family dwelling on one acre		C
Dwelling	Single-family dwelling	P	P
Dwelling	Townhouse dwelling	C	
Dwelling	Two-family dwelling	P	P
Dwelling	Two principal residential structures on a lot in single ownership for agricultural purposes	C	C
General uses:			
General	Cemetery	C	
General	Church or other place of worship	C	C
General	Crematory	C	
General	Cultural facilities (library, art gallery, museum, etc.)	C	
General	Day nursery	C	C
General	Golf course or country club	C	
General	Hospital or sanitarium	C	
General	Institutional or philanthropic use	C	
General	Municipal buildings	C	
General	Non-profit club	C	
General	Nursing or convalescent home	C	C
General	Public schools	P	P
General	Parks and recreation	P	
General	Public utility or transportation use	C	
General	Satellite television antenna - >8' in diameter and/or roof mounted	C	C
General	Vacation resort, camp, cottage, travel trailer park or cabin development	C	
Industrial uses:			
Industrial	Administrative, educational and related offices/ facilities in conjunction with an industrial use listed herein	C	
Industrial	Contractors equipment storage	C	
Industrial	Extractive operations and soil mining in compliance with Section 11.15.	C	
Industrial	Manufacture, fabrication, extraction and assembly/and other handling of material	C	
Industrial	Research laboratories	C	
Industrial	Transportation terminal	C	
Industrial	Warehouse and distribution facilities	C	
Industrial	Wind energy conversion systems (WECS), commercial/industrial (windmills)	C	

Article 5 AREA BULK REGULATIONS - DENSITY CONTROL

Section 5.0 Purpose.

In order to provide adequate open spaces for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population, and to lessen congestion on streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this Article.

Section 5.1 Density Control Schedule (Area and Bulk Schedule).

The attached schedule of density control regulations is hereby adopted and declared to be a part of this Zoning Law and is hereinafter referred to as the "Town of Caton Density Control Schedule."

* All such yard requirements shall be a minimum of one hundred (100) feet from any abutting existing residential use.

Use/Principal Building	Min. Lot Size		Minimum Yard Requirements (feet)					Max. Lot Coverage (%)	Max. Height (feet)	Min. D.U. Size (sq. ft.)
			Principal Building			Accessory Building				
	Area	Width (feet)	Front	Rear	Side	Rear	Side			
Agricultural - Incl. keeping of fowl and farm animals	2 acres	250	100	50	50	50	25	5	35	
Residential Dwelling Unit	2 acres	250	100	50	50	50	25	10	35	720
General Uses	30,000 sq ft	100	40*	40*	20*	25	25	30	35	
Religious & Quasi Public	4 acres	250	50*	40*	50*	25	20	30	35	
Gasoline Filling Station	30,000 sq ft	150	50*	35*	35*	25	25	25	18	
Commercial Uses	30,000 sq ft	100	40*	30*	40*	-	-	30	35	
Industrial Uses	2 acres	300	50*	50*	50*	-	-	50	35	

**See Sections 5.8 and 11.18 for height exceptions.

Section 5.2 Corner Lots.

Wherever a side or rear yard is adjacent to a street, the standards for front yards shall apply.

Section 5.3 Projections into Required Yards.

- A. The following projections into required yards are permitted:
 - 1. *Open fire escapes - four feet into side or rear yards.*
 - 2. *Awnings or movable canopies and overhangs - six feet into any yard.*
 - 3. *Cornices, eaves, insulation walls and roofs, and other similar architectural features - three feet into any yard.*
 - 4. *Apparatus needed for the operation of active or passive solar energy systems, including detached solar collectors, reflectors, piping or ductwork, and insulation necessary for efficient utilization thereof.*
- B. Any open or enclosed porch or attached carport or garage shall be considered a part of the building in the determination of the size of the required yard or lot coverage. Non-roofed paved terraces shall not be considered a part of the building.
- C. Accessory uses and buildings may be located in accordance with Section 11.6.

Section 5.4 Compliance with Maximum Average Residential Density.

- A. In all districts where residences are permitted, a lot held in single ownership may be improved for residential use according to the minimum lot size per dwelling unit and bulk regulations for the district as set forth in the Density Control Schedule, provided that there shall be no more than one principal building and use on each lot. If two or more residential structures are proposed to be located on the same lot, the maximum average density requirement must be complied with and the lot shall be subdivided so as to provide adequate width and yards.
- B. A building permit shall not be issued for any residential lot of required or larger than required size as set forth in this Zoning Law that has been reduced in size for transfer of ownership if such lot so subdivided will form one or more lots which shall not be in compliance with the density requirement, except as provided in Article 7.

Section 5.5 Side Yards for Multi-family Dwelling Units.

Side yards for semi-detached, townhouses or multi-family dwelling units, where permitted, shall be required at the ends of the total structure only.

Section 5.6 Distance Between Principal Buildings on Same Lot.

No detached principal building shall be closer to any other principal building on the same lot than the average heights of said building.

Section 5.7 Exceptions to Front Yard Requirements for Principal Structures.

If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the proposed lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard of the proposed lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.

If there are dwellings on both abutting lots with front yards greater than the required depth for the district, or if there is a dwelling on one abutting lot with a front yard greater than the required depth for the district, the front yard for the lot shall be determined by averages as specified.

Section 5.8 General Exception to Height Regulations.

Projections Structures such as chimneys, silos, barns and other agricultural buildings spires, domes, elevator shaft housing, towers, aerials, and flagpoles, solar energy collectors and equipment used for the mounting and operation of such collectors, and other similar objects not used for human occupancy are not subject to the building height limitations of this Law. See Section 11.18 for Wind Energy Conversion Systems.

Article 6 FLOOD DAMAGE PREVENTION DISTRICT

Section 6.0 Intent.

The potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Caton and such damages may include: destruction or loss of private and public housing, damage of public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives of Local Law No. 1, dated May 14, 1987 will be enforced.

Article 7 RESIDENTIAL CLUSTER DEVELOPMENT

Section 7.0 Intent.

The intent of this Article is to permit variation in lot size and housing type, to provide the opportunity for development to occur on the most suitable lands, to facilitate the adequate and economical provisions of public services and to preserve open space areas.

Section 7.1 Authorization to Grant or Deny Residential Cluster Development.

In accordance with Section 281 of the Town Law, the Town Board authorizes the Planning Board to permit variations in the dimensional requirements of this Law under their subdivision review powers. The Planning Board shall comply with all procedures and standards set forth in this Article when implementing such power.

Section 7.2 Standards Governing Residential Cluster Development.

Any residential cluster development considered shall conform to the following standards which are regarded as minimum requirements.

- A. This procedure shall apply only to residential zoned land which shall be a minimum of ten (10) contiguous acres in size. In addition, it shall be determined that such development will not be detrimental to the health, safety and general welfare of persons residing in the vicinity, or injurious to property or improvements in close proximity, and that the proposed development create an attractive residential environment that is in conformity with the objectives of the Town Comprehensive Plan, and that the gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements, and that the permanent retention of open space areas along with their care and maintenance is guaranteed.
- B. When such development is proposed adjacent to any existing residence or residential area, a buffer area of at least two hundred (200) feet in width shall be maintained within the proposed development along any lot line that abuts an existing residential development area or a conventionally platted residential map that has been filed with the Steuben County Clerk. The two hundred (200) foot buffer area may be developed in a conventionally platted manner (non-clustered) consistent with the Density Control Schedule.
- C. The size of lots in a residential cluster development may vary from the normal requirements, but no dimensional or area requirement of the district shall be reduced by more than fifty (50) percent.
 - 1. *In those instances where public water and sewer are provided, lot sizes may be reduced to 20,000 S.F. with minimum setback requirements as follows for single family detached dwelling units:*
 - (a) *Front Yard - 50 ft.*
 - (b) *Rear Yard - 35 ft.*
 - (c) *Side Yard - 15 ft.*

2. *Townhouse and multi-family: Shall comply with all standards set forth in Section 11.23.*

- D. All residential cluster development plans shall be prepared with competent professional assistance and shall be consistent with the spirit and intent of the Zoning Law.
- E. In areas without public water and sewer, any reduction in lot size as allowed under this Section 7.2.C. shall be dependent on approval of the on-lot water and sewer system by NYS Department of Health, NYS Department of Environmental Conservation and the Town Code Enforcement Officer.
- F. All the land not contained in the lots or the road right-of-way, if provided, should be contiguous and of such size and shape as to be usable for recreation, open space or agriculture.

Such land shall be held in corporate ownership by the owners of lots within the development, and the developer shall incorporate into the deeds of all property within the development, if appropriate, a clause giving to the owners an interest in such open land which shall be used for recreation, cultural or agricultural use shall be permitted thereon.

The open space lands shall be subject to taxation, unless deeded to the Town. In the case of such tracts, the developer may petition to the Town to take over the land to be used in perpetuity as open space.

- G. **Special Designs:** In cases where a developer has proposed architecturally unusual groups of dwellings and garages, the Town Planning Board after inspecting the plans and elevations, may approve smaller minimum lot sizes than those specified in Section 7.2 C, provided that the sanitary systems are approved by the NYS DEC, that the gross density does not exceed that permitted within the zoning district in which the land occurs, and the layout is not detrimental to the health, general welfare, and aesthetic character of the community.
- H. Construction shall start within one year of the date of approval and shall be completed within a timeframe agreed to by the developer and the Planning Board. If such timeframe is not met by the developer, the residential cluster development approval shall be revoked.
- I. In the event that the organization established to own and maintain common property, or any successor organization shall fail to maintain the common property, in reasonable order and condition in accordance with the plan, the Town of Caton may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner in which the organization has failed to maintain the common property in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice.

At such a hearing, the Town may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within thirty (30) days or any extension thereof, the Town, in order to preserve the taxable values of the properties within the development and to prevent the common property from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to

use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the municipality shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common property, call a public hearing upon notice to such organization, or to the residents and owners of the development to be held by the Town, at which hearing such organization or the residents and owners of the development shall show cause why such maintenance by the Town shall not, at the election of the Town, continue for a succeeding year.

If the Town shall determine that such organization is ready and able to maintain said common property in reasonable condition, it shall cease to maintain said common property at the end of said year. If the Town shall determine such organization is not ready and able to maintain said common property during the next succeeding year, subject to a similar hearing and determination in each year thereafter.

The cost of such maintenance by the Town shall be assessed at the same proportion as each unit's assessed value bears to the total assessment of the development.

Section 7.3 Review of Residential Cluster Development Plans.

The approval procedure shall be generally the same as that specified in the subdivision regulations for the review and approval of a proposed subdivision of land. The applicant shall submit at successive stages a sketch plan, preliminary layout, and subdivision plat in accordance with the requirements of the subdivision regulations. In addition the applicant at each stage shall provide the following information:

- A. Proposed number of dwelling units and computation of overall residential density per gross acre.
- B. A tabulation of the total number of acres in the proposed project; the percentage designated for each use area.
- C. Proposed location and acreage for parks, playgrounds, natural watercourses and other open space.

Section 7.4 Public Hearing on Residential Cluster Development.

A residential cluster development shall not be approved as a subdivision plat by the Planning Board until a public hearing has been held on the proposal in the manner specified in the subdivision regulations and by Section 281 of the Town Law.

Article 8 PLANNED RESIDENTIAL DISTRICT

Section 8.0 Intent.

It is the intent of this Article to provide flexible land use and design regulations through the use of performance criteria that incorporate a variety of residential densities and building types. This district may contain both individual building sites and common property which is planned and developed as unit. The Planned Residential District designation is a rezoning that shall be subject to site plan approval and shall only be applicable anywhere in the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article.

Section 8.1 Permitted Uses.

All residential uses and their accessory or associated uses subject to site plan approval.

Section 8.2 Standards Governing Planned Residential District.

Any development proposal to be considered as a Planned Residential District allowing density area increases shall conform to the following standards, which are regarded as minimum requirements, in addition to applicable standards in other sections of this Law:

- A. The minimum area required to qualify for a Planned Residential district designation shall be a contiguous parcel of ten (10) acres in size. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this Article, the Planning Board may consider projects with less acreage.

- B. When such development is proposed adjacent to any existing residence or residential area, a minimum setback of two hundred (200) feet shall be required from the parcel's perimeter to all principal buildings.

- C. All parcels shall be serviced by public water and sanitary sewer systems.

- D. The Planning Board shall consider in each case the appropriate dwelling unit density and placement of such units on the parcel. The gross density shall in no instance exceed eight (8) dwelling units per acre. Such density shall be calculated using the total parcel acreage.

- E. The development shall have dedicated for open space purposes all undeveloped lands that are not included in any required yard areas.

- F. Single-family detached house developments shall meet the following standards - Yard Requirements:
 - 1. *Front Yard - Minimum 20 feet*
 - 2. *Rear Yard - Minimum 25 feet*
 - 3. *Side Yard - Minimum 10 feet*

- G. Townhouse and multi-family developments shall comply with standards set forth in Section 11.23.

Section 8.3 *Special Provisions Applying to the Planned Residential District (PRD).*

- A. In order to carry out the purpose of this district, a development shall achieve the following objectives:
 - 1. *A maximum choice in the types of environment, occupancy, tenure, types of housing, lot sizes and community facilities available to existing and potential town residents at all economic levels.*
 - 2. *More useable open space and recreation areas.*
 - 3. *The preservation of trees and outstanding natural features.*
 - 4. *A creative use of land and related physical development.*
 - 5. *An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs.*
 - 6. *A development pattern in harmony with the objectives of the Comprehensive Plan for the Town.*
 - 7. *Be compatible with all applicable guidelines and standards set forth in Article 10.*

- B. The tract of land for a project may be owned, leased or controlled either by a single person, or corporation or a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

- C. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvements, operation and maintenance of common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas.

- D. In the event that the organization established to own and maintain common property, or any successor organization, fails to maintain such property in reasonable order, the Town Board may cause such property to be maintained in accordance with the procedure set forth in Section 7.3 I.

- E. For the purposes of regulating the development and use of property after initial construction and occupancy, any changes shall be subject to a site plan approval by the Planning Board. Properties lying in the PRD are unique and shall be so considered by the Planning Board when evaluating these requests; and maintenance of the intent and function of the planned unit shall be of primary importance.

Section 8.4 *Procedures for Establishing a Planned Residential District.*

- A. Any applicant wishing approval for a Planned Residential District shall submit his request to the Town Board and the Planning Board in the form of a concept site plan as defined in Section 10.2.

- B. Upon conditional approval of the concept plan by the Town Board and the Planning Board, the applicant shall submit an application for site plan approval to the Planning Board in conformance with the procedures and requirements set forth in Article 10.

- C. The Planning Board may, based on its review of the site plan, recommend to the Town Board that the proposal not be approved. Such recommendation shall include a detailed explanation of the reasons for its finding. The Town Board shall not act contrary to the Planning Board's recommendation, except on a vote of at least four (4) members in favor of such proposal and shall state all reasons for such decision.
- D. Upon approval of a site plan, the Planning Board shall forward to the Town Board its recommendation to modify the Zoning Law and establish the PRD. The Planning Board's report shall include a statement of all conditions and covenants upon which the approval is contingent.
- E. Within sixty-two (62) days of the receipt of the Planning Board's recommendation, the Town Board shall, in accordance with Section 16.1, advertise and hold a public hearing on the rezoning proposal. Within fifteen (15) days after such hearing the Town Board shall approve or disapprove the rezoning. The Town Board may attach such conditions on the approval as it deems necessary.
- F. If the Planned Residential District proposal involves the subdivision of land into parcels for sale to individual owners, the site plan review required for the PRD may be coordinated with the Planning Board's review under the Town Subdivision Regulations. In such cases the developer shall prepare a subdivision plat suitable for filing with the Steuben County Clerk in addition to the required site plan drawings. Site plan approval shall constitute final plat approval under the Town subdivision regulations; the plat shall be signed by the Planning Board Chair, or his/her designate, and filed with the County Clerk in the manner prescribed by said regulations.

Article 9 **CONDITIONAL USES**

Section 9.0 Intent.

The intent of conditional use approval is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their special characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this Law and their effect on surrounding properties.

Section 9.1 Authorization to Grant or Deny Conditional Uses.

- A. **Authorization.** The power and authority to issue, with or without conditions, or deny the issuance of conditional use permits as required by this law is vested in the Planning Board pursuant to § 274-b of the Town Law and this law. The conditional uses listed in this Law may be permitted upon authorization by the Planning Board in accordance with the standards and procedures set forth in this Law. Any change in use, expansion of the use, or change in the intensity of the use shall require a new conditional use permit. In permitting a conditional use or the modification of a conditional use, the Planning Board may impose in addition to those standards and requirements expressly specified by the Law, any additional conditions with the Planning Board considers necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole. These conditions may include limiting the height of buildings, and structures controlling the location and number of vehicle access points, increasing the street width, increasing the number of off-street parking and loading spaces required, limiting the number, size and location of signs, and requiring berming, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this Law and classified in this Law as a conditional use, any change in use or in lot area or alteration of structure shall conform to this Law.

- B. **Waiver.** The Planning Board is authorized to waive any requirements of this Article in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare, impose an undue hardship due to factors such as existing conditions, site topography, or site configurations, or are inappropriate to a particular site plan or proposed land use requiring a conditional use permit.

- C. **Conditions.** The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed use requiring a conditional use permit and approval of a site plan. Upon the Planning Board's issuance of a conditional use permit and approval of a site plan, any such conditions must be met in connection with the issuance of permits and certificate of occupancy by the Code Enforcement Officer.

Section 9.2 *Application for Conditional Use.*

A property owner(s) or his agent(s) may initiate a request for a conditional use by filing a conditional use permit application with the Planning Board. Such application shall be accompanied by:

- A. a site plan in conformance with Article 10.
- B. A filing fee, as set by the Town Board, , no part of which is returnable.
- C. A narrative describing the proposed use and operation.
- D. If the applicant is not the owner of the property, a letter of authorization from the owner for the applicant to make application to the Planning Board on his/her behalf.
- E. A SEQRA Environmental Assessment Form (EAF).
- F. An agricultural data statement, if applicable.

Section 9.3 *Standards Governing Conditional Uses.*

A conditional use shall comply with the procedures and standards set forth in Article 10 and Article 11 except as these standards have been modified in authorizing the conditional use or as otherwise modified when consideration is given to the following:

- A. The submission of a site plan in accordance with Article 10 is required before any consideration can be given for a conditional use.
- B. In order to grant any conditional use, the Planning Board shall find that the request is in harmony with the general purpose and intent of this Law, taking into account the location and size of use, the nature and intensity of the proposed use and the size of the site with respect to its accessibility and the traffic bearing capacity of the surrounding thoroughfares.
- C. In order to grant any conditional use, the Planning Board shall find that the establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town.

Specifically, the following criteria must be met for any conditional use:

1. Compatibility. That the proposed use is of a character, type, scale, and intensity that, when mitigated, is not incompatible with the surrounding neighborhood, land uses, and general area of where the use is proposed to be located, that the use incorporates a site design which is consistent with the character of and is harmonious with the Town, promotes the intent of the Town of Caton Comprehensive Plan, and safeguards the health, safety, and welfare of the Town and its residents.
2. Neighboring Properties. That the proposed use, operation, and/or structures do not significantly and adversely affect neighboring properties with respect to such things

as storm water drainage, glare, noise, vibration, loss of natural light, risk of fire, flood, or erosion, odors, dust, historic structures, the structural integrity of buildings, the value of nearby buildings and properties, and other similar matters.

3. Vehicular Access. That proposed access points are adequate in width, grade, alignment, and visibility; are not excessive in number; are located at appropriate distances from intersections or places of public assembly; that the proposed use will not generate more volume or type of traffic than existing road infrastructure can adequately and safely accommodate; and that they satisfy other similar site plan review requirements pertaining to safety and traffic flow considerations, including conditions for school buses, cyclists, and pedestrians.
 4. Circulation and Parking. That adequate off-road parking and loading spaces are provided to minimize, or, where required, to eliminate the need for parking of vehicles on public highways by any persons connected with or visiting the site of the use; that the interior circulation system is adequate to provide safe accessibility to all required parking spaces; and that adequate separation of pedestrian and vehicular movements is provided.
 5. Aesthetic Resources of Local Significance. All adverse impacts on visual and aesthetic resources of local significance and on community character are avoided or minimized.
 6. Landscaping and Screening. That all parking, storage, loading, and service areas can be and are reasonably screened at all seasons of the year from the view of nearby residential areas and public spaces and that the general landscaping of the site is in character with the surrounding areas. Such screening shall be maintained as a condition of the Conditional use permit and/or site plan approval and shall be guided by the minimum standards set forth in this law.
 7. Natural Features. That the proposed use, together with its utilities, parking areas, and other support facilities, are compatible with the natural drainage system, slope, wildlife habitat and soil conditions of the site and of adjacent areas; and that such features are preserved to the maximum extent possible.
 8. Restoration to pre-existing conditions. That once the proposed use ceases to operate for any reason, that the parcel of land on which it is located and/or structure(s) will be able to be restored for use by one or more allowed uses.
 9. That the proposed use will not be inconsistent with the Town of Caton Comprehensive Plan.
- D. A conditional use permit shall become void one year after approval or after such time as may be specified as a condition of approval, if no construction or use activity has begun. The conditional use permit shall be void if the original use shall cease for more than one (1) year for any reason.
- E. The Planning Board, on its own motion, may revoke any approval of a conditional use for noncompliance with conditions set forth in the granting of said use after first holding a public hearing and giving notice of such hearing as provided in Article 16. The foregoing shall not

be the exclusive remedy, but it shall be unlawful and punishable hereunder for any person to violate any condition imposed by an approved conditional use.

Section 9.4. *Application for an Area Variance.*

Notwithstanding any provision of law to the contrary, where a proposed site plan or an application for a conditional use permit contains one or more features which do not comply with the minimum area or dimensional requirements set forth in these zoning regulations, the Planning Board shall direct the applicant to the Zoning Board of Appeals for an area variance pursuant to 267-b of the Town Law, without the necessity of a decision or determination of the Code Enforcement Officer.

Section 9.5 *Referral of Certain Actions to the County Planning Board.*

Should any conditional use application meet any of the following conditions, the Planning Board shall, prior to final action, refer the application to the County Planning Board in accordance with Section 239-m of Article 12-B of the General Municipal Law:

- A. Any change in the district classification of or the regulations applying to real property lying within a distance of five hundred (500) feet from:
 - 1. *The boundary of any village or town.*
 - 2. *The boundary of any existing or proposed county or state park or other recreation area.*
 - 3. *The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway.*
 - 4. *The right-of-way of any existing or proposed stream or drainage channel owned by the county or for which the county has established channel lines.*
 - 5. *The boundary of any existing or proposed county- or state-owned land on which a public building or institution is situated.*

Section 9.6 *Agricultural Data Statement.*

- A. Any application for a conditional use permit or site plan approval that would occur on property within an agricultural district containing a farm operation, or on property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The Planning Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within the agricultural district.
- B. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the conditional use permit application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

Section 9.7 *SEQR.*

No application shall be considered complete and no time periods for decision making in this local law shall begin to run until either a Draft Environmental Impact Statement (DEIS) as satisfactory

pursuant to New York State Department of Environmental Conservation regulations has been accepted or the issuance of a Negative Declaration of Environmental Significance has been made.

Section 9.8 Public Hearing on Conditional Use.

Before a conditional use is permitted, the proposed conditional use shall be considered by the Planning Board at a public hearing. Notice of said hearing shall be given as provided in Section 10.5. A public hearing may be consolidated for both a conditional use permit and site plan for the same proposal upon request by the applicant to the Planning Board and agreement by the Planning Board that such consolidated hearing is appropriate under the circumstances.

Section 9.9 Notification of Action.

Notice of said action by the Planning Board shall be given as provided in Section 10.8.

Section 9.10 Appeal.

The applicant or any interested person may appeal a decision of the Planning Board. The appeal shall be made in accordance with Section 10.7.

Article 10 SITE PLAN APPROVAL

Section 10.0 Intent.

The intent of site plan approval is to determine compliance with the objectives of this Law and with regard to conditional uses that may be permitted in the Town of Caton. The objective is to evaluate various land uses that may cause a conflict between existing and proposed uses or be in conflict with natural site conditions and thereby minimize the adverse affects concerning health, safety, and overall welfare of the residents of the community. The Planning Board, at its discretion, may waive the concept procedure.

Section 10.1 Authorization.

The power to approve, approve with modification, or deny site plans for conditional uses as required by this Law is herein granted to the Planning Board. Section 274-A of the Town Law provides the legislative means for the Town Board to authorize the Planning Board to review and approve site plans. Prior to issuing a building permit for the construction or expansion, or change in use of any conditional use, a site plan and supporting documentation shall be submitted to the Planning Board for its review and approval. The Planning Board may require that the site plans be prepared by a licensed architect or engineer. Such requirement shall be based on the complexity of the site features and of the proposed structure(s) or land use as related to same.

Section 10.2 Concept Plan Conference.

The concept plan submittal is optional. The purpose of the concept is to encourage the person applying for a conditional use to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development.

10.2.1 Requirements. A concept plan shall be prepared and submitted in triplicate to the Planning Board. Before preparing a concept layout, the developer may discuss with the Planning Board or the Town Planning Consultant the general requirements as to design of streets, reservations of land, drainage, sewerage, water supply, fire protection, and other improvements as well as procedural matters.

Developers of land adjoining state or county highways are advised to consult with the District Engineer of the New York State Department of Transportation or Steuben County Commissioner of Public Works at the concept layout stage in order to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process. The Planning Board shall provide written comments on the concept plan of a proposed development in relation to the applicable requirements of this Article and Article 11, existing or potential development of the adjacent area, the Town Comprehensive Plan, and in the course of its review may consult with other interested public agencies.

The concept plan shall include in as much detail as possible the following information:

A. An area map showing:

1. *Applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.*
 2. *Existing natural features such as water bodies, watercourses, wetlands, wooded areas, individual large trees, flood hazard areas.*
 3. *Zoning districts, certified agricultural districts, school districts.*
 4. *Special improvement districts (water, sewer, light, fire, drainage and the like).*
 5. *Easements*
 6. *All properties, their ownership and uses, subdivisions, streets, zoning districts, easements, and adjacent buildings within five hundred (500) feet of the applicant's property.*
 7. *All existing man-made features.*
 8. *All proposed buildings, man-made structures and public improvements.*
 9. *Name/Address of applicant and/or site owner, if different.*
 10. *Concise description of the nature of the applicant's business.*
- B. A map of site topography (TOPO MAP).
- C. A soils overlay, if general site grades exceed fifteen percent (15%) or portions of the site have susceptibility to erosion, flooding or ponding.
- D. Reservation of parkland on site plans containing residential units.
1. Before the Planning Board may approve a site plan containing residential units, such site plan shall also 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 may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park(s) be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute.
 3. In the event the Planning Board makes a finding pursuant to paragraph 2 above that the proposed site plan presents a proper case for requiring a park(s), but that a suitable park(s) 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 to be established by the Town Board. Any such monies 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.

Section 10.3 *Site Plan Application.*

Application for site plan approval shall be made in writing in triplicate to the Zoning Officer fifteen (15) days prior to a scheduled Planning Board meeting. The Zoning Officer shall refer all site plan applications to the Planning Board for its review and approval. For the purposes of this Law, the submission date shall be the date of the first regular Planning Board meeting following submission to the Zoning Officer.

Section 10.4 *Site Plan Requirements.*

The site plan application shall include the information listed below. The Planning Board may at its discretion waive any requirements which are clearly not relevant to the proposed use and site.

- A. An area map showing that portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all properties, their ownership, uses thereon, subdivisions, streets, zoning districts, easements and adjacent buildings within five hundred (500) feet of applicant's property.

- B. A site plan shall include the following information:
 - 1. *Title of drawing, including name and address of applicant.*
 - 2. *North point, scale and date.*
 - 3. *Boundaries of the project plotted to scale of not more than one hundred (100) feet to one (1) inch.*
 - 4. *Existing natural features such as watercourses, water bodies, wetlands, wooded areas and individual large trees. Features to be retained should be noted.*
 - 5. *Existing and proposed contours at intervals of not more than five (5) feet of elevation.*
 - 6. *Location of proposed land uses and their areas in acres and location, proposed use and height of all buildings.*
 - 7. *Location of all existing or proposed site improvements including streets, drains, culverts, retaining walls, fences and easements, whether public or private.*
 - 8. *Description of sewage disposal and water systems and other landscaping.*
 - 9. *Location and proposed development of buffer areas and other landscaping.*
 - 10. *Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type, and a calculation of the residential density in dwelling units per gross acre for each such area.*
 - 11. *Location of all parking and truck-loading areas, with access and egress drives thereto.*
 - 12. *Location, design and size of all signs and lighting facilities.*
 - 13. *The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.*
 - 14. *Building orientation and site design for energy efficiency.*
 - 15. *Location and design of all energy distribution facilities, including electrical, gas, solar, wind and other energy system.*
 - 16. *Grading and erosion: Description and location of control measures including proposed location of sediment sink/settling pond and interceptor swales, etc. A copy of the Stormwater Pollution Prevention Plan (SWPPP) if required as part of a Phase II Construction Permit.*

17. *Location and design for stormwater management facilities.*
 18. *Drainage report including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.*
 19. *The lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.*
- C. The Planning Board may require such additional information that appears necessary for a complete assessment of the project.
- D. The Planning Board's review of the site plan for a recommendation to the Town Board shall include, but is not limited to the following considerations:
1. *Adequacy and arrangement of vehicular traffic access and circulation.*
 2. *Location, arrangement, appearance and sufficiency of off-street parking and loading.*
 3. *Location, arrangement, size and design of buildings, lighting and signs.*
 4. *Relationship of the various uses to one another and their scale.*
 5. *Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between adjacent uses and adjoining lands.*
 6. *Adequacy of storm water management and sanitary waste disposal.*
 7. *Adequacy of structures, roadway and landscaping in areas susceptible to flooding and ponding and/or erosion.*
 8. *Compatibility of development with natural features of the site and with surrounding land uses.*
 9. *Adequacy of flood proofing and prevention measures consistent with flood hazard prevention district regulations.*
 10. *Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community including the protection of adequate sunlight for use by solar energy systems.*
 11. *Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.*
 12. *Adequacy of pedestrian access, circulation, convenience and safety.*

In their review of a site plan, the Planning Board may consult with the Zoning Officer, Fire Commissioners, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

Section 10.5 Public Hearing.

Upon the Planning Board's certification that the site plan application is complete and satisfactory, a public hearing shall be scheduled within sixty-two (62) days from the time of such certification. For the purpose of this Law, the submission date shall be taken as the date of the first regular Planning Board meeting following submission of the site plan to the Zoning Officer. The hearing shall be advertised at least five (5) days prior to the scheduled date in a newspaper of general circulation in the Town.

Section 10.6 Notification of Decision on Site Plan.

Within sixty-two (62) days of the public hearing at which a site plan is considered, the Planning Board shall act upon it. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the site plan is approved, conditionally approved, or disapproved. The decision of the Planning Board shall be filed in the Town offices within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant. A copy of the appropriate minutes of the Planning Board shall be a sufficient report.

- A. Upon approval, the Planning Board shall endorse its approval on a copy of the site plan and shall forward it to the Zoning Officer who shall then issue a building permit if the project conforms to all other applicable requirements.
- B. Upon disapproval, the Planning Board shall so inform the Zoning Office and he shall deny a building permit. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.
- C. Specifications for improvements shown on the site plan shall be those set forth in this ordinance and in other ordinances, rules and regulations, or in construction specifications of the Town of Caton.

Section 10.7 Amendments.

The terms and conditions of any conditional use permit may be amended in the same manner as required to grant a conditional use permit, following the criteria and procedures in this Section. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a conditional use permit amendment.

Section 10.8 Expiration, Change of Use, Revocation, and Enforcement.

- A. A conditional use permit and/or site plan approval shall expire within one (1) year from the date of issuance or approval if the conditional use permit and/or site plan is not exercised within said one-year period, if the use or uses cease for more than twelve (12) consecutive months for any reason, or if the applicant fails to obtain any other governmental permits that may be necessary for the use or its continuing operation or fails to comply with the conditions of the conditional use permit or site plan approval within twelve (12) months of its issuance.
- B. A conditional use permit and/or site plan approval may be revoked by the Planning Board if the property owner or operator violates the conditions of the conditional use permit and/or site plan approval or engages in any construction or alteration not authorized by the conditional use permit and/or site plan approval.
- C. Any violation of the conditions of a conditional use permit and/or site plan approval shall be deemed a violation of this Chapter, and shall be subject to enforcement action as provided herein.

Section 10.9 Appeal.

The applicant or any interested person may appeal a decision of the Planning Board. The appeal shall be made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision on a conditional use application.

Article 11 DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS

Section 11.0 General.

The Planning Board, in reviewing a site plan, shall be guided by the considerations and standards presented in this Article. In the review, they shall take into consideration the prospective character of the development and require improvements be designed to such standards as are consistent with reasonable protection of the public health, safety, or welfare. For permitted uses the Zoning Officer shall ensure compliance with this Article and any other applicable ordinances, articles or sections.

Section 11.1 Lots and Blocks.

11.1.1 Lot Size and Arrangement. The dimensions and arrangements of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in providing access to buildings on such lots or in securing building permits to build. In general, side lot lines shall be at right angles or radial to street lines, unless a variation from this can be shown to result in a better plan.

11.1.2 Access. Insofar as possible, lots shall not derive access from a major road. Access to lots adjacent to a primary road shall, in general, be from marginal access streets or other streets within the development. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for installation of a culvert or other structure, which shall be subject to the same design criteria and review as all other storm water drainage facilities in the development.

Section 11.2 Street, Road, and Pavement Design.

11.2.1 Street Arrangement.

- A. Street systems shall be designed with due regard to the needs for: convenient traffic access and circulation; traffic control and safety; access for fire fighting, snow removal, and street maintenance equipment; and stormwater drainage and sewage disposal. Streets shall be designed to accommodate the prospective traffic, and so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable.
- B. The streets in contiguous developments shall be coordinated so as to compose a convenient system. Where a development adjoins undeveloped land, its streets shall be laid out so as to provide suitable future street connections with the adjoining land when the latter shall be developed. A street thus temporarily dead-ended shall be constructed to the property line and shall be provided with a temporary turn-around of the same dimensions as for permanent dead-end streets if in excess of two hundred (200) feet, with a notation on the construction plat providing for temporary easements for the turn-around until such time as the street is extended.
- C. Streets shall be logically related to the topography, and all streets shall be arranged so as to obtain as many as possible of the building sites at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.

- D. Where a development abuts on or contains an existing or proposed primary street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with or without rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Where a development borders or contains an existing or proposed railroad right-of-way or controlled access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for business, commercial or industrial purpose in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

11.2.2 Standards for Street Design. All streets shall be designed and constructed to conform to New York State and Town specifications. The Town Highway Superintendent shall approve all street design and construction.

11.2.3 Dead-end Streets. Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance sufficient to accommodate a lot meeting the requirements of this Law. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. However, the Planning Board may require the reservation of an easement fifteen (15) feet wide for pedestrian traffic or utilities. A turn-around of a minimum right-of-way radius of eighty (80) feet shall be provided at the end of any permanent dead-end street. For greater convenience to traffic and more efficient police and fire protection, the length of permanent dead-end streets shall be limited to six (6) times the minimum lot width for the zoning district, such length to be measured to the center point of the turn-around.

11.2.4 Sidewalks. Concrete sidewalks at least five (5) feet wide may be required on both sides of all streets. They may also be required within pedestrian easements through blocks to provide a system of pedestrian walkways to schools, parks and other community facilities. Sidewalks should be two (2) feet from the property line inside the right-of-way, unless the adjacent street is a state or county highway, in which case the sidewalk shall be placed adjacent to and outside of the right-of-way. Sidewalks within pedestrian easements shall be generally centered within the easement.

11.2.5 Trees. The developer shall take adequate measures to preserve desirable existing trees in suitable locations within the development. Street trees shall be planted on both sides of the street and ten (10) feet outside the right-of-way, at intervals of approximately fifty (50) feet, subject to location of drives, street intersections, or other features. In general, the street right-of-way shall be cleared of existing trees, but occasional existing trees of unusual value may be preserved within the street right-of-way if approved by the Planning Board.

11.2.6 Street Names and Signs. All streets shall be named, and such names shall be subject to the approval of the Planning Board. A street which is a continuation of an existing street shall bear the same name. Relating street names to features of local historical, topographical, or

other natural interest is encouraged. Street signs shall be provided by the developer at all intersections and shall be of a type approved by the Town Highway Superintendent.

11.2.7 Street Improvements - General. In addition to the required improvements specifically referred to elsewhere in these regulations, plans shall provide for all other customary elements of street construction and utility service which may be appropriate in each locality as determined by the Town. Such elements may include, but shall not be limited to, street pavement, gutters, storm water inlets, manholes, curbs, sidewalks, street lighting standards, water mains, fire hydrants, fire alarm signal devices, and sanitary sewers. Underground utilities within the street right-of-way shall be located as required by the Town and underground service connections to the property line of each lot shall be installed before the street is paved. All street improvements and other construction features of the development shall conform to municipal specifications which may be established from time to time and shall be subject to approval as to design, specifications, and construction by the Town Highway Superintendent.

11.2.8 Widening of Existing Street Right-of-Way. Where a development adjoins an existing street which does not conform to the Town's right-of-way standards, the Planning Board may require that additional right-of-way width as necessary be provided, on the development side of the normal street centerline, a width which is equal to at least one-half (1/2) of the minimum standard width for the respective type of street.

11.2.9 Typical Road Section. The typical section approved by the Town Highway Superintendent shall be used for all roads. Pavement and R.O.W. widths shall vary with type of use.

Section 11.3 Off-Street Parking.

11.3.1 General Requirements.

- A. It shall be the responsibility of the owner of a property to provide the off-street parking spaces required in the listing below for any use which is erected, enlarged, or altered after the effective date of this Law.
- B. A parking space shall be considered adequate if it is not less than two hundred (200) sq. ft. (10'x 20') exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to street or alley.
- C. No exit or entrance drive connecting a parking area and a street shall be permitted within thirty (30) feet of the intersection of two (2) public rights-of-way.
- D. Where appropriate, the Zoning Board of Appeals may, upon the presentation of evidence, vary the number and circumstance of the following parking space requirements, in order that the general welfare be served and the prospective uses be equitably treated.
- E. In stadiums, churches, and other places of assembly, in which patrons or spectators occupy benches, pews, or other similar seating facilities; each twenty (20) inches of such seating facilities shall be counted as one seat.
- F. The lighting of off-street parking lots shall not be directed into adjacent properties.

- G. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.

11.3.2 Required Off-Street Parking Spaces. The minimum cumulative number of spaces shall be determined by the amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings or structures, or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structures, as follows:

- A. Single Family Residences - Two (2) spaces per dwelling unit.
- B. Multi-Family Residences - Two (2) spaces per dwelling unit.
- C. Manufactured/Mobile Home Parks - Two (92) paces per dwelling unit. One (1) off street parking space readily accessible to the occupants of the mobile homes which it is intended to serve, shall be provided for each five (5) mobile home sites to accommodate guests and delivery and service vehicles.
- D. Home Occupation - One (1) space for each person or employee engaged in any home occupation.
- E. Hospitals, Sanitariums, Nursing Homes – One (1) space for each bed.
- F. Tourist Home, Rooming House - One (1) space for each bedroom within the facility.
- G. Motels/Hotels – One (1) space for each unit plus one (1) space for every four (4) employees.
- H. Offices - Service, Retail, Professional – One (1) space for each two hundred (200) sq. ft. of gross floor area.
- I. Medical and Dental Clinics - One (1) space for each two hundred (200) sq. ft. of gross floor area.
- J. Retail Establishments, Funeral Homes, Veterinary Hospitals, Banks, and Related Commercial Establishments of a Personal Service or Business Service Nature - One (1) space for each two hundred (200) sq. ft. of gross floor area.
- K. Restaurants - One space for each fifty (50) sq. ft. of customer floor area plus additional space as required to accommodate tractor trailer parking and maneuvering.
- L. Commercial Recreation, Private Membership Clubs/Nudist Resort, Race Track, Camp or Development - One (1) space for every one hundred (100) sq. ft. of public assembly area.
- M. Roadside Stands - One space for every fifty (50) sq. ft. of area devoted to selling or display.

- N. Nursery and Elementary Schools -One (1) space per employee plus two (2) additional spaces per classroom.
- O. High Schools and Colleges - Five (5) spaces for each classroom.
- P. Churches, Temples, Auditoriums, Theaters - One (1) space for every five (5) seats.
- Q. Industrial Uses
 - 1. *One (1) space for each eight hundred (800) sq. ft. of floor area devoted to manufacture including printing, publishing, and laundry or dry cleaning plants.*
 - 2. *One (1) space for each one thousand five hundred (1,500) sq. ft. of floor area devoted to storage or stationary operating equipment.*
 - 3. *One (1) space for each three thousand (3,000) sq. ft. of area devoted to outside storage, including used car lots and equipment rental or sales yards.*
 - 4. *For any industrial use, one (1)space for each company vehicle.*

11.3.3 Calculation of Required Spaces. In the case of combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.

11.3.4 Dimensions for Off-Street Automobile Parking Spaces and Lots. Every such space provide shall be at least ten (10) feet wide and twenty (20) feet long, and every space shall have direct and usable driveway access to a street or alley with minimum maneuver area between spaces as follows:

- A. Parallel Club Parking: Five (5) feet end to end with twelve (12) foot aisle width for one (1) directional flow and twenty four (24) foot aisle width for two (2) directional flow.
- B. Thirty (30) Degree Parking: Thirteen (13) foot aisle width for one (1) directional flow and twenty six (26) foot aisle width for two (2) directional flow.
- C. Forty five (45) Degree Parking: Sixteen (16) foot aisle width for one (1) directional flow and twenty six (26) foot aisle width for two (2) directional flow.
- D. Sixty (60) Degree Parking: twenty one (21) foot aisle width for one (1) directional flow and twenty six (26) foot aisle width for two directional flow.
- E. Perpendicular Parking: twenty six (26) foot aisle width for one directional and two (2) directional flow.

11.3.5 Location of Required Parking Spaces.

- A. For any residential use, required automobile parking spaces shall be provided on a buildable portion of the same lot. This space shall be graded for parking use and readily accessible from the street.

- B. For any residential use, no open or enclosed parking area shall encroach on any required front yard. Open parking areas may encroach on a required side or rear yard to within (3) three feet of a property line.
- C. For business and industrial uses, such spaces shall be provided on the same lot, or not more than four hundred (400) ft. therefrom. Vehicles and equipment for display or for sale shall not be parked or stored within the front yard requirement.

11.3.6 Construction of Parking Areas. Parking areas, with the exception of single family residences, shall be paved with a suitable all-weather, dust-free surface. The individual spaces shall be visibly marked with paint or other durable material.

11.3.7 Landscaping. At least eight percent (8%) of the area of the lot usable for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three (3) or more spaces that abut a residential lot line, and any parking lot for more than twenty (20) cars shall be screened by a six (6) foot high solid masonry wall, or compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen from the adjoining property. All parking areas and landscaping shall be properly maintained thereafter in a well kept condition.

Section 11.4 Off Street Loading and Unloading Requirements.

11.4.1 Dimensions of Loading Berths. Each loading berth, either open or enclosed, shall be fifty five (55) feet long, twelve (12) feet wide and fourteen (14) feet high; businesses utilizing vehicles not larger than panel trucks may have berths which are not smaller than twenty (20) feet long, ten (10) feet wide, and eight (8) feet high.

11.4.2 Location of Berths. All berths shall be located in such a way as not to unreasonably interfere with the movement of people and vehicles on public ways.

11.4.3 Requirements/Loading Berths. The following shall be considered minimum requirements:

Use	Gross Floor Area (sq ft)	Loading and Unloading Berths
Retail Stores, Wholesale Establishments, Storage Use, Other Commercial Uses	3,000 - 15,000	1
	15,000 - 40,000	2
	each 25,000 addt'l	1 additional
Motels - Hotels, Office Buildings	100,000 or less	1
	100,001 - 300,000	2
	each 200,000 addt'l	1 additional
Industrial	15,000 or less	1
	15,000 - 40,000	2
	40,001 - 100,000	3
	each 40,000 addt'l	1 additional

The Planning Board may require additional berths as necessary to adequately accommodate the use.

11.4.4 Landscaping as required in Section 11.3.7.

Section 11.5 Signs.

11.5.1 Purpose and Intent

The purpose of this Section is to promote the public health, safety, and welfare by establishing standards and criteria for the construction, installation, maintenance, and operation of all types of signs in the Town of Caton, which are subject to the provisions of this section. It is the further purpose to provide for the removal of those signs that do not comply with these regulations. More specifically, this article is intended to:

- A. Enhance and protect the physical appearance of the municipality.
- B. Protect property values.
- C. Promote and maintain visually attractive, high-value residential, business, and industrial districts.
- D. Promote the economic well being of the community by creating a favorable physical image.
- E. Ensure that signs are located and designed to:
 - 1. *Provide an effective means of directional information in the community.*
 - 2. *Afford the community an equal and fair way to advertise and promote its products and services.*
 - 3. *Reduce sign clutter and the distractions and obstructions that may contribute to traffic accidents, and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-ways.*
- F. Preserve scenic views and the visual character of neighborhoods, historic districts and parkland.

11.5.2 General Provisions.

No sign may be erected or established in the Town except in conformance with the standards in this section.

- A. All permanent signs over sixteen (16) sq. ft. in total sign area shall require a building permit and all signs shall comply with applicable regulations of the Building Code.
- B. An owner of an existing sign shall notify the Code Enforcement Officer within six (6) months of the adoption of these revisions to establish the “grandfathered” status of the sign.
- C. The message on an abandoned sign shall be removed within sixty (60) days from the discontinuance of a use.
- D. No permanent or temporary sign shall be erected or placed at or near the intersection of any streets in such a manner as to cause a traffic hazard at the intersection; or at any location where, by reason of the position, shape, or color of the sign it may

interfere with, obstruct the view of, or be confused with any authorized traffic sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words, "Stop", "Look", "Drive-in", "Left", or any other words, phrase, symbol, or character in such a manner as to interfere with, mislead or confuse traffic.

- E. No sign shall be placed or erected above the maximum elevation of the main roof line of a building.
- F. Any permitted free-standing sign shall not be more than twenty six (26) feet in height above the average surface of the ground within a fifty (50) foot radius around the proposed sign.
- G. All signs shall be set back a minimum of ten (10) feet from any road right-of-way, unless otherwise stated.
- H. Projecting signs shall have a clearance of not less than ten (10) feet above the sidewalk or surrounding ground and not less than fifteen (15) feet above any public driveway or thoroughfare.
- I. Size of a sign shall refer to the overall area occupied by the total sign and includes the face area of each display surface and any spaces between parts thereof.
- J. Sign area for accessory signs shall include the sign area of all sign faces located on the premises and shall include permanent and temporary signs.
- K. Temporary signs shall be removed or replaced after ninety (90) days unless otherwise stated.
- L. The provisions of this section shall not apply to safety signs, road signs, historical markers or highway directional signs erected by municipal or public agencies or to mailboxes or fire numbers or other identification required by a municipal or public agency.
- M. Illumination of signs shall not be flashing, intermittent, or of varying intensity, in a manner which creates a distraction, and may not produce glare beyond the limits of the property lines.
- N. Signs with moving parts are not permitted

11.5.3 Signs Permitted for Any Use.

- A. Permanent Signs:
 - 1. *Two (2) primary identification signs*
 - 2. *Name plate sign shall not exceed two (2) sq. ft.*
 - 3. *Memorial signs or tablets.*

4. *Traffic or other municipal signs, legal notice and such temporary or non-commercial signs for government purposes.*
5. *All signs, certificates and licenses that are mandated to be on display by any local, county, state or federal law or authority.*
6. *Two (2) directional signs each not exceeding four (4) sq. ft. in area, provided that, if illuminated, such illumination shall cease at the close of business hours or 11:30 p.m. whichever is later. Such signs shall not carry any advertisement, insignia or business logo. Signs located between five (5) feet and ten (10) feet to any road right-of-way shall not project more than three (3) feet, signs located greater than ten (10) feet from any road right-of-way shall not project more than four (4) feet above grade.*
7. *Primary identification signs and accessory signs, provided such signs follow the guidelines set forth in section 11.5.4 and section 11.5.5*

B. Temporary Signs.

1. *Real estate signs - maximum eight (8) sq. ft. for residential uses, maximum thirty-two (32) sq. ft. for business and industrial uses.*
2. *Construction signs shall be removed within thirty (30) days after construction is completed and shall not exceed thirty-two (32) sq. ft.*
3. *Temporary posters covering such things as political and sporting events, show and elections. Temporary banners and similar devices may be displayed for the occasion of the special event.*

11.5.4 Residential Uses

- A. One (1) primary identification sign which displays a non-commercial message shall not exceed thirty two (32) sq. ft. in sign area
- B. Accessory signs which display non-commercial messages shall not exceed thirty two (32) sq. ft. in total sign area.
- C. Off-site signs may be permitted at major intersections as follows:
 1. *Maximum area – four (4) sq. ft. with no single face greater than two (2) sq. ft.*
 2. *Two signs per establishment, maximum.*
 3. *Maximum height - fifteen (15) feet.*
 4. *Sign area is included in accessory sign area for the property upon which such sign is located.*
- D. Multi-family dwellings, mobile home parks of ten (10) or more units, or a housing community may display a primary identification sign which is not illuminated and which does not exceed forty-eight (48) sq. ft. Such facilities shall also display accessory signs not to exceed twenty-four (24) in total sign area.

11.5.5 Commercial Messages

- A. Two primary identification signs, one free standing with a maximum of two display faces and one sign mounted on the building may be displayed on-site. The total display area of both such signs shall not exceed an area equal to one (1) sq. ft. of sign area for each linear foot of building footage or one hundred fifty (150) sq. ft. whichever is the lesser. In no instance shall a single face of either sign exceed one hundred twenty five (125) sq. ft.
- B. An apartment complex, may display indirectly lit identification signs which shall have a total face area of no more than fifteen (15) sq. ft.
- C. A dwelling unit, in which a home occupation is permitted, may display a sign noting such occupation. Such sign shall be no more than sixteen (16) sq. ft. in area.
- D. Subdivision signs - any person offering lots for sale in an approved subdivision may erect an indirectly illuminated sign having an aggregate total sign area of not more than thirty two (32) sq. ft. with no more than sixteen (16) sq. ft. per face.
- E. Accessory signs which display a commercial message shall meet the following criteria.
 - 1. *Accessory signs may be exhibited in any window area provided that the display area does not exceed 30% of the window area.*
 - 2. *Additional signs may be located on the building façade or on merchandise displays and may be appropriately stored outside during business hours.*
 - 3. *The total display area of all such signs shall not exceed an area equal to five-tenths (0.5) sq. ft. per linear foot of building frontage.*
- F. Off-site signs for the purpose of directing towards a commercial establishment may be permitted at major intersections as follows:
 - 1. *Maximum area – four(4) sq. ft. with no single face greater than two (2) sq. ft.*
 - 2. *Two signs per establishment, maximum.*
 - 3. *Maximum height - fifteen (15) feet.*
 - 4. *Sign area is included in accessory sign area for the property upon which such sign is located.*
- G. A dwelling unit, in which a home occupation is permitted, shall not erect on-site commercial accessory signs.

11.5.6 Civic, Religious, Education-Institutional, Social and Membership Clubs and Similar Uses.

- A. May display one (1) identification sign incidental to the use. Such sign shall not exceed sixty-four (64) sq. ft in sign area.
- B. May display accessory signs not to exceed thirty-two (32) sq. ft in total sign area.

Section 11.6 Accessory Buildings, Structures and Uses.

11.6.1 Accessory Buildings and Structures. Accessory buildings not attached to principal buildings shall comply with the following:

- A. All structures one hundred twenty (120) sq. ft. or more in size shall require a building permit.
- B. Be located in compliance with all setback requirements as stated in the Density Control Schedule.
- C. Be located no closer to the principal building than twelve (12) feet or a distance equal to the height of each accessory building whichever is greater.
- D. A manufactured/mobile home shall not be used as an accessory building.

11.6.2 Accessory Uses. In a residential district, accessory uses not enclosed in a building, including swimming pool and tennis courts, shall be erected only on the same lot as the principal structure, shall not be located in front yard on such lot and shall be located not less than twenty (20) feet from any lot line or less than ten (10) feet from the principal structure, and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.

- A. A swimming pool or the lot or any part thereof within which a pool is located shall be completely enclosed by a chain-link fence, or a type of fence that offers the same degree of security against accidental or unauthorized entry. Such fence shall be four (4) to six (6) feet in height, and all entrance gates thereof shall be self-enclosing, self-latching and capable of being locked. The fence shall be separate and physically detached from the swimming pool itself, and shall be a minimum distance of four (4) feet from the water's edge.
- B. An above ground pool with no part of its side wall height less than four (4) feet above ground and so constructed by the manufacturer that the vertical sides are smooth, sheer and do not provide any means for intermediate foot or hand holds, and any pool with decking and a ladder that are designed to restrict access, may be exempt from the full provisions of the above fence requirement. However, a full height fence with a self-closing, self-latching gate capable of being locked shall enclose the ladder area not less than four (4) feet in width and four (4) feet in depth, and the ladder shall remain permanently therein. Above ground pools provided with foot or hand holds (draw-banded) and above ground pools less than four (4) foot side wall height above ground are not exempt from the full fencing requirement.

11.6.3 Where twenty five percent (25%) or more of the lots in a block are occupied by buildings, the average yard dimensions, average of lot coverage of such buildings and the average side and rear yard set-back shall determine the yard set-back and coverage requirements for any new accessory building or use, within the block. Or, where no standard block exists, the word "block" as used above shall be interpreted to mean those structures within two hundred fifty (250) feet of either side of the lot in question, on the same side of the street. The average set-back shall be based on no fewer than two (2) similar uses.

11.6.4 Special Designs. In cases where a developer has designed a grouping of buildings, the Planning Board may approve the siting of accessory buildings such as garages and carports in the front yard, provided that the buildings are in compliance with all required setbacks.

Section 11.7 Driveway Standards.

No person, firm or corporation shall construct or locate any driveway entrance or exit into a highway of the Town of Caton without having first met the provisions of this section. The "Standard Entrance and Exit Crossing Requirements" shall be as follows:

- A. All design, work and materials shall be required to meet the specifications set by the Town Highway Superintendent and/or County and State Highway Departments.
- B. No alteration or addition shall be made to any driveway without first securing permission from the Town Highway Superintendent.
- C. A minimum clear vision distance of two hundred fifty (250) feet shall be available in each direction.
- D. All driveways shall be constructed with a suitable crown so as to lessen the erosion effect of surface runoff. In addition, as specified by the appropriate Highway Superintendent, a catch basin at a point near the intersection of the driveway and town highway may be required. This will prevent surface water and debris from being discharged onto the highway.
- E. All driveways shall align at a 90N angle with the public right-of-way for a minimum distance of twenty (20) feet from edge of pavement.
- F. Agricultural and residential uses including, single-family, two-family residences and manufactured/mobile homes:
 - 1. Except where required for safe turning radius, the permitted drive width shall be a minimum of twenty (20) feet and shall not exceed thirty (30) feet.
 - 2. No more than two (2) driveways shall be permitted.
- G. Commercial, business, industrial and multi-family residential uses:
 - 1. Except where required for safe turning radius, the maximum width for a combined entrance and exit shall not exceed fifty (50) feet.
 - 2. The slope of the driveway shall not be greater than ten percent (10%). Slope of the driveway shall not exceed two percent (2%) within twenty five (25) feet of the intersecting public road.
 - 3. No more than two (2) driveways to a single commercial establishment entering on one (1) highway shall be permitted.

Section 11.8 Fences, Walls, Hedges and Screen Planting.

Fences, walls, hedges and screen planting are permitted as follows:

- A. Where the driveway meets the road the hedge, fence or wall; shall not exceed three (3) feet in height.
- B. On a corner lot, no fence, wall, hedge or screen planting over three (3) feet in height shall be constructed at the intersection of the two streets. In any use, the minimum clear vision distance shall be twenty-five (25) feet from the edge of the pavement at in intersection.
- C. Fences, walls, hedges or screen plantings may be required, in multi-family, commercial industrial, or adult use/entertainment developments, by the Planning Board, as is necessary to protect the residential quality of adjacent property.
- D. The clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three (3) feet in height measured from the top of the street pavement, except that street trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above the grade.
- E. In a Nudist Resort, Camp, or Development fences walls hedges, or screen plantings, or any combination thereof shall be completely opaque to protect the privacy therein. These shall be maintained at a minimum height of seven (7) feet, shall have their opacity maintained, and shall enclose any area where nudity is, or may be present.

Section 11.9 Steep Slope Guidelines.

The Town of Caton is characterized by numerous steep slope (fifteen percent (15%) or greater) areas. Special design treatment for streets, building sites and other development is needed to preserve the natural terrain, trees, rock formation, scenic views, etc. Development on steep slopes will be permitted subject to the following guidelines:

- A. Development proposals shall be of sufficient detail to show site work (cut and fill), housing site location, erosion and drainage control measures (terraces, sediment basins, diversions, retaining walls, stream channel improvement, etc.) and road location (including cross-sections).
- B. Padding, which is the creation of level building sites, shall be permitted only when it can be clearly demonstrated by exhibits that the final treatment of the site will not reflect an unfavorable environmental impact and/or an unfavorable visual appearance.
- C. Design principles may include, but not be limited to, the following:
 1. *Landscaping of areas around structures making them compatible with the natural terrain.*
 2. *Shaping, grouping and placement of man-made structures to complement the natural landscape.*
 3. *Arrange buildings so they complement one another to promote visual interest. Clustering of residential units and multiple dwellings shall be encouraged to house a given population with a minimum spoilage of land. The developer should first determine the qualities of the site and then plan and build to accentuate these qualities rather than destroy them.*

4. *Shape of essential grading to complement existing land forms and prohibit any appearance of successive padding, terracing or other similar forms for building sites in the hill area.*
5. *Encourage the development of off-street parking bays.*
6. *Encourage the use of turning circles at mid-block points to avoid the use of private driveways for turning and parking movement.*
7. *Encourage split-level building sites.*
8. *Use one-way streets when consistent with traffic safety, circulation needs, and natural topography. This guideline allows for smaller road right-of-way, less cut and fill within a given area and a highway network consistent with the natural terrain. Roads shall be parallel with the hillside wherever possible and have variable width right-of-way. This not only provides the most economical routing, but also minimizes the amount of grading required.*
9. *Land within the hill area that is in excess of twenty five (25%) slope should not, to be greatest extent possible, be developed as individual residential lots.*
10. *Outstanding natural features such as the highest crest of the hill, range, natural rock outcroppings, particularly desirable vegetation, etc. should be retained.*

Section 11.10 Drainage System and Erosion Control.

11.10.1 Drainage Systems. Adequate and comprehensive drainage systems shall be provided to convey the storm water runoff originating within and outside the proposed development as follows:

- A. Drainage systems shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed upland of the development.
- B. Preservation of natural watercourses is generally preferable to the construction of drainage channels.
- C. Interior drainage systems shall be designed to accommodate a ten (10) year storm.
- D. The design of natural watercourses and structures shall depend upon the drainage area, but in general:
 1. *Watersheds of less than one (1) square mile shall be designed for a fifty (50) year storm frequency.*
 2. *Areas of one (1) square mile and over shall be designed for a one hundred (100) year storm frequency.*
- E. All structures shall be set back a minimum of fifty (50) feet from the stream bank.
- F. Utilizing the drainage guidelines outlined above, the Planning Board may require the developer to submit the following:
 1. *Plan profiles, and typical and special cross-sections of proposed storm water drainage facilities.*
 2. *Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities.*

3. *The grading plan shall be developed to suitable contour interval with grading details to indicate proposed street grades and elevations and building site grades and elevations.*
4. *If the development is within or adjacent to any designated floodplain, a detailed analysis of the area with respect to the management of the floodplain shall be included in the drainage report.*
5. *Design criteria as specified in town design standards shall be applicable to this section.*

11.10.2 Erosion Control. In order to insure that the land will be developed with a minimum amount of soil erosion, the Planning Board shall require the developer to follow certain erosion control practices. Both the Planning Board and the developer shall consult with the Soil Conservation Service, as required, and the Planning Board shall determine which SCS practices shall be incorporated. Such procedures may include:

- A. Exposing the smallest practical area of land at any one time during the development.
- B. Provision of temporary vegetation and/or mulching to protect critical areas.
- C. Provision of adequate drainage facilities to accommodate effectively the increased runoff caused by changed soil and surface conditions during and after development. The developer's engineer shall show, as part of their submitted plans, the interceptor swales and sedimentation basins along the lower edges of all developments. Topographic data and design grades for the swales shall be shown on the plans.
- D. Fitting of the development plan to the topography and soils so as to minimize the erosion potential.
- E. Retention and protection of natural vegetation wherever possible.
- F. Installation of permanent final vegetation and structures as soon as practicable.
- G. Provision of adequate protection measures when slopes in excess of fifteen percent (15%) are graded, and minimizing such steep grading.
- H. Installation of temporary sedimentation basins as required by the Soil Conservation Service.

Section 11.11 Open Space, Parks and Playgrounds.

The Planning Board may consider in site plan approval, specific areas designated for recreational purposes. All lands proposed for park or recreation purposes shall meet the following minimum standards.

- A. Such land shall either be deeded to the Town or be held in corporate ownership and maintained by an established organization.
- B. Shall have physical characteristics and locations which render them readily usable for appropriate recreation purposes, and their locations shall be selected with a view to

minimize hazards and vehicular traffic for children walking between such facilities and their homes in the neighborhood.

- C. No such area may be smaller than two (2) acres, and in general, recreation areas shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is developed.
- D. A detailed development plan shall be provided for each neighborhood park or playground. As a minimum, the development plan shall provide for an approximately level area at least one hundred seventy-five (175) square feet for children's field games.
- E. The development plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood.

Section 11.12 Utilities.

11.12.1 Water Supply and Sewage Disposal. Provisions for water supply and sewage disposal shall comply with requirements of the Town of Caton, NYS Department of Health and/or NYS Department of Environmental Conservation. All habitable structures shall meet minimum requirements as identified by the Town or NYS Health Department.

11.12.2 Underground Installation. All utility companies (telephone, electric, etc.) are now equipped to make underground installation of their services; underground installation shall be required when practical.

Section 11.13 Individual Lot Manufactured Mobile Homes.

11.13.1 Temporary Location. A manufactured/mobile home used for a temporary purpose shall require a conditional use permit and meet the following requirements.

- A. Non-residential Use. A Standard Design Manufactured/mobile home to be used as a temporary business office, or construction field office may be temporarily located within any zoning district. Such temporary location, however, shall be allowed for a period not to exceed six (6) months. This time limit may be extended if in the opinion of the Code Enforcement Officer, such extension is a proper continuance of the temporary purpose.
- B. Residential Use - Emergency. A Standard Design manufactured/mobile may be used as a residence on an emergency, temporary basis on a lot where the principal residence is being constructed, or an existing residence, destroyed or damaged to the extent that it is not habitable, is being repaired, for a time period not to exceed twelve (12) months. Such temporary location, however, shall be allowed for a period not to exceed six (6) months after the principal residence is habitable. This time limit may be extended if in the opinion of the Code Enforcement Officer, such extension is a proper continuance of the temporary purpose.
- C. Residential Use: Second Principal Residential Uses. A Standard Design manufactured mobile home may be allowed as a second principal residential use on a

lot in single ownership subject to approval of a conditional use permit and the following standards:

1. *All residential setback requirements must be met by such manufactured mobile home, except that in no event shall it be situated closer than twenty (20) feet from the principal residential building.*
2. *The applicant shall justify the adequacy of the proposed water and sewer arrangement for the mobile home to the Planning Board.*
 - (a) *The Planning Board may determine upon showing of adequate data such as flow tests and quality reports that a single water supply source is adequate.*
 - (b) *In all instances, separate distinct sewage disposal systems shall be required.*
3. *The granting of a Conditional Permit shall be for a period of two (2) years, and may be renewed. Such approval shall be granted only upon evidence that the mobile home meets all provisions of the building code. Such approval may be renewed for additional two year increments at the approval of the Planning Board.*

D. Removal. A standard design manufactured/mobile home shall be removed from the property within six months after the expiration of the permit.

11.13.2 Placement of Residential Design Manufactured/Mobile Homes and Standard Designed Manufactured/Mobile Homes:

When a home meeting the criteria of a Residential Designed Manufactured/Mobile Home or Standard Design Manufactured/Mobile Homes is allowed in a residential district, it shall be regulated uniformly with site built homes in those districts. Additionally, they must meet the limitations set forth.

- A. In the event that no district requirements call for the orientation of the homes, the manufactured home shall be placed on the lot in such a manner that is compatible with and reasonably similar in orientation to the site-built housing in adjacent or nearby locations.
- B. The home must be permanently installed in accordance with the Manufacturer's Installation Manual. In the event that the Manufacturer's Installation Manual is not provided, the home, must be installed according to ANSI A225.1 (1994), Manufactured Home Minimum Installation Standards.
- C. Permanent landing and steps with handrails are required at each exterior doorway. The structure must include steps which lead to the ground level.
- D. Skirting or a curtain wall, unpierced except for required ventilation and access door must be installed and may consist of brick masonry, vinyl, or similar materials designed and manufactured for permanent outdoor installation.

11.13.3 Removal. All abandoned mobile homes shall be removed from the property within sixty (60) days of abandonment.

Section 11.14 Manufactured Mobile Home Parks.

It is the intent of the Town of Caton to provide for the development and operation of manufactured /mobile home parks in an appropriate, safe, sanitary and attractive environment. All new manufactured /mobile home park developments and improvements to or expansion of existing parks shall be considered a conditional use subject to site plan approval. Operational permits shall also be required and shall be renewed bi-annually. All existing manufactured/mobile home parks shall be required to obtain an operation permit within two (2) years of the enactment of this Law.

All construction and operation permits shall be reviewed and issued in conformance with the site plan provision of this Law. The following standards shall apply to any manufactured/ mobile home park. Existing manufactured /mobile home parks shall be required to upgrade the facility at the time of issuance of the operation permit to reasonably comply with the standards contained herein to promote the health, safety and general welfare in the Town. The Planning Board may use some discretion in the application of the standards.

11.14.1 Standards Governing Manufactured/Mobile Home Parks. Any manufactured/mobile home park shall conform to the following standards which are to be regarded as minimum requirements.

- A. Sites for mobile home parks shall be a contiguous parcel a minimum of ten (10) acres in size of which a minimum of seven (7) acres shall be buildable. The parcel shall have at least three hundred (300) feet frontage on a suitably improved public road. Where the applicant can demonstrate that the characteristics of his holding will meet the objectives of this section, the Planning Board may consider projects with less acreage or frontage. Additional park land must be contiguous to the existing park and shall not be bisected by a public road except to the extent a new such road may be approved as part of the plan
- B. Conformance with health regulations: All sanitary and health regulations, state and local shall be met.
- C. Location near residential areas: No park shall be permitted whose proposed boundaries are within two hundred (200) feet of an existing permanent residential dwelling unit, unless there exists a natural vegetation barrier or an artificial man-made screen is erected that are of sufficient height and opacity to screen the park from the residence
- D. Mobile Home Spaces: Boundaries of mobile home spaces shall be well-defined and permanently marked. Mobile home spaces shall meet the following requirements;
 - 1. *The density of development shall not exceed five (5) units per developed acre (buildable land excluding required open space).*
 - 2. *Each space shall be a minimum of eight thousand (8000) square feet buildable land with a minimum width of fifty (50) feet.*
 - 3. *No more than one mobile home shall be placed on a mobile home space.*

4. *Maximum site coverage by all buildings shall be thirty percent (30%) of the lot area.*
- E. Parking: Parking spaces shall be provided in conformance with Section 13.3. Two parking spaces shall be situated on a side yard of each lot, plus additional off-street as required for visitors. Each parking space shall have dimensions of at least ten (10) feet by twenty (20) feet. Secure outdoor storage areas shall also be provided for parking trucks, maintenance equipment, boat trailers, utility trailers and similar such equipment and vehicles. All such parking areas shall be effectively screened from roads and mobile home sites. Storage of unlicensed vehicles shall be prohibited. Except in the case of emergency, there shall be no on-street parking.
- F. Yard dimensions:
1. *Minimum front setback from public road right-of-way (r-o-w) seventy five (75) feet*
 2. *Minimum setback from pavement edge of any roadway located within the park – twenty five (25) feet.*
 3. *Minimum rear setback - 10 feet.*
 4. *Minimum side yard setback - 10 feet.*
 5. *Minimum distance between adjacent mobile homes - 50 feet.*
- G. Mobile home stand: Each mobile home lot shall contain a mobile home stand capable of containing a mobile home in a fixed position. The mobile home stand shall be graded with an impenetrable material at least six (6) inches in thickness. It may be surfaced with a layer of uniform sized crushed stone to a depth of nine (9) inches in lieu of paving. The topographic angle of the mobile home stand shall not exceed one and one-half (1-1/2) feet for the length of the stand. The elevation, distance and angle of the mobile home stand in relation to the access way shall be such as to facilitate the safe and efficient placement and removal of the mobile home. In addition, all mobile homes shall be anchored to the stand or the ground in such a way to resist forces of wind. Such anchors shall be approved by the Code Enforcement Officer.
- H. Patios: A patio, if proposed for the individual mobile home lots, shall be constructed of concrete, asphalt or similar suitable material. It shall be located so as to provide easy access to the mobile home and shall extend the full size of any awning or patio cover to allow adequate anchoring.
- I. Sidewalks: Individual sidewalks shall be constructed to each mobile home stand from a paved street or from a paved driveway or parking space connecting to a paved street. Common walks shall be constructed in a suitable layout and width as determined by the Planning Board taking into consideration the following; locations where pedestrian traffic is concentrated; for example, at the court entrance, and to the court office and other important facilities.
- J. Entrances and streets: All mobile home parks containing sixteen (16) or more mobile home lots shall have access from two points along a single street or highway, or if bordering on two streets, access may be one for each street, each such access shall be

a minimum sixty (60) ft. right-of-way, and shall be separated by a minimum of one hundred (100) feet.

1. *Streets shall be provided on the site where necessary to furnish principal traffic ways for convenient access to the mobile home stands and other important facilities on the property.*
2. *Rights of Way: Streets shall be privately owned with right-of-way widths of not less than thirty (30) feet. Interior intersections shall have rights-of-way of not less than fifty (50) feet to facilitate the turning movements of vehicles with mobile homes attached.*
3. *Street Construction: All streets within the mobile home park shall meet town highway specifications and be hard surfaced and not less than 24 feet in width.*
4. *No individual mobile home shall have direct access to a state, county or town road without first entering the mobile home park access road.*

K. Fire District Approval and Firefighting Requirements: No Conditional Use for a mobile home park shall be approved until the plans have been reviewed and approved by the appropriate fire district concerning access and availability of sufficient water. If fire district approval cannot be obtained, the Town Planning Board may require a financial contribution from the applicant toward providing fire-fighting services or facilities. Such contribution shall be reasonable and directly related to the costs of serving the mobile home park.

L. Service buildings: Each park shall provide community service buildings to house laundry facilities and other sanitary facilities, as required by the N.Y.S. Department of Health. Service buildings shall be well lighted at all times from dawn to 11:00 p.m. and capable of being lighted between 11:00 p.m. and dawn.

M. Private service building: One accessory building may be located on each site. Such building shall require a building permit and shall be placed on a permanent foundation or permanently anchored to the ground. No outside storage shall be permitted on a mobile home space.

N. Drainage facilities: The mobile home park shall be provided with a storm water in accordance with Section 13.13 Drainage Systems and Erosion Control.

O. Landscaping: The owner of a Mobile home park shall install and maintain landscaping to provide an attractive setting for mobile homes and other improvements, to provide adequate privacy, and pleasant outlooks for living units, to minimize reflected glare, and to afford summer shade. Such landscaping shall include the planting and maintenance of at least the following

1. *Every attempt shall be made to retain any existing trees four (4) inches or larger in caliper.*
2. *Trees and shrubs at suitable intervals along park streets, within recreation areas, and around park borders providing a visual screen from adjacent land uses and the public road.*

3. *Special planting to screen objectionable views such as laundry drying yards, garbage and trash collection stations, non-residential uses, and any unsightly objects or conditions on adjacent properties.*
 4. *Lawns shall be planted on all areas which are not paved or used as sites for mobile homes or buildings.*
 5. *Each mobile home space shall be landscaped*
- P. Skirts: Each mobile homeowner shall be required to enclose the bottom portion of the mobile home with either a metal, vinyl, brick or masonry skirt properly ventilated within fifteen (15) days after arrival in the park.
- Q. Open Space: Each mobile home park shall provide common, conveniently located open space for the use of the residents of the park. Such space shall be an area of at least fifty percent (50%) of the gross land area of the park.
- R. Recreation facilities: For mobile home parks designed for ten (10) spaces or more, recreation areas and facilities, such as playgrounds, ball fields, picnic areas, swimming pools, and community buildings shall be provided to meet the anticipated needs of the residents. Not less than twenty percent (20%) of the open space area shall be devoted to recreation facilities, generally provided in a location or locations convenient to all. All recreational areas shall be buildable land.
- S. Utilities: All electric utility, telephone, and cable conduit shall be installed underground and maintained in accordance with applicable codes and regulations governing such systems. An electrical connection receptacle or terminal box of an approved weather proof type shall be provided at each mobile home lot. Such receptacle shall be properly grounded and shall provide adequate voltage.
- T. Lighting: The minimum requirements for such shall be a street light at the end of a street, at any street intersection and near recreation areas.
- U. Water supply: An adequate supply of water must be available to all occupants of mobile homes in the park and the quality must be satisfactory to the New York State Health Department.
- V. Sewage disposal: An adequate and safe sewerage system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such systems shall be designed, constructed and maintained in accordance with local and state health laws.
- W. Refuse disposal: The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident of fire hazards, or air pollution.
- X. All refuse shall be stored in fly-tight, watertight, rodent proof containers, which shall be located not more than one hundred fifty (150) feet from any mobile home site. Containers shall be provided in sufficient number and capacity to properly store refuse.
- Y. Sales lot. No sales lot or area for the purpose of selling or parking mobile homes for off-site sale shall be permitted, within the mobile home park. However, mobile

homes may be sold if set up on specified lots, complete with electrical, sanitary and water services. The lots shall be landscaped and the mobile homes shall be suitable for living quarters.

Section 11.15 Excavations for Soil Mining.

Excavations for the purpose of commercial soil mining such as gravel pits, quarrying, or any subsoil removal shall be allowed in the A-R zone only by conditional permit, and shall be subject to the following provisions:

- A. Before a conditional permit is issued, the applicant shall submit to the Planning Board the following information:
 - 1. *Two copies of a map at a scale of one inch equals not more than one hundred (100) feet showing all land within two hundred (200) feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of landowners. Such map shall also show the present topography at two (2) foot contour intervals. The map shall be signed by a professional engineer or land surveyor for certification of its accuracy.*
 - 2. *Two(2) copies of the proposed plan of excavation at the same scale as above showing the proposed finished elevations at two (2) foot contour intervals and the proposed drainage plan.*
 - 3. *Two (2)copies of a reclamation plan. The plan must show the land restored to a configuration permitting reuse of the land for another purpose such as housing, industrial parks, commercial areas, parks, etc. Such a plan would illustrate road and building layout as well as final contour elevations. Pre-planning for such future use enables an efficient, sequential restoration of land as excavation progresses, thereby permitting an economically efficient operation. The plans shall be prepared by competent professionals such as architects, landscape architects or civil engineers.*
- B. Excavation operations for which a NYS Department of Environmental Conservation Soil Mining Permit is required shall obtain such permit prior to the issuance of a conditional permit by the Town.
- C. During excavation or quarry operations, open pits and quarry walls shall be entirely surrounded by a substantial fence at least six (6) feet high that will effectively block access to the area, with suitable gates provided with locks. The top of the slope shall not be closer than forty (40) feet to a property line. Suitable landscaping may also be required if appropriate to the public health, safety, or welfare. In those cases where the public health, safety, or welfare. In those cases where excavating is already in progress but has not as yet come within 40 feet of the property line, this Law shall be retroactive to prevent excavation within 40 feet of the property line.
- D. No rock crusher, cement plant, or other crushing, grinding, polishing, or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted, without prior approval of the Board of Zoning Appeals.
- E. The proposed finished grading plan shall show the land to be smooth-graded and topsoil re-spread to a minimum depth of four (4) inches; the slope shall not exceed the normal angle of

repose of the material removed but in no instance shall a finished slope exceed one (1) foot vertical to two (2) feet horizontal. Slopes shall be seeded with appropriate grasses and reforestation seedlings may be required to be planted.

- F. The applicant may be required to furnish a performance bond, in an amount determined by the Town Board to be sufficient to guarantee completion of the finished grading and drainage plan. Such bond shall be released by the Town Board only upon certification that all requirements including the finished grading and drainage have been complied with.
- G. No conditional permit for excavation operations or soil mining shall be granted for a period of more than five (5) years, but such permit may be extended for additional five (5) year periods upon approval of the Town Board. To receive such an extension, the applicant must provide plans and information showing the sequence and timing of excavation operations.
- H. Upon approval, one copy of the approved excavation plan shall be returned to the applicant by the Town Clerk together with a conditional permit upon payment of a fee as set by the Town Board resolution to cover all engineering and other costs directly attributable to the approval and office and field checking of the proposed soil mining operation.

Section 11.16 Light Industrial Use Regulations.

11.16.1 Design Standards.

- A. General Standards: The following general standards are hereby adopted for the control of any Industrial Use. No such use shall be permitted, established, maintained or conducted therein which shall cause or be likely to cause.
 - 1. *Excessive smoke, fumes, gas, dust, odor, or any other atmospheric pollutant beyond the boundaries of the lot whereon such use is located. What smoke is excessive shall be determined according to the Ringelmann's Scale for Grading the Density of Smoke, published by the U.S. Bureau of Mines, when the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart.*
 - 2. *Noise levels greater than 55 dba measured at the boundaries of the lot occupied by such use causing the same.*
 - 3. *Any pollution by discharge of any effluent whatsoever into any watercourse, open ditch, or land surface.*
 - 4. *Discharge of any effluent whatsoever into any sanitary disposal system or sewerage system except only in accordance with the rules of, and under the control of, public health authorities or the public body controlling such sewerage system. Any chemical or industrial waste which places undue loads, as determined by the Town Engineer, shall not be discharged into any municipal system and must be treated by the industrial use.*
 - 5. *Storage or stocking of any waste materials whatsoever.*
 - 6. *Glare, objectionable high light levels, or vibration perceptible beyond the lot lines whereon such use is conducted.*
 - 7. *Hazard to person or property by reason of fire, explosion, radiation, or other cause.*
 - 8. *Any other nuisance harmful to person or property.*

- B. Specific Standards: The following specific standards are hereby adopted and must be complied with, for, any industrial use before such use is permitted, established, maintained or conducted.
1. *Storage Facilities: Materials, supplies, or semi-finished products shall be stored on the rear one-half of the property and shall be screened from any existing or proposed street.*
 2. *Loading Docks: No loading docks shall be on any street frontage. Provision for handling of all freight shall be on those sides of any building which do not face on any street or proposed streets.*
 3. *Landscaping: All areas of the plot not occupied by buildings, parking, driveways or walkways, or storage shall be landscaped with lawn, trees, shrubs, or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises, and the nature and condition of the terrain, as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises.*
 4. *Fences and Walls: Property that is adjacent to a residential or business use shall be provided along such property lines, with a wall, fence, compact evergreen hedge, or a landscaped strip of trees and shrubs so designed as to form a visual screen not less than six (6) feet high at the time of planting. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six (6) foot solid masonry wall, chain link fence covered with an evergreen vine, or compact evergreen hedge. Where a front yard adjoins a street, the wall, fence, or hedge shall be located not closer to the street than the depth of the required yard.*
 5. *Off-Street Parking and Loading: Refer to Sections 11.3 and 11.4*
 6. *Signs: Refer to Section 11.5.*
 7. *Buffer Strip: In addition to the fences, walls and hedges, all principal buildings shall be set back from any lot lines abutting residential use a minimum of 100 feet. Such buffer shall be landscaped in accordance with Section 11.17.1 (b) (3).*
 8. *Utilities: All water and sewer facilities shall be designed and installed according to NYS Department of Health, Department of Environmental Conservation, and Town standards.*
 9. *Access: Special consideration shall be given to access to and from public streets and traffic volumes generated by the proposed use. Access shall not be allowed from residential streets unless a variance is approved by the Zoning Board of Appeals. A projection of expected vehicular use of neighborhood streets, including estimates of traffic volumes, shall be submitted. No access drive for any industrial use shall be within three hundred (300) feet of and on the same side of the street as a school, public library, theater, church, or other public gathering place, park, playground, or fire station unless a street fifty (50) feet or more wide lies between such access drive and such building or use.*

Section 11.17 Solar Energy Systems and Solar Access.

To the maximum extent possible, all new development proposals totaling ten (10) or more acres may be designed so that the maximum number of buildings shall receive direct sunlight sufficient for

using solar energy systems for space, water, or industrial process heating or cooling. Without major disturbance to existing vegetation, buildings and new plantings should be sited and maintained so that unobstructed direct sunlight reaches the southern exposure of the greatest number of buildings according to the following guidelines:

- A. Solar access should be protected between the solar azimuths of -45N (east of due south) to +45N (west of due south).
- B. In considering dimensional modifications permitted in Section 4.4 and Articles 7 and 8, the Planning Board shall also consider solar access and design considerations.
- C. For purposes of solar access, streets, lots and building setbacks should be designed so that the buildings are oriented with their long axes running from east to west for single-family development and north to south for townhouse and multi-family development.
- D. In order to maximize solar access, the highest densities shall, to the maximum extent possible, be placed on the south-facing slopes with lower densities sited on north-facing slopes.
- E. Streets should be oriented on an east/west axis to the greatest possible extent.
- F. Buildings shall, to the greatest extent possible, be sited as close to the north lot line or lines as possible to increase yard space to the south for better owner control of shading.
- G. Tall buildings shall, to the greatest extent possible, be sited to the north of shorter ones and be buffered from adjacent development.
- H. Existing vegetation should be retained and incorporated into the design as practicable.
- I. A description of any mechanisms, such as deed restrictions, covenants, etc. that are to be applied shall be provided.

Section 11.18 Wind Energy Conversion Systems (Windmills).

The intent of this section is to regulate the placement of and access to horizontal axis wind energy conversion systems to encourage wind energy development in the locations and circumstances under which the use may be established without detriment to the public health, safety, and welfare.

Vertical axis and other alternative design wind energy conversion systems may be subject to additional conditions set by the Planning Board specific to the alternative design.

- A. Site Plan Requirements. In addition to requirements specified in Article 10 site plan approval, the applicant shall provide the following:
 - 1. *A detailed plot and development plan drawn to scale clearly showing the following:*
 - (a) *Physical dimensions of the property, existing structures, and proposed structures,*
 - (b) *Location of all existing and proposed structures,*
 - (c) *Location of all electrical lines and facilities,*

- (d) *Existing topography,*
 - (e) *Setbacks,*
 - (f) *Methods of traffic circulation,*
 - (g) *Ingress and egress identifying the following factors:*
 - i. *Location and description of nearest publicly maintained road,*
 - ii. *Description of access route from nearest public road including:*
 - (1) *Road surface material stating the type and amount of surface cover,*
 - (2) *Width, length of access route, and location of ingress and egress,*
 - (3) *Dust control procedures,*
 - (4) *A road maintenance program or schedule.*
2. *A location map to scale of all dwellings, structures, and electric lines and facilities within one-half (1/2) mile of the boundary of the property upon which the WECS are to be located.*
 3. *Reference to any easements necessary for the proposed use of the land.*
 4. *Standard drawings of the structural components of the WECS, including structures, pole or tower, base, footings, guy lines where required, and guy line anchor bases. The drawings shall include the distance of these components from all property lines.*
 5. *Height of any structure over thirty-five (35) feet within a five hundred (500) foot radius of the proposed WECS.*
 6. *Specific information on the type, size, height, rotor material, rated power output, performance, safety and noise characteristics of each WECS model, tower, and electrical transmission equipment.*
 7. *Hazard prevention plan addressing the following features: safe electrical wiring between turbines, fire prevention plan, landscape plan to avoid fire spreading, list of any hazardous fluid and certification of containment of fluids.*
 8. *Written certification from a structural engineer that the foundation and tower (tower with the rotor and rotor-related equipment) conform with good engineering practices and comply with the appropriate provisions of the Building Code, and that the tower and rotor-related equipment are compatible.*
 9. *Written certification from an electrical engineer that the electrical system conforms to good engineering practices and complies with the appropriate provisions of the Building Code and the International Electric Code.*
 10. *Written certification from a mechanical engineer that the rotor overspeed control system has been designed for the proposed use on the proposed site and conforms to good engineering practices and complies with the appropriate provisions of the Building Code.*
 11. *Copy of written notification to each property owner within 1/2 mile of the proposed WECS.*
 12. *Utility interconnection data and copy of written notification to the utility company requesting the proposed interconnection.*
 13. *Proof of liability insurance that will cover installation and operation.*
 14. *Sign plan detailing sign dimensions, content, and locations.*
 15. *Landscape and vegetation plan, including site grading, proposed removal of vegetation, landscape design, and open areas.*
 16. *Completed Environmental Assessment Form.*

17. *A description of proposed uses, including hours of operation, number of employees, and type and volume of traffic expected to be generated.*
18. *Information sufficient to determine that the applicant has applied for and received approvals required by the FAA, FCC, and other approvals and/or permits required by relevant state and federal agencies.*
19. *Visual impact demonstrations including before and after photo-simulations and elevation drawings showing the height, design, color, and location of the proposed facility as viewed from neighboring areas.*
 - (a.) *A project visibility map, based on a digital elevation model, and showing the impact of topography upon visibility of surrounding locations out to a radius of three miles from the center of the project. The scale used shall be no smaller than 1:21,000 (11" x 17" sheet of paper), and the base map used shall show man-made features such as roads and buildings.*
 - (b.) *State-of-the-art computer simulation or Color photos, no smaller than 3" x 5" 8" x 10", of and taken from locations, selected by the Planning Board, within a three mile radius from the center of the project and computer-enhanced to simulate the appearance of the as-built site facilities as they would appear, as built from these locations. The exact number and locations of such photo simulations shall be determined by the Planning Board.*
20. *Noise impact analysis.*
21. *Avian impact analysis.*
22. *Shadow flicker model.*
23. *Applicant build-out plan. A build-out plan shall include:*
 - (a) *A map of the applicant's current facilities in the town.*
 - (b) *Potential locations for additional facilities within the next twenty four (24) months.*
 - (c) *A map of discontinued or relocated facilities.*
 - (d) *A build-out plan and certification of use of existing facilities shall be submitted by (January 31) of each year, including any further application for additional facilities.*
24. *Any other information that would enable the Board to review the project.*

B. Setback. The installation shall not be erected nearer to any lot line than the total 1.5 times height of the structure.

1. *The property line setback requirement may be reduced by the Planning Board when the following conditions apply:*
 - (a) *The property line setback requirement may be reduced by the Planning Board when the following conditions apply:*
 - i. *Both properties on each side of the lot line in question will have WECS.*
 - ii. *The owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town of Caton in which the reduced setback is*

consented to, and construction and use of the easement area is appropriately restricted.

2. *All towers with guy wire supports shall have the guy wire foundation setback fifteen (15) feet from any lot line.*
3. *Communication and electrical lines: Each WECS shall be set back from the nearest existing above-ground public electric power line or telephone line a distance of no less than 1.1 times its Total Height.*
4. *Designated scenic roads/highways: Each WECS shall be set back from a state or locally-designated scenic highway or road a distance of no less than two (2) times its Total Height.*
5. *Minimum allowable distance between installations shall be two (2) times the largest rotor diameter.*

C. Dimensions.

1. *Commercial / Industrial - Maximum allowable hub height shall be the minimum height required to be economically feasible while in conformance with these regulations not to exceed four hundred (400) feet unless otherwise prohibited by state or federal statutes or restrictions*
2. *Residential Maximum allowable hub height shall be eighty (80) feet unless otherwise prohibited by state or federal statutes or restrictions.*
3. *Minimum blade height shall be thirty (30) feet at the lowest point of arc.*

D. Safety:

1. *The foundation and supports for the windmill shall either be designed by a licensed professional engineer and the drawings bear his seal and signature, or carry a manufacturer's seal or certification.*
2. *At least one sign shall be posted at the base of the tower warning of high voltage. The applicant shall clearly post emergency number, contact information and emergency procedures in a visible location.*
3. *Tower climbing apparatus shall not be lower than fifteen (15) feet from the ground and all access doors to towers and equipment shall be lockable.*
4. *Procedures for emergency shutdown acceptable to the Planning Board and the Steuben County Emergency Management Office shall be established.*
5. *All outer/innermost guy wires shall be marked and clearly visible to a height of six (6) feet above guy wire anchors.*

E. Signs - No advertising shall be allowed except for reasonable identification of the manufacturer or operator of the wind energy facility. Educational signs and displays on wind energy may also be allowed in appropriate locations

F. Access Roads - The applicant shall minimize the number and width of access roads, minimize cut and fill on sloping terrain, and use natural terrain where feasible.

G. Noise - The maximum level of noise permitted to be 3 dBA over ambient noise levels, up to 50 dBA measured at the property line, including noise generated by braking or stopping systems.

H. Design considerations:

1. *All electric lines serving the installation shall be installed underground.*
2. *No WECS shall be artificially lighted unless to meet minimum requirements of a state or federal agency. Nighttime lighting of accessory structures and equipment shall be security level only, hooded and triggered by motion detection, or similar, to create the least amount of light, avoiding attraction of migratory birds and bats.*
3. *Color and surface treatment of the WECS and supporting structures shall be of a muted color that is consistent with the background characteristics of the site.*
4. *The applicant shall use low profile and unobtrusive building designs for on-site buildings to minimize industrial character of projects in rural or remote areas.*

I. Environmental Impacts:

1. *Migratory Birds and Bats. WECS shall be located and lighted so as to limit their adverse impacts on migratory bird and bat paths. The Town may consult with NYSDEC, the US Fish and Wildlife Service and other experts as needed.*
2. *The facility shall not have a significant adverse effect on endangered or threatened wildlife or plant species or their critical habitats.*

J. Visual Impacts:

1. *Existing on-site vegetation shall be preserved to the maximum extent possible and the site shall be replanted with native vegetation if existing vegetation is disturbed during construction.*
2. *Landscaping may be required to screen WECS from adjacent properties or public view and/or to provide a backdrop to camouflage the facilities. Additional trees and other vegetation shall be planted and maintained around the facility, in the vicinity of the project site, and along access roads in appropriate situations where such vegetation is deemed necessary to provide screening of WECS structures and related access roads.*
3. *To promote visual uniformity, turbines within a lot shall be evenly spaced and similar in appearance.*
4. *All else being equal, WECS shall be placed in a way that affects the view for the fewest number of residents from the fewest scenic resources as noted in the Visual EAF Addendum.*
5. *Placement in an existing worked landscape is preferred over location within an undeveloped natural landscape.*
6. *Shadow flicker shall not have an adverse effect off-site.*

K. Maintenance.

All WECS and accessory structures shall be kept in working order in accordance with this section. Any structure creating conditions in violation of this law (such as excessive noise) shall be shut down or repaired within forty eight (48) hours unless the Town Board grants an extension.

L. Abandonment: of Commercial/Industrial WECS

1. *Bond - The owner of commercial/industrial WECS shall post a bond or other form of security approved by the Town Board in the amount sufficient to cover the cost of WECS removal and site restoration and to be renewed annually with the Town of Caton.*
2. *Notification - The code enforcement officer must be notified within thirty days of inactivity.*
3. *Abandonment - Any commercial/industrial WECS which has not been active for one year shall be removed from the premises by owner. All associated accessories shall also be removed. The site shall be restored to preconstruction conditions. Such removal and restoration shall be completed within six(6) months after one(1) year of inactivity.*

M. Impact on Roads

The Town of Caton shall enforce Town Highway Law which prohibits damage to town roads and related structures. The owner of a WECS shall notify the Town Highway Superintendent of town roads being used for access to and egress from the site. If any damage is done to a town road and/or related structures, the owner shall pay for repair of all such damage.

Section 11.19 Home Occupation.

A home occupation, as defined in this Law, may be permitted provided such use is not specifically prohibited and conforms to the following standards which shall be minimum requirements:

- A. No more than thirty five (35%) percent of the total floor area of a dwelling unit or not more than six hundred (600) square feet of an accessory structure may be used for such use.
- B. The use shall be carried on wholly within the enclosed walls of the dwelling unit or accessory building.
- C. There shall be no external evidence of such use except for one sign not exceeding two (2) square feet in area mounted flush with and on the front facade of the dwelling unit. Stock, merchandise, equipment or displays of any kind shall not be visible outside the dwelling unit or accessory building.
- D. No external structural alterations which are not customary to a residential building shall be allowed.
- E. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- F. Any form of business, the primary function of which is the wholesale or retail sale of goods or articles at the premises, shall be deemed a commercial use.
- G. The following uses and other uses similar in character shall not be considered to meet the intent of this section:
 1. *Vehicle repair, engine repair*

2. *Vehicle body work*
3. *Veterinary hospital, kennel*
4. *Bar and restaurant*
5. *Any use that is not permitted in a Type 5 building (wood frame) construction under the NYS Uniform Fire Prevention and Building Code*

Section 11.20 Kennel Standards.

A kennel as defined in this Law may be permitted as stated in Article 4. Such use shall conform to the following standards which shall be minimum requirements:

- A. Minimum lot size – five (5) acres.
- B. Setback - the actual kennel facility and all associated runs or fenced areas shall be setback a minimum of one hundred (100) feet from an existing abutting residential use.
- C. Buffer - all kennel facilities and associated shall be adequately screened by fence, plantings or landscaping from all roads and adjacent properties.
- D. Kennel facility - shall have sufficient indoor boarding areas and associated outdoor runs to accommodate the proposed number of animals to be boarded.

Section 11.21 Satellite TV Antennas, Phone and Microwave Towers.

No satellite television antenna of any kind may be erected or established in the Town except in conformance with the standards in this section.

11.21.1 Size.

- A. For residential and business uses, satellite antennas shall not exceed twelve (12) feet in diameter within fifty (50) feet of any lot lines.
- B. For all other uses, antennas shall not exceed fifteen (15) feet in diameter within fifty (50) feet of any lot line.
- C. For residential uses, the total height of ground-mounted antennas shall not exceed twenty (20) feet above the ground.
- D. All other ground mounted installations shall not exceed the set back distance of any lot line.
- E. All uses, roof-mounted installations shall meet the requirements of the NYS Building Code.

11.21.2 Location.

- A. For any use, subject to the provisions contained herein, such antenna shall be located only in the rear yard of any lot provided that such antenna is located at least five (5) feet from any principal building and lot line. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of

the property subject to site plan approval. For purposes of this Law a usable satellite signal is a satellite signal which when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

- B. In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the dwelling structure, provided that site plan approval is obtained prior to such installation. Such permit shall be issued upon a showing by the applicant that a usable satellite signal is not obtainable from any other location on the property, and provided further, that the construction and erection otherwise is in compliance with the applicable building code and electrical code.

11.21.3 General Provisions.

- A. For all uses, satellite television antennas shall be located and designed to reduce visual impacts from surrounding properties at street level and from public streets.
- B. Not more than one satellite television antenna shall be allowed on any residential lot less than one (1) acre in size.
- C. All antennas and the construction and installation thereof shall conform to applicable building and electrical code regulations and requirements.
- D. Antennas shall meet all manufacturers' specifications, be of non-combustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.
- E. Every antenna must be adequately grounded for protection against a direct strike by lightning.
- F. All antennas shall show evidence of appropriate FCC and FAS approvals were applicable.
- G. All efforts shall be made to ensure that antennas do not create visual impacts.

Section 11.22 Townhouse and Multi-Family Developments.

All townhouse and multi-family development, as permitted in Articles 6 and 7 of this Law, shall, in addition to the requirements set forth in said section and articles, conform to the following standards. These standards shall be regarded as minimum requirements:

- A. Townhouse developments shall meet the following standards:
 - 1. *There shall be no more than eight (8) townhouse units in any contiguous group.*
 - 2. *Yard requirements:*
 - (a) *Front Yard - Minimum 30 feet (from interior project road)*
 - (b) *Rear Yard - Minimum 25 feet*
 - (c) *Side Yard - Minimum 10 feet (at ends of buildings)*

3. *All principal buildings shall be set back a minimum of fifty (50) feet from any lot line.*
4. *Maximum building height shall be three (3) stories or thirty-five (35) feet whichever is the lesser.*
5. *Maximum site coverage by all buildings and structures shall not be more than thirty (30%) of the lot area, such percentage to be calculated on the basis of the total project area.*
6. *Accessory buildings, including unattached garages, shall be located a minimum distance of ten (10) feet from any lot line and shall only be permitted in the rear or side yard.*

B. Multi-family developments shall meet the following standards:

1. *Yard requirements:*
 - (a) *No building shall be nearer than fifty (50) feet to the road line of any dedicated road peripheral to the site.*
 - (b) *No building shall be nearer than thirty (30) feet from the road line of any interior project road. In the case of non-dedicated streets and roads, this setback shall be measured from the limits of the paved area.*
 - (c) *No dwelling unit building shall be nearer than fifty (50) feet from any lot line.*
 - (d) *No accessory building, including unattached garages, shall be nearer than ten (10) feet to any lot line and shall be located in the rear or side yard only.*
2. *The maximum building height shall be three (3) stories or thirty-five (35) feet whichever is the lesser.*
3. *Maximum site coverage by all buildings and structures shall be not more than thirty percent (30)% of the lot area, such percentage to be calculated on the basis of total project area.*
4. *No building shall contain more than twelve (12) dwelling units.*

C. Minimum unit size of multi-family dwelling units:

1. *Efficiency: 550 sq. ft.*
2. *One bedroom: 700 sq. ft.*
3. *Two bedrooms: 850 sq. ft.*
4. *Three bedrooms: 1,000 sq. ft.*
5. *An additional one hundred twenty (120) sq. ft. for each bedroom shall be added for larger apartment sizes.*

Section 11.23 Gasoline Filling Stations, Service and Repair Garages, Automobile Sales Areas.

Where permitted, a gasoline filling station, service and repair garage and automobile sales areas shall conform to the following standards which shall be regarded as minimum requirements:

A. Minimum lot size shall be:

1. *30,000 sq. ft. for a gasoline filling station, service and repair garage*
2. *45,000 sq. ft. for a combination gas station, mini-mart convenience food store.*
3. *Additional lot area and setbacks shall be required as deemed to be adequate by the Planning Board to accommodate tractor trailer servicing.*

- B. Lot frontage and width shall be at least one hundred fifty (150) feet.
- C. No gasoline service station or public garage shall be located within five hundred (500) feet of any public entrance to a church, school, library, hospital, charitable institution, or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.
- D. Fuel pumps and other service devices shall be located at least thirty five (35) feet from any front lot line and fifty (50) feet from any side and rear lot lines. This distance shall be measured from the outside edge of the fuel island.
- E. All automobile parts, including tires and dismantled vehicles are to be stored within a building. Old tires that are offered for sale may be placed outside during normal business hours, but must be stored in a rack. Old tires to be scrapped or sold for junk must be stored either inside a building or behind a six (6) foot high fence, wall or natural screen.
- F. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans, and/or anti-freeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.
- G. All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period not to exceed thirty (30) days and must be stored in the rear of the premises, out of sight as much as is possible.
- H. Parking:
 1. *No vehicle shall be parked, stored or left standing within thirty-five (35) feet of the street line.*
 2. *Parking requirements shall be in conformance with Section 11.3. Such parking areas shall not conflict with the traffic pattern established for the use of the fuel pumps. Additional parking area may be required by the Planning Board to accommodate tractor trailer parking areas.*
 3. *Where parking areas abut a residential use, they shall be screened by a buffer area no less than ten (10) feet in depth composed of densely-planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six (6) feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer may direct the property owner to replace said shrubs.*
- I. All storage and display areas shall be provided with a hard, dust-free surface, shall be adequately drained and, if lighted, shall produce no glare on adjacent properties.
- J. A maximum of two driveways and curb cuts shall be permitted. These shall be no less than twenty (20) feet and no wider than thirty (30) feet, and located a minimum of thirty (30) feet

from any street intersection and a minimum distance of forty (40) feet shall be maintained between such driveways and curb cuts.

Section 11.24 Two Principal Residential Structures on a lot in Single Ownership for Agricultural Purposes.

The construction of two permanent principal residential structures on a single lot for agricultural purposes requires a conditional use permit. The lot must meet minimum lot size for each dwelling unit. The lot must also accommodate all requirements for each of the dwelling units such as parking, buffering, coverage, etc. Each residential structure, must meet all setbacks including side yards which would allow for the creation of two conforming lots. See Section 11. 13 for requirements for a Standard Design manufactured/mobile home as second principal residence.

Section 11.25 Single-Family Residences on Less than Two-Acre Lot.

A single-family residence may be permitted on less than a two-acre minimum lot as a conditional use in conformance with the following specifications which shall be considered minimum standards:

- A. The lot area shall be a minimum of one (1) acre in size.
- B. Shall have a minimum road frontage of two hundred (200) feet.
- C. All minimum setback requirements shall be met.
- D. Water and Septic Systems shall be designed and meet all standards in conformance with NYS Department of Health regulations.
- E. A minimum percolation rate of thirty (30) minutes shall be demonstrated at the site.
- F. Site shall demonstrate an average slope of less than fifteen percent (15%).

Section 11.26 Adult Uses and Adult Live Entertainment

- A. Purpose: It is the purpose of this law to regulate Adult Uses and Adult Live Entertainment Establishments, as herein defined, in order to achieve the following:
 - 1. *To preserve the character and the quality of life in the Town of Caton's neighborhood and business areas.*
 - 2. *To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased crime; loss of business for surrounding non-adult businesses; and deterioration of neighborhoods.*
 - 3. *To restrict minors' access to adult uses and adult live entertainment.*
 - 4. *To maintain the general welfare and safety for the Town of Caton's residents and the general public.*
 - i *To protect the freedom of speech/expression of the performers and guests of such establishments*

B. Allowed Zoning Districts. All Adult Uses and Adult Live Entertainment Establishments as defined herein are only permitted with a conditional use permit within the AR zoning district within the Town of Caton.

C. Location Within Allowed Zoning Districts.

1. General Restrictions *An Adult Use or Adult Live Entertainment Establishment shall be permitted only in the allowed zoning district set forth in Section 4.9 - Use regulation table, and, within such a district, shall not be allowed:*

- (a) *Within two hundred (200) feet of the boundary of any residential zoning district in the Town;*
- (b) *Within five hundred (500) feet of the property line of a residence in the Town;*
- (c) *Within one thousand (1000) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park, or playground within the Town;*
- (d) *On the same parcel as another Adult Use or Adult Live Entertainment Establishment;*
- (e) *Within two thousand five hundred (2,500) feet of the property line of another Adult Use or Adult Entertainment Establishment, bars or nightclubs whether or not such other establishment is located in the Town; or*
- (f) *Within one thousand (1,000) feet of the property line of an establishment with a liquor license.*

The above distances of separation shall be measured from the nearest exterior wall of the portion of the structure containing the Adult Use or Adult Live Entertainment Establishment.

2. Additional Restrictions. *Adult Live Entertainment Establishments may only be located on a state highway or on a private drive with direct access to a state highway.*

D. Display Prohibited. All adult uses and entertainment establishments shall be conducted in an enclosed building. It shall be a violation to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any “specified anatomical area” or “specified sexual activity”.

E. Site Design. The building may be no more than one thousand (1,000) square feet gross floor area and must be finished in muted colors.

Section 11.27 Nudist Resort(s), Camp(s), or Development(s)

A. Purpose: It is the purpose of this law to regulate Nudist Resorts, Camps, or Developments in order to achieve the following:

- 1. *To preserve the character and the quality of life in the Town of Caton’s Agricultural Residential areas*
- 2. *To protect the privacy of Nudist Resorts, Camps, or Developments*
- 3. *To protect the freedom of speech/expression of the inhabitants and /or visitors of such use*

4. *To maintain the general welfare and safety for the Town of Caton's residents and the general public.*
 5. *To mitigate the public disturbance caused by a nudist lifestyle*
 6. *and To prohibit using a nudist lifestyle as adult entertainment*
- B. Allowed Zoning Districts. All Nudist Resorts, Camps, or Developments as defined herein are only permitted with a conditional use permit within the A-R zoning district within the Town of Caton.
- C. Location Within Allowed Zoning Districts.
1. *General Restrictions be permitted only in the allowed zoning district set forth in Section 4 - Use regulation table, and, within such a district, shall not be allowed:*
 - (a) *Within two hundred (200) feet of the boundary of any residential zoning district in the Town*
 - (b) *Within five hundred (500) feet of the property line of a parcel used for residential purposes in the Town;*
 - (c) *Within one thousand (1,000) feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, daycare facility, park, or playground within the Town;*
 - (d) *On the same parcel as an Adult Use, Adult Entertainment Establishment*
 2. *Specific Restrictions - Nudist Resorts, Camps, or Developments shall abide by the following regulations:*
 - (a) *The minimum lot acreage is twenty (20) acres*
 - (b) *At no time shall nudity be viewable from outside of the property; only clothed person(s) may be viewable from the entrance and/or road frontage of the property*
 - (c) *See Section 9.8 for fences, walls, hedges or screen planting which shall be erected around the entirety of the area in which person(s) are expected to be, or appear in, the nude.*

Section 11.28 Race Track

Where permitted, a Race Track and all associated areas shall conform to the following standards which shall be regarded as minimum requirements:

- A. Applicants will present an Erosion and Sediment Control Plan to the Planning Board for review. The Erosion and Sediment Control Plan will show:
 1. That no trails will be placed across streams.
 2. That run-off contaminated with sediment and pollution will be detained and settled before leaving the premises.
- B. No trail or part thereof will be within one thousand feet (1000') of any residential property line.
- C. Light and sound nuisances will not emanate from a Race Track.

1. Between 11:00 p.m. and 7:00 a.m., operations on-site shall be indistinguishable from surrounding residential and agricultural uses.
 2. Noise generated by the facility and associated areas will not exceed 3 dbA over ambient noise levels, up to 55 dbA measured at the property line.
- D. Minimum lot size shall be ten (10) acres. Additional lot area and setbacks shall be required as deemed to be adequate by the Planning Board to accommodate tractor trailers.
- E. Minimum lot width shall be 150 feet.
- F. No Race Track shall be located within one thousand (1000) feet of any public entrance to a church, school, library, hospital, charitable institution, or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.
- G. Commercial fuel pumps and storage are prohibited on site.
- H. All vehicle parts, including tires and dismantled vehicles are to be stored within a building.
- I. Accessory goods for sale may be displayed within a building.
- J. All repair work is to be performed within a building.
- K. Parking:
1. No vehicle shall be parked, stored or left standing within thirty-five (35) feet of the street line.
 2. Parking requirements shall be in conformance with Section 11.3. Such parking areas shall not conflict with any/all required loading and unloading areas. Additional parking area may be required by the Planning Board.
 3. Where parking areas abut a residential use, they shall be screened by a buffer area no less than twenty five (25) feet in depth composed of densely-planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six (6) feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer may direct the property owner to replace said shrubs.
- L. A maximum of two driveways and curb cuts shall be permitted. These shall be no less than twenty (20) and no wider than thirty (30) feet, and located a minimum of thirty (30) feet from any street intersection and a minimum distance of forty (40) feet shall be maintained between such driveways and curb cuts.

ARTICLE 12. NON-CONFORMING BUILDINGS, USES AND LOTS

Section 12.0 Continuation of Non-Conforming Buildings and Lots.

Any lawful building, structure or use of premises existing at the time of enactment of this Zoning Law, or any subsequent amendment thereof applying to such building, structure, or use of premises, may be continued although such building, structure, or use of premises does not conform to the provisions of this Law, provided however:

- A. No non-conforming use may be expanded.
- B. No non-conforming building shall be enlarged/extended or increased unless such enlargement would tend to reduce the degree of non-conformance.

Section 12.1 Discontinuance.

- A. Any building or land which is used for or occupied by a non-conforming use and which is changed to or replaced by a conforming use, shall not thereafter be used for or occupied by a non-conforming use.
- B. When a non-conforming use has been discontinued for a period of one year, it shall not thereafter be re-established and the future use shall be in conformity with the provisions of this Law.

Section 12.2 Necessary Maintenance and Repairs.

A building or structure of non-conforming use may be repaired or restored to a safe condition.

Section 12.3 Change to Other Non-Conforming Use.

A non-conforming use of a building, structure, or land may be changed to another non-conforming use that more nearly conform to the requirements of the district in which it is situated.

Section 12.4 Construction Started Prior to this Zoning Law.

Any building or structure for which construction was begun prior to the effective date of this Law, or any subsequent amendment thereof applying, may be completed and used in accordance with the plans and specifications for such building and structure.

Section 12.5 Existing Undersized Lots.

- 12.5.1** Any lot held in single and separate ownership prior to the adoption of this Zoning Law, and whose area and/or width and/or depth are less than the specified minimum lot requirements of this Zoning Law for the district, may be considered as complying with such minimum lot requirements and no variance shall be required, provided that:

- A. Such lot does not adjoin any other lot or lots held by the same owner whose aggregate area is equal to or greater than the minimum lot area required for that district.
- B. Such lot has an area of at least five thousand (5,000) square feet and a minimum width of at least fifty (50) feet at the required setback line if it is to be used for residential purposes.
- C. Exceptions to Side Yard Requirements. The combined total side yard requirements, as specified in the Density Control Schedule, shall be reduced by six (6) inches for each foot by which a lot is less than the minimum lot width requirement specified in that Schedule for the zone in which it is located except as provided in Section 12.5. In any case, the side yard width shall be reduced to no less than fifty percent (50%) of the requirement of the Density Control Schedule.
- D. The following minimum yard dimensions are maintained for residences:
 - 1. *Side yards* - 8 feet
 - 2. *Rear yards* - 25 feet
 - 3. *Front yards* - 25 feet

When the street right-of-way width is not known, the front yard setback shall be 50 feet from the centerline of the street.

- E. No detached accessory building shall be located closer to a side lot line than five (5) feet, provided, however, that the side yard requirement for accessory buildings shall not be less than three (3) feet, if such accessory building is ten (10) feet or more to the rear of the residence building and is located behind the rear line of such residence building.

No accessory building shall be located closer to the rear lot line than three (3) feet if no easement is located along such rear lot line.

- F. All other bulk requirements for that district are complied with.

12.5.2 In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one (1) single-family dwelling.

Section 12.6 Alterations.

A non-conforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost fifty percent (50%) of the assessed value of the building unless said building is changed to conform to the requirements of this Law.

Section 12.7 Restoration.

No building damaged by fire or other causes to the extent of more than fifty percent (50%) of its assessed valuation shall be repaired or rebuilt except in conformity with the regulations of this Law. Nothing in this Law shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Code Enforcement Officer.

Section 12.8 Reduction in Lot Area.

A building permit shall not be issued for any lot that is reduced in area so that it creates a non-conforming bulk or use in violation of any regulations contained in this Law.

ARTICLE 13. GENERAL EXCEPTIONS

Section 13.0 Public Properties.

Nothing in this Law shall restrict construction or use in the exercise of a governmental function of public buildings, lands or property supported in whole or in part by taxes imposed on property in the Town of Caton.

Section 13.1 Public Utilities.

Nothing in this Law shall restrict the construction or use of underground or overhead distribution facilities of public utilities operating under the Laws of the State of New York. Any other utility facilities may be constructed subject to a conditional use permit.

ARTICLE 14. ZONING BOARD OF APPEALS

Section 14.0 Establishment and Duties.

Pursuant to Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five (5) members, shall designate its chairman, and also provide for such expenses as may be necessary and proper. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

14.0.1 Term of Appointment. Of the members of the Zoning Board of Appeals first appointed, one (1) shall hold office for the term of one (1) year, one (1) for the term of two (2) years, one (1) for the term of three (3) years, one (1) for the term of four (4) years, one (1) for the term of five (5) years, from and after his appointment. The appointment of a chairman shall be for a term of one (1) year.

Their successors shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the duration of the unexpired term.

14.0.2 Staff. The Zoning Board of Appeals may employ such clerical or other staff assistance as may be necessary, and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.

14.0.3 Rules of Procedure, By-Laws, Forms. The Zoning Board of Appeals shall have the power to make, adopt, and promulgate such written rules of procedure, by-laws, and forms as they may deem necessary for the proper execution of their duties and to secure the intent this Zoning Law.

14.0.4 Alternate Members. In the event that conflicts of interest or other causes result in the absence, disqualification, or recusal of any regularly appointed member of the Zoning Board of Appeals, the Town Board shall appoint an ad hoc member or members in such number as shall be sufficient to constitute a full board of five members for the purpose of hearing and determining a specific appeal or application pending before the Zoning Board of Appeals from which the regularly appointed members have been absent, disqualified, or recused. The term of any such ad hoc appointment shall expire concurrently with the making of a final determination by the Zoning Board of Appeals with respect to the appeal or application for which the ad hoc appointment was made. Once designated to serve on a particular matter pending before the Zoning Board of Appeals, the ad hoc member or members shall have the same powers and duties as regular members of the Zoning Board of Appeals until the matter is concluded.

Section 14.1 Powers and Duties.

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

- A. Appeals. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this Zoning Law.

- B. Variances. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Law, the Board of Appeals shall have the power to vary or modify the application of any of the regulations or provisions of such Law relating to the use, construction, structural changes in, equipment or alteration of buildings or structures, or the use of land, so that the spirit of the Law shall be observed, public safety and welfare secured and substantial justice done.

ARTICLE 15. ADMINISTRATION

Section 15.0 Enforcement.

This Law shall be enforced by the Zoning Officer, who shall be appointed by the Town Board. No building permit shall be issued by him except where all the provisions of this Law have been compiled with. He shall keep the Zoning Board of appeals advised of all matters pertaining to the enforcement of this Law other than routine duties, and shall submit a monthly report to the Town Board enumerating the applications received, inspections made, permits issued or refused, and other actions taken.

Whenever a violation of this Law occurs, any person having knowledge thereof may lay any information in regard thereto before a proper magistrate as provided by law, and the procedures thereafter shall be as set forth in the Code of Criminal Procedure.

Section 15.1 Building Permits.

15.1.1 No building or structure shall be erected, added to, or structurally altered until a permit thereof has been issued by the Code Enforcement Officer. Except on written order of the Zoning Board of Appeals, no such building permit shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Law. Further, the Code Enforcement Officer shall be satisfied that issuance of a building permit is not in violation of the Town's Land Subdivision Rules and Regulations of the Planning Board.

15.1.2 There shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this Law.

15.1.3 One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer, together with such permit to the applicant, upon the payment of a fee as set by Town Board resolution.

15.1.4 In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty percent (50%) of the fee paid, provided no construction has been commenced. If construction work has been started the application is not approved, the fees paid shall not be refunded.

15.1.5 Upon approval of the application, and upon receipt of the legal fees therefore, the Code Enforcement Officer shall issue a building permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto.

15.1.6 Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved". One set of such approved plans and specifications shall be retained in the Town files and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Code Enforcement Officer or his authorized representative at all reasonable times.

15.1.7 If the application together with plan, specifications, and other documents filed therewith, describe proposed work which does not conform to all of the requirements of the applicable building regulations, the Code Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Code Enforcement Officer shall cause refusal, together with the reasons therefore, to be transmitted to the applicant in writing.

Section 15.2 Certificate of Occupancy.

No land shall be used or occupied, and no building or structure hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy shall have been used by the Code Enforcement Officer in accordance with the provisions of this Law.

All certificates of occupancy for new or altered buildings or structures shall be applied for coincident with the application for a building permit therefore. Such certificate of occupancy shall be issued within thirty (30) days after the erection or alternation shall have been approved as complying with the provisions of this Zoning Law.

ARTICLE 16. AMENDMENTS

Section 16.0 Procedure.

The Town Board may, from time to time, on its own motion, or on petition, or on recommendation from the Town Planning Board, amend the regulations and districts established under this Zoning Law after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Town Board.

Section 16.1 Advisory Report by Town Planning Board.

Every proposed amendment, unless initiated by the Town Planning Board, shall be referred to the Town Planning Board. The Town Planning Board shall report in writing its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Town Planning Board fails to report within a period of sixty-two (62) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Town Planning Board disapproves the proposed amendment, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation, except on a vote of at least four (4) members in favor of such proposal and shall state all reasons for such decision.

Section 16.2 Public Notice and Hearing.

The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- A. By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than ten (10) days prior to the date of public hearing.
- B. By giving written notice of hearing to any required housing authority executive director, state park or parkway commissioner, chief elected officer of any adjacent municipality or county, or any other municipal, county, regional, metropolitan, state or federal agency in a manner prescribed by law.

Section 16.3 Referral to County Planning

Should any proposed amendment consist of or include any of the following conditions, the Town Clerk shall, prior to final action, refer the proposed amendment to the County Planning Department in accordance with Section 239-m of Article 12-B of the General Municipal Law:

- A. Any change in the district classification of or the regulations applying to real property lying within a distance of five hundred (500) feet from:
 - 1. *The boundary of any village or town.*
 - 2. *The boundary of any existing or proposed county or state park or other recreation area.*
 - 3. *The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway.*

4. *The right-of-way of any existing or proposed stream or drainage channel owned by the county or for which the county has established channel lines.*
5. *The boundary of any existing or proposed county- or state-owned land on which a public building or institution is situated.*

Section 16.4 Protest by Owners.

If a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of twenty percent (20%) or more of the area of land included in such proposed amendment, or by the owners of twenty percent (20%) or more of the area of land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the Town Board.

Section 16.5 Decision by Town Board.

The Town Board shall set the public hearing as required within sixty-two (62) days of the receipt of the Planning Board's report. The Town Board shall render its decision within fifteen (15) days of the close of the public hearing. If the Town Board deems it advisable, it may require as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time.

Section 16.6 Notification of Decision.

The Town Board shall notify the applicant for an amendment of its decision in writing within five (5) days after the decision has been rendered.

Section 16.7 Publication

Amendments made to the zoning ordinance (excluding any associated map) adopted pursuant to this chapter shall be entered in the minutes of the Town Board. Such minutes shall describe and refer to any map adopted in connection with such change. A copy, summary or abstract of the amendment (excluding the map(s)) shall be published once in a newspaper designated by the Town Board. An affidavit of the publication shall be filed with the Town Clerk. The Town Clerk shall maintain every map adopted in connection with a zoning ordinance or amendment.

Section 16.8 Filing with the Secretary of State.

Every amendment to this local law shall be filed with the Secretary of State of New York State and become effective five (5) days thereafter.

ARTICLE 17. REMEDIES

Section 17.0 Penalty.

Any person, firm, company or corporation owning, controlling or managing any building, structure or premises therein or whereon there shall be placed, or there exists anything in violation of any of the provisions of this Law; and any person, firm, company, or corporation who shall assist in the commission of any violation of this Law or any conditions imposed by the Town Board or the Zoning Board of Appeals; or who shall build, contrary to the plans or specifications submitted to the Code Enforcement Officer and by him certified as complying with this Law shall be guilty of an offense and subject to a fine of not more than two hundred and fifty dollars (\$250), or imprisonment for a period of not more than six (6) months, or both such fine and imprisonment. Every such person, firm, company, or corporation shall be deemed guilty of a separate offense for each week such a violation, omission, neglect, or refusal shall continue.

Section 17.1 Alternative Penalty.

In case of any violation or threatened violation of any of the provisions of this Law, or conditions imposed by the Town Board, Code Enforcement Officer, or Zoning Board of Appeals, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 18. FEE SCHEDULE

Section 18.0 A schedule of fees for all building permits and approval applications as required in this Law shall be set by Town Board resolution from time to time.

ARTICLE 19. EFFECTIVE DATE

Section 19.0 This local law shall be filed with the Secretary of State and shall become effective five (5) days thereafter.

APPENDIX A

ZONING BOARD OF APPEALS RULES AND PROCEDURES

Section 1.0 - Meeting.

All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. The Chairman, or in his presence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public to the extent provided in article seven of the New York State Public Officer's Law. The concurring vote of a majority of all members of the Zoning Board of Appeals as fully constituted regardless of vacancies or absences shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to grant a use variance or an area variance. An appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the town. When an action is the subject of a referral to the county planning agency, the voting provisions of Section 239-m of the general municipal law shall apply. Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Code Enforcement Officer within the time allowed by this section, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in this section.

Section 2.0 - Minutes.

The Zoning Board of Appeals shall keep minutes of its proceedings showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. The Zoning Board of Appeals shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Zoning Appeals shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record.

Section 3.0 - Referrals to the Town Planning Board.

When requested by the Zoning Board of Appeals, the Planning Board shall submit to the Zoning Board of Appeals its advisory opinion on said appeal or application. The Planning Board shall submit a report of the advisory opinion prior to the date of the public hearing. The Planning Board's recommendation shall make reference to the effect of the variance on the intent of the Zoning law and its relation to the Comprehensive Plan. The failure of the Planning Board to submit a report shall be interpreted as a favorable opinion for the appeal or application.

Section 4.0 - Public Notice and Hearing.

Public notice of any required hearing by the Zoning Board of Appeals shall be given in accordance with Town Law as follows:

- A. By publishing a notice of any appeal or application and the time and place of the public hearing in the official newspaper of the Town of Caton, not less than five (5) days prior to the date of such hearing.
- B. By giving written notice of hearing to any appellant or applicant, and any other such notice to property owners in an affected area as may be required by the Zoning Board of Appeals, and to the Town Planning Board, not less than five (5) days prior to such hearing. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and is included in the fee paid to the board prior to the hearing of such appeal.
- C. By giving written notice of hearing to any required Municipal, County, Metropolitan, Regional, State or Federal agency in the manner prescribed by Law.

Section 5.0 - Appeals.

The Zoning Board of Appeals shall hear and decide appeals from, and review any order, requirement, decision, or determination made by the Code Enforcement Officer under this Zoning Law in accordance with the procedure set forth herewith:

- A. Notice of Appeal shall be filed with the Code Enforcement Officer and/or the Secretary to the Zoning Board of Appeals in writing, in a form required by such Board, within sixty (60) days from the date of the action appealed from, specifying the grounds thereof and the relief sought.
- B. Upon filing of a Notice of Appeal and payment of a filing fee, as set by Town Board resolution, by the appellant or applicant, the Code Enforcement Officer shall forthwith transmit to the Zoning Board of Appeals all the paper constituting the record upon which the action appealed from was taken.
- C. The Zoning Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent or by attorney. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after the final hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent or the applicant and the board.
- D. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Code Enforcement Officer certifies to the Zoning Board of Appeals, after Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer and on due cause shown.
- E. Filing of Decision and Notice. The decision of the Zoning Board of Appeals on the appeal shall be filed with the Town Clerk within five (5) business days after the day the decision is rendered, and a copy thereof presented to the applicant.

- F. Following public notice and hearing, the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter and to that end shall have all the power of the Code Enforcement Officer. If the action by the Zoning Board of Appeals is to reverse the action of the Code Enforcement Officer in whole, the filing fee shall be refundable to the appellant.
- G. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision, or determination of the board not previously reviewed may be made by any member of the board. A unanimous vote of all members of the board present is required for such rehearing to occur. A rehearing is subject to the same notice provisions as the original hearing. Upon such rehearing, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision, or determination will not be prejudiced thereby.
- H. Compliance with State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under article eight of the environmental conservation law (NYCRR Title 6 Part 617) and its implementing regulations as codified in the title six, part six hundred seventeen of the New York codes, rules and regulations.

Section 6.0 - Variances.

- 6.0.1** Where an applicant can demonstrate that there are unnecessary hardships in the way of carrying out the strict letter of this Zoning Law, the Zoning Board of Appeals shall have the power, after public notice and hearing, to vary or modify through a variance the application of any of the regulations or provisions of the Zoning Law if the variance outweighs any possible detriment to the health, safety and welfare of the neighborhood or community by such granting. There are two types of variance which the Zoning Board of Appeals will have to act on and it is imperative that a clear distinction be made between them.
- 6.0.2** Area Variance. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the community or neighborhood by such a grant. In making such determination the Board shall also consider:
 - A. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance;
 - B. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - C. whether the requested variance is substantial;
 - D. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

- E. whether the alleged difficulty was self-created, which shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The granting of an area variance can only result in a restriction or modification which permits the applicant to use his land for one of the uses permitted in the district. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

6.0.3 Use Variance. A use variance is requested when the applicant desires to utilize the land for a use not allowed by the Zoning Law in the district. The established rule is that the Appeals Board has the power to grant a use variance only when the applicant has proved that the literal application of the Zoning Regulations has caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- A. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- B. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- C. The requested use variance, if granted, will not alter the essential character of the neighborhood; or
- D. That the alleged hardship is not self-created.

The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

6.0.4 Imposition of Conditions. Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of property. These conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact that the variance may have on the neighborhood or community.

Section 7.0 - Application.

All applications for variances shall be filed with the Secretary to the Zoning Board of Appeals in writing, shall be made in a form required by the Zoning Board of Appeals, and shall be accompanied by payment of a filing fee, and a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.

Section 8.0 - Automatic Revocation.

Any variance which is not exercised within one year from the date of issuance is hereby declared to be expired without further hearing by the Zoning Board of Appeals.

Section 9.0 - Relief from Decisions.

Any person or persons, jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Costs shall not be allowed against the Zoning Board of Appeals unless it shall appear to the court that it acted with gross negligence, bad faith, or both, or with malice in making the decision appealed from.