



# TOWN OF CATHARINE

## ZONING LAW

(INCLUDING SUB-DIVISION REGULATIONS)

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## **ARTICLE I GENERAL PROVISIONS**

Pursuant to the authority conferred by the Town Law of the State of New York, the Town Board of the Town of Catharine, County of Schuyler, State of New York, does enact as follows:

Any local law regulating all privately-owned land, size of buildings and other structures, size of yards, percentage of lot that may be occupied, the area of courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, and other purposes.

### **SECTION 1. SHORT TITLE**

This local law shall be known as and may be cited as the “Town of Catharine Zoning Local Law” for the Town of Catharine in the County of Schuyler, State of New York.

### **SECTION 2. STATUTORY AUTHORITY**

This local law is adopted pursuant to New York State Town Law § 261 and Municipal Home Rule Law §10(1)(ii)(a)(12) in order to protect and promote the health, safety, and welfare of the community. Such regulation is for the purpose of promoting the health, safety, and general welfare of the community, in accordance with the Town of Catharine Comprehensive Plan.

### **SECTION 3. GENERAL PURPOSE AND INTENT**

This local law establishes and implements regulatory powers to the ends that adequate light, pure air, convenient access and safety from fire, flood, and other dangers may be secured; that the taxable value of land and buildings throughout the Town may be conserved and enhanced; that the hazards to persons and damage to property resulting from the accumulation or runoff of stormwater may be lessened or avoided; that sites, areas, and structures of historical, architectural, and aesthetic importance may be preserved; and that the public health, safety, comfort, and welfare are promoted.

This local law is enacted to:

1. Guide and regulate the orderly growth, development, and redevelopment of the Town in accordance with a well-considered Comprehensive Plan and with long-term objectives, principles, and standards deemed beneficial to the interest and welfare of the people.
2. Protect the established character and the social and economic well-being of both private and public property.
3. Promote, in the public interest, the utilization of land for the purposes for its highest and best purpose.
4. Regulate and limit the height, bulk, and location of buildings.
5. Establish, regulate, and limit the building or setback lines on or along streets in the Town.
6. Regulate and limit the density of population and the intensity of uses of lot areas.
7. Regulate and determine the area of yards, courts, and other open spaces within and surrounding buildings.
8. Classify, regulate, and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential, or a mix of uses.
9. Divide the entire Town into districts of such number, shape, and area, and of different classes according to use of land and buildings, height and bulk of buildings, intensity of use of lot areas, area of open spaces, and other classifications as may be deemed best suited to regulate development.
10. Fix standards to which buildings or structures in such districts shall conform.
11. Prohibit uses, buildings, or structures incompatible with the character of established districts.
12. Provide regulations pertaining to pre-existing lots, structures, and uses that do not conform to the regulations, standards, restrictions, and limitations established by this local law.
13. Prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed by this local law.
14. Provide for variances from such regulations, standards, restrictions, and limitations.

15. Provide for floating zones and other uses requiring special approval, within the established districts.
16. Provide administrative bodies and procedures as shall be necessary to the implementation and enforcement of the various provisions of this local law.
17. Provide for the orderly amendment of this local law.

These provisions will be set forth to encourage the most appropriate development of the Town in accordance with the Comprehensive Plan as the same may be amended and updated by the Town.

## **II ZONING DISTRICTS AND MAP**

### **SECTION 1. ESTABLISHMENT OF ZONES**

For the purpose of this local law the Town of Catharine is hereby divided into the following zones:

AG – Rural Agricultural Zone: All private land areas in the Town of Catharine unless otherwise specified.

B - Business Floating Zone

C - Conservation Overlay District

CG – Campground Zone

MH – Mobile Home Park Zone

I - Industrial

RN - Rural Neighborhood Zone

### **SECTION 2. ZONING MAP**

- A. Map Incorporated. The boundaries of the zoning districts are hereby established on a map entitled “Zoning Map of the Town of Catharine” which map accompanies and is hereby declared to be a part of this local law.

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

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

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

### **SECTION 3. INTERPRETATION OF ZONE BOUNDARIES**

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

rules shall apply:

- A. Where the designation on the Zoning Map indicates a boundary approximately upon a road, the center line of the road shall be construed to be the boundary;
- B. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary;
- C. Distances shown on the Zoning Map are perpendicular distances from road center lines measured to the district boundary, which boundaries in all cases where distances are given are parallel to the road center line;
- D. In other cases, the district boundary shall be determined by the use of the scale of the Zoning Map.
- E. Where a district boundary divides a lot of record at the time such boundary is adopted, the district requirements of the greater portion of the lot will become the requirements of the entire lot.
- F. The Conservation Overlay areas may overlap. The Official Town Conservation Overlay Zoning maps shall be used for reference purposes only and shall not be used to delineate specific or exact boundaries of the Districts. The Town's Code Enforcement Officer shall be responsible for interpreting Conservation Overlay Zone boundaries based on an interpretation of the "Zoning Map of the Town of Catharine" as well as the use of various criteria set forth in this section for determining such district boundaries. The Town of Catharine by its designated agents or consultants may require the applicant to complete field investigations or other environmental analyses prior to site disturbance in order to determine whether or not a particular piece of property is included within the District. Where the standards and management requirements of this local law are in conflict with other laws and regulations regarding streams, steep slopes, wetlands, land disturbance activities or other environmental protective measures; the more restrictive shall apply.

### **ARTICLE III ZONE REGULATIONS**

#### **SECTION 1. APPLICATION OF REGULATIONS**

- A. This Law shall apply to all buildings and structures, land and uses within the corporate limits of the Town of Catharine, New York. No uses are permitted within any public right-of-way.
- B. All buildings and structures erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this local law which are applicable to the zones in which such buildings, structures, uses or land are located. Existing buildings, structures and uses that do not comply with the regulations of this Law shall be allowed to continue subject to the provisions of Article V relating to non-conformities.
- C. In each zone, all uses, except as already legally established at the time this local law is passed, are prohibited unless specifically permitted.
- D. No building or land hereafter, except as already established at the time this local law is passed, shall be used or occupied and no building or part hereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is to be located.
- E. No building or structure shall hereafter be erected or altered; to accommodate or house a greater number of families; to occupy a greater percentage of lot area; to have narrower or smaller rear yards, front yards, side yards or open courts; to provide for the storage or off-street parking of fewer motor vehicles; than specified herein for the district in which such building, structure or use is located.

- F. No part of a yard or other open court required about any building, structure or use for the purpose of complying with the provisions of this local law shall be included as a part of a yard or other open area similarly required for another building. The required area of the front and side yards shall not be used for complying with the requirement of off-street parking or other motor vehicle storage.
- G. All applications under this local law in the Town of Catharine shall adhere to all applicable laws, local laws and regulations including, but not limited to, the Town of Catharine Right to Farm Law and the Town of Catharine Local Law for the Prevention of Flood Damage.

## **SECTION 2. REQUIREMENTS APPLYING TO ALL ZONES**

These Requirements Applying to all zones regulate activities, uses, structures, conditions, and treatments that may be present on a property whether or not a principal structure or use is present. These requirements contribute to and promote the health, safety, comforts, conveniences and/or necessities of the property's occupants, the immediate neighborhood and/or the entire Town of Catharine community.

### **A. HEIGHT LIMITATIONS:**

No building or structure shall be erected in excess of three (3) stories or thirty-five (35) feet in height. The stated maximum height shall not apply to any of the following structures when lawfully existing, permitted, or permissible in the district:

- Chimneys, spires, belfries, cupolas, domes and silos;
- Flagpoles, radio or television antennas – located on a building and extending not more than twenty (20) feet above the roof of such building;
- Elevator and stair bulkheads – provided that such structures do not occupy more than ten (10) percent of the roof area;
- Major or Minor Solar energy systems not more than 8 (eight) feet above the roof of such building;
- Wind Energy Systems to a height of one hundred (100) feet;
- Structures required under Article 10 of the New York State Public Service Law;
- Towers and antennas specifically used to provide broadband Internet service.

### **B. AREA:**

1. **Visibility at Intersections:** On a corner lot in any district, no fence, wall, hedge, or other visual obstruction shall be erected, placed, or maintained within the triangular area formed by the intersecting center lines in a straight line joining such center lines at points which are forty (40) feet distant from the point of intersection measured along said center lines.
2. **Visibility at Driveways:** No driveway or other vehicular access to any public highway shall be constructed with less than 100 feet of visibility from a height of 5 feet above the center line of the driveway in both directions from the point where the center line of the driveway intersects with the right-of-way.

### **C. FENCES AND WALLS:**

1. The height of all fences or walls shall be measured from the average existing grade within five (5) feet of the location of the fence.
2. No fence or wall shall exceed eight (8) feet in height.
3. Fences and all supporting structures must be entirely on the property of the party erecting the fence and shall not encroach upon a public right-of-way.

### **D. LIGHTING:**

The following lighting design standards are provided to ensure coordinated, safe and functional lighting systems in each development. Site lighting requirements include:

1. Lighting plans shall make reference to standards approved by the International Dark Sky Association and the Illuminating Engineering Society of North America (IESNA).
2. No light fixture shall produce a strong, dazzling light or reflection of a strong, dazzling light or glare that is visible from any point along a lot line.
3. Soft lighting of building faces is encouraged. Building lighting should be indirect in character. Indirect wall lighting or “wall-washing” overhead down lighting or interior illumination that spills outside is encouraged.
4. Security lighting fixtures shall not project above the façade or roofline of any building and are to be shielded. Security lighting fixtures shall not be substituted for parking lot or walkway lighting fixtures and are restricted to lighting only loading and storage locations or other similar areas requiring security lighting.
5. Parking lots used after sundown shall be lighted to give protection to persons using the lot and the lights shall be directed away from the street and adjoining property.

#### E. SIGNS:

Permitted permanent signs:

1. Rural Agricultural Zone – One freestanding sign not exceeding twenty-four (24) square feet and maximum signage area of ten (10) percent of the principal building façade per lot.
2. Business Floating Zone – A maximum of forty (40) square feet of signage per lot.
3. All other zones – 1 (one) sign attached not exceeding fifteen (15) square feet in area per lot.

#### F. SIZE OF RESIDENCE:

Each residential building shall contain not less than 600 square feet of living area.

#### G. TRAVEL TRAILERS:

1. STORAGE OF TRAVEL TRAILERS: The outdoor storage of no more than two travel trailers owned and registered by the property owners is permitted.
2. TEMPORARY RESIDENCE PERMITS FOR VISITING TRAVEL TRAILERS: A Visiting Travel Trailer may be used as a temporary residence on a district lot for up to thirty (30) days during any twelve-month period.
3. OTHER RULES AND PERMITS FOR STORAGE: No more than two such travel trailers may occupy any one tax parcel. Monthly permits must be obtained for any Temporary Residence use exceeding thirty days and may be granted for a total of six months during any calendar year. A fee, based on the most recent fee schedule adopted by the Town Board, shall be payable by the applicant to the Code Enforcement Officer for each such monthly permit issued; the fee for the permit shall be waived if the parcel of land upon which the visiting travel trailer is located is owned by the same person or persons who own the visiting travel trailer. Short-term permits (2-week maximum) for the temporary placement of additional visiting travel trailers may be issued at code officer’s discretion.

#### H. NOISE CONTROL:

1. The intent of this section is to prevent unreasonably loud and disturbing noises of a character, intensity, or duration as to be detrimental to the peace, quiet, comfort, repose, welfare, and order of the people of the Town of Catharine. For these purposes, no land or lot in any zone or area of the town shall be used in a manner as allows, permits, causes, or emits unreasonable noise. Factors to be considered in determining whether unreasonable noise exists in a given situation include, but are not limited to, any or all of the following:
  - a. The intensity of the noise.
  - b. The duration of the noise.
  - c. The intensity of the background noise, if any.
  - d. The zoning district within which the noise emanates and all zoning districts that lie within 500 feet of the source of the sound.

- e. The time of the day or night the noise occurs.
- f. The proximity of the noise to sleeping facilities.
- g. Whether the noise is continuous or impulsive.
- h. The existence of complaints concerning the noise from one or more persons who are affected by the noise.
- i. Whether the nature of the noise is usual or unusual.
- j. Whether the noise is due to a natural or a human-made activity.
- k. Any other factor referenced in this § 2(H), including in the definitions hereunder.

2. Definitions: As used in this § 2(H), the following terms have the following definitions and general meanings:

DECIBEL – A unit for measuring the volume of a sound and pressure of a sound.

EMERGENCY – Any occurrence or circumstance involving actual or imminent physical or property damage which demand immediate action.

EMERGENCY SIGNAL DEVICE – Any siren, gong, whistle air horn or similar device permitted for emergency vehicle use by the New York State Vehicle and Traffic Law.

EXCESSIVE NOISE – A sound which is annoying, causes alarm, or disturbs the quiet use and enjoyment of one's life and property. Such sounds include but are not limited to: mechanically increased volume of music, the human voice, or any other mechanically enhanced sound producing or reproducing apparatus or device. Also included are any incessant or repeated sounds that have the effect of disturbing the welfare, comfort, peace and quiet, or exceed 85 decibels.

MOTOR VEHICLE – Every device or vehicle which is propelled or operated by any power other than muscular power. This definition includes, but is not limited to: automobiles, trucks, vans, motorcycles, scooters, dune buggies, all-terrain vehicles, snowmobiles, minibikes, trail bikes, scooters, **motorized watercraft**, and any other type of recreational vehicle.

PROPERTY LINE – The imaginary line (including vertical extensions) that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling that is part of a multi-dwelling-unit building (apartments, bed and breakfast, etc.)

3. Prohibited Acts

- a. Excessive noise. No person shall make, cause, or allow, permit, or continue to make (or contribute to) any excessive noise.
- b. Signaling devices. No person shall cause the sounding of any signaling device, horn, whistle, or air horn on any vehicle except as a danger warning as stated in the New York State Vehicle and Traffic Law.
- c. Motor vehicles excessive noise - No person shall operate or cause to be operated any motor vehicle in such a manner that the sound emitted is audible at a distance of 25 feet or more from the vehicle when operated or parked in a public place, or the excessive noise is audible beyond the property line when a vehicle is operated or parked on private property. No person shall operate a vehicle in such a manner as to cause unreasonable noise, such as spinning or squealing the tires of such vehicle.
- d. **Video recordings with sound will be considered prima facie evidence of a violation.**

4. Sound Reproduction Devices Used for Miscellaneous Purposes

- a. No person shall use, operate, or permit to be used or operated any radio, television, phonograph, tape or other recorder, musical instrument or other apparatus, machine or device for the production, reproduction, or amplification of sound louder than the volume necessary for convenient hearing by the person or persons voluntarily listening thereto. It shall be prima facie evidence of a violation if the sound emanating from such apparatus, machine, or device is:

1. Audible beyond the property line of the premises where it is being used from Sunday through Thursday between the hours of 10:00 p.m. and 8:00 a.m. the following day, and Friday and Saturday between the hours of 11:00 p.m. and 8:00 a.m. the following day.
2. Audible at a distance of 50 feet from such apparatus when operated in a public place.
3. Audible at a distance of 50 feet of the premises which it is being used between the hours of 8:00 a.m. and 10:00 p.m. on the same day in an area where houses or dwellings are within 100 feet of each other.
4. Audible at a distance of 50 feet when such machine or device is operated from a vehicle on a public street.
- b. The provisions of this article shall not apply to the following:
  - a. Funeral processions or use of such devices by a church.
  - b. The production of music with a parade authorized by any provision of law.
  - c. Special events such as festivals, picnics, fund raisers, races, walks, or gatherings of individuals that require special permits issued by the Town Board or Code Enforcement Officer.
  - d. The use of amplifiers or sound producing equipment associated with permitted religious, political, or athletic competition held on athletic fields within the Town.

#### 5. Exceptions

- a. Nothing in this Local law shall be construed as to interfere with the lawful activities related to Law Enforcement, Fire Department, or Emergency Services agencies.
- b. The use of snow blowers or snowplows when used in the customary manner provided that such equipment is equipped with intake and exhaust mufflers.
- c. The use of lawnmowers, leaf blowers, chain saws, tillers, mulchers, chippers, and other domestic tools for maintenance of lawns, yards, and vegetation between the hours of 7:00 a.m. and sunset.

#### 6. Permits

- a. Authorization for permit. The Town Board, in its discretion, is authorized to grant a permit for a specific waiver from the requirements of this section. Such waivers may be granted in those circumstances where the applicant demonstrates that on balance the need for and benefits of the waiver outweigh the needs and rights of the surrounding neighbors to a peaceable and quiet environment. In determining whether to grant a permit, the Town Board shall consider factors including but not limited to the volume of the noise, the proximity of the noise to sleeping facilities, the time of day or night the noise occurs, the time duration of the noise, and the impact of the noise on persons living or working in different places or premises who are affected by the noise
- b. An application for such a permit shall be filed with the Town Clerk no less than 30 days before the anticipated need and shall provide the following information:
  1. The name of the applicant.
  2. The adult person responsible for compliance with the permit, if different from the applicant, which adult person shall also sign the application and agree to be responsible for compliance with the permit terms and any conditions attached to the permit.
  3. The reasons for such usage.
  4. Plans and specifications of the use.
  5. Noise abatement and control methods to be used.
  6. Time schedule.
  7. Demonstration why the applicant cannot conform to this section.
  8. Such other information as the Town Clerk or Town Board may reasonably require to adequately consider the permit request.
- c. The Town Board may in its sole discretion waive the application filing requirement of 30 days upon good cause shown or for other unique, special, or extenuating circumstances.
- d. At the time of the filing of the permit application or applications, the applicant shall pay the Town a nonrefundable fee as set from time to time by Town Board resolution.
- e. One application may be submitted for events of a similar scope and size occurring at a single address or location within a consecutive six-month period, and any permit issued may make different decisions and impose different conditions on individual events contained within an application for multiple events.

- f. A public hearing before the Town Board shall be held in connection with the application no less than five days after publication of notice of such hearing in the Town's official newspaper. The issuance of permits shall be discretionary. The Town Board may impose any conditions deemed necessary by such Board to minimize the intrusion of sound that might occur by the exercise of the privileges granted by the permit.
  - g. Any permit issued shall state that the permit only applies to this section and all permits must contain a written warning that New York State Penal Law § 240.20(2) provides that "A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: ... he makes unreasonable noise."
  - h. If a permit is issued, a copy of the permit stipulating any and all conditions imposed by the Town Board shall be furnished to the appropriate local police of County Sheriff's Office by the Town Clerk, simultaneously upon the issuance of the permit to the applicant.
  - i. **The Town Board may, in its sole discretion, waive the holding of a public hearing.**
7. Revocation of noise permits. Noise permits may be suspended or revoked when it is determined that there is a violation of a condition under which the permit was issued, any information submitted with or in support of the permit is found to be false, misleading, or materially inaccurate, or if information submitted in connection with the permit application or with a condition of the permit was incorrect, inaccurate, or incomplete.

### **SECTION 3. AG – RURAL AGRICULTURAL ZONE**

Intent: The Rural Agricultural Zone is intended to preserve existing open-space and large lots in the Town and protect the rural character of the area that reinforces the special quality of life enjoyed by residents in Catharine. Agriculture provides the visual benefits of open space while viable agricultural operations are an important part of Catharine's economy. The creation of the Rural Agricultural Zone is intended to protect existing agricultural areas from suburban and urban development, encourage the continuation of agriculture, reduce land conflicts, and preserve open space and natural resources.

#### **A. RIGHT TO FARM**

In the AG–Rural Agricultural Zone, agriculture shall be the primary land use. Within the District any agricultural practice determined to be a sound agricultural practice by the New York State Commissioner of Agriculture and Markets pursuant to Article 25-AA, § 308, including but not limited to practices necessary for on-farm production, preparation or marketing of agricultural commodities, such as the operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; and construction and use of farm structures, shall not constitute a private nuisance.

#### **B. PERMITTED PRINCIPAL USES**

The following uses are permitted in the Rural Agricultural Zone:

1. Agricultural Uses;
2. Agriculture-related Enterprises;
3. Agricultural recreational and educational events;
4. Stabling of horses and agricultural animals;
5. Game farms, fish hatcheries and fishing reserves;
6. Animal Waste Storage Facility, subject to the requirements of Article IV, § 2: Animal Waste Storage Facility.
7. Farmworker housing that could include one single family residence on the same parcel as the primary residence. Removal of farmworker housing is required if it has not been used for such purposes for three or more years. Farmworker housing that includes more than a single-family residence requires Site Plan Review;
8. Nurseries, lawn/landscape services, orchards, greenhouses, vineyards;
9. Produce and roadside stands, including only movable or temporary structures for the sale of agricultural products grown principally by the operator during the harvest season;
10. Wildlife sanctuaries, woodland preserves, arboretums;
11. Forestry and Silviculture;
12. One- and two-family dwellings. Generally, there should be no more than one dwelling unit on a parcel. If the parcel is large enough that more than one dwelling could be situated on it, and there is no change in ownership, the Town Board may approve more than one dwelling on a parcel after a review and an advisory recommendation is received from the Planning Board;
13. One mobile home pre-inspected and approved by the Code Enforcement Officer;
14. Public utilities and communication services.

C. PERMITTED ACCESSORY USES, LOCATED ON THE SAME LOT WITH THE PERMITTED PRINCIPAL USE.

1. Storage buildings, private detached garages, carports, pool houses, gazebos;
2. Home occupations;
3. Decks
4. Terraces and patios;
5. Detention and retention ponds;
6. Signs subject to the provisions of § 2: Requirements Applying to All Districts;
7. Off-street parking for residents and guests of the principal and accessory uses;
8. Other uses and structures that are customarily incidental and clearly subordinate to the principal use.
9. Minor solar collection system
10. Farmworker housing for one single family residence on the same parcel as the primary residence. Removal of the farmworker housing is required if it has not been used for such purposes for three or more years.

D. PERMITTED USES SUBJECT TO SITE PLAN REVIEW

The following uses are allowed subject to Planning Board Review, inspection and certification by the Code Enforcement Officer, and approval by the Town Board:

1. Bed and breakfast;
2. Places of worship, and accessory religious uses.
3. Farmworker housing that could include mobile homes;
4. Public Parks;
5. Permanent farm stands;
6. Private airfields, landing strips or related facilities;
7. Public buildings;
8. Breweries, Distilleries, and Wineries;
9. Timber harvesting
10. Timber processing
11. Major solar collection system

12. Wind Energy System
13. ECHO Unit, subject to the requirements of Article IV, § 5: Echo Units.
14. Farmworker housing of more than one residence.

#### E. REQUIRED LOT AREA

1. Any structure built shall be located on a lot with an area not less than 5 acres and width of not less than 150 feet.
2. Produce and roadside stands, including only movable or temporary structures, shall be located outside of the road right-of-way and shall be set back a minimum of 10 feet from the edge of pavement of the adjacent public road and shall be limited to 200 square feet in size.

#### F. PERCENTAGE OF LOT COVERAGE

1. All buildings and structures, including accessory buildings, shall not cover more than 50 percent of the area of the lot.

#### G. YARDS REQUIRED:

Each lot shall have front, side and rear yards with depths and widths of not less than the following:

1. Front Yard Minimum: Depth 50 feet measured from curb line or edge of highway.
2. Each Side Yard: Width of 20 feet measured from property line.
3. Rear Yard: Depth 50 feet measured from property line.
4. The Side Yard on a corner lot shall be the same depth as the Front Yard depth on adjoining property.

### **SECTION 4. RN - Rural Neighborhood Zone**

Intent: The Rural Neighborhood Zone is designed to provide for the development of areas that are primarily residential in character. The purpose of the Rural Neighborhood Zone is to promote orderly development of the Town and encourage well-designed living environments which protect and stabilize the residential characteristics of existing traditionally scaled neighborhoods in the Town. Limited types of commercial uses are allowed in the zone to ensure the residential character is protected and enhanced.

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

#### A. PERMITTED PRINCIPAL USES

1. All farm uses which are permitted in the Rural Agricultural Zone on a parcel within a County-designated Agricultural district.
2. One- or Two-Family Dwellings.
3. One mobile home that has been certified under the appropriate national manufacturing code and meets all installation requirements of the Executive Law and the NYS Building and Fire Codes.
4. Multi-Family Dwellings.
5. Rooming and Boarding houses, Tourist homes, Bed and Breakfast.
6. Clubs and lodges, excepting such clubs or lodges the chief activity of which is a service customarily carried on as a business or primarily for gain. In conjunction with such a club or lodge, a dining room may be operated provided it is an accessory use to the activities of said club.
7. Neighborhood Commercial, limited to 5,000 square feet
8. Public Parks
9. Home Occupations
10. Places of worship, and accessory religious uses.

11. Public utilities and communication services.

**B. PERMITTED ACCESSORY USES LOCATED ON THE SAME LOT WITH THE PERMITTED PRINCIPAL USE.**

1. All permitted accessory uses allowed in the Rural Agricultural Zone subject to all of the regulations for such Rural Agricultural Zone.
2. Storage buildings, private detached garages, carports, pool houses, gazebos;
3. Home occupations;
4. Decks
5. Terraces and patios;
6. Detention and retention ponds;
7. Signs subject to the provisions of § 2: Requirements Applying to All Districts;
8. Off-street parking for residents and guests of the principal and accessory uses;
9. Other uses and structures that are customarily incidental and clearly subordinate to the principal use.
10. Minor solar collection system

**C. PERMITTED USES SUBJECT TO SITE PLAN REVIEW**

1. ECHO Unit, subject to the requirements of Article IV, § 5: Echo Units.

**D. REQUIRED LOT AREA**

1. Every one-family dwelling shall be located on a lot with an area of not less than 1 acre and a width of not less than 60 feet.
2. Every two-family dwelling shall be located on a lot with an area of not less than 1 acre and a width of not less than 60 feet.
3. Every multi-family dwelling shall be located on a lot with an area of not less than 1 acre plus an additional 5,000 square feet for each housing unit in excess of 4.
4. All other principal and permitted accessory uses shall be located on a lot with a width of not less than 200 feet and a depth of not less than 300 feet.

**E. PERCENTAGE OF LOT COVERAGE**

1. All buildings and structures, including accessory buildings, shall not cover more than fifty (50) percent of the area of the lot.
2. Private sewage disposal systems and other similar uses shall be not less than twenty (20) feet from any property line.

**F. YARDS REQUIRED:** Each lot shall have front, side and rear yards with depths and widths of not less than the following:

1. Front Yard: Depth 50 feet measured from curb line or edge of highway.
2. Each Side Yard: Width 20 feet measured from property line.
3. Rear Yard: Depth 50 feet measured from property line.
4. The side yard on a corner lot shall be the same depth as the front yard depth of the adjoining property.

**SECTION 5. B – BUSINESS FLOATING ZONE:**

**A. INTENT**

The intent of the Business Floating Zone is to accommodate general retail, service, finance, insurance and real estate and related structures and uses. In accordance with the Town of Catharine Comprehensive Plan, this floating zone allows the Town flexibility in defining and directing business and residential development to appropriate areas that

will leverage municipal services, existing hamlets and protect resident's quality of life.

This zone allows appropriately scaled development that enhances community character and highlights important resources, especially agricultural resources and vistas, considered important to the community. Development should be transitional in scale and character between the more rural character of agricultural areas in the Town. All commercial development proposed in the hamlet areas of the Town needs to be of appropriate scale, intensity, and character to the adjacent properties and neighborhood. Flexibility in design is encouraged but must not adversely impact the character of the hamlet area.

#### B. ELIGIBILITY

Eligible parcels may be approved and applied by the Town Board on petition of the property owner. (See Subsection F.) The floating zone can be affixed to a qualifying parcel of land, either upon approval of the application of the parcel's owner or upon the initiative of the Town Board. Upon approval, the parcel is rezoned to reflect the new use and becomes its own zoning district; its development is governed by the use, dimensional and other provisions of the floating zone regulations.

#### C. PERMITTED PRINCIPAL USES

1. Agriculture-Related Enterprises
2. Stores and shops for conducting any retail or personal services, business, and food processing plants when the products are for sale exclusively on the premises.
3. Automobile parking and garages.
4. Motor Vehicle service station.
5. Transportation facilities.
6. Public utilities and communication services.
7. Neighborhood Commercial.
8. Commercial automobile parking lots.
9. Dance halls, indoor theaters, bowling alleys, billiard rooms.
10. Wholesale trades and businesses.
11. Shopping Centers
12. Offices for veterinarians and animal hospitals
13. Junk Yards and Automobile Salvage operations operating under a valid Junk & Salvage registration and/or certificate from New York State Department of Motor Vehicles
14. Personal Care Facility
15. Major solar collection system or solar farm
16. Kennels or animal shelters
17. Day care

#### D. REQUIRED LOT AREA

1. Any building or structure in the Business Floating Zone shall be located on a lot with an area of not less than 2 acres.
2. Private sewage disposal systems and other similar uses shall be not less than twenty (20) feet from any property line.

#### E. PERCENTAGE OF LOT COVERAGE

1. All buildings and structures, including accessory buildings shall not cover more than twenty-five (25%) of the lot area. No more than forty (40%) of the lot area may be covered with impervious surfaces, including parking lots and driveways.

#### F. YARDS REQUIRED:

1. Front Yard: Buildings in the Business Floating Zone shall have front yards of not less than fifty (50) feet in depth and buildings with a frontage of two streets, not including alleys, shall have front yards of not less than fifty (50) feet in depth on both streets, with the following exception: Where the front yards have been established for at least 60 per cent of the frontage in any given block to a depth less than twenty (20) feet, the front yard requirements shall be reduced so as to conform with the existing front yard depths.
2. Side Yard: Buildings in the Business Floating Zone shall have side yards of not less than 100 feet.
3. Rear Yard: Buildings in the Business Floating Zone shall have a rear yard of not less than 50 feet.
4. Vegetated buffer: all side and rear yards that abut an adjacent property in the Agriculture Zone or the Rural Neighborhood Zone shall include a vegetated buffer not less than 10 feet wide and of sufficient height and quality to provide privacy and screening to the adjacent property. Trees in vegetative buffers and screens should be of varying species, heights and caliper when installed and vegetation in buffers and screens should be native and naturalizing plants compatible with soil conditions. Buffer planting should appear natural both in their species composition and stature.

## G. PROCEDURE.

Business Floating Zone may be approved and applied to parcels deemed appropriate in size, location, and quality by the Town Board on application of the property owner. The Town Board will be designated as the lead agency for compliance with the New York State Environmental Quality Review Act (SEQRA).

1. Preliminary master site plan. In the case of an application of a property owner requesting the establishment of an Business Floating Zone, the applicant shall submit a preliminary master site plan of the proposed development concept showing all proposed buildings and uses on the site, proposed building spacing and yard setbacks, the proposed location and design of all streets, driveways, parking lots, screening, landscaping, open spaces and recreation areas, proposed architectural features of all buildings, the relationship of the proposed development to adjacent land uses, and such other information as the Town Board may determine to be reasonably related to the health, safety and general welfare of the community. Such plans shall be accompanied by a brief analysis, in written form, explaining the proposed development concept, and the planning purposes of Subsection A: Intent. The written analysis shall address how the proposal benefits the Town and how the development will impact the surrounding neighborhood. The Town Board may waive one or more items or design details of the proposed master site plan that are otherwise normally required to be shown on the plan, if at its discretion it determines that the lack of such information is not a hindrance to its consideration of the proposed master site plan.
2. Planning Board referral. The Town Board may refer any such application to the Planning Board which shall report to it as to whether the establishment of such a zone would be in accordance with the standards contained herein and would be of benefit to the Town by satisfying the intent and purposes as set forth in Subsection A: Intent. Upon receipt, the Planning Board shall refer a copy of the proposal to other local, county, state, and regional agencies, and departments as it determines to be appropriate for their review and comment.
  - a. Preliminary meeting. The applicant and the licensed professional preparing the preliminary master site plan shall attend a preliminary, informal meeting with the Planning Board for the purpose of presenting and discussing this proposal. All property owners within 500 feet shall be notified of such meeting by the applicant at least 10 days in advance.
  - b. Report and recommendation. Following completion of its review, the Planning Board shall prepare and submit its report and recommendations within 62 days to the Town Board on at least the following:
    - i. Whether the establishment of such a zone would be in accordance with the standards contained herein; and
    - ii. Would be of benefit to the Town by satisfying the intent and purposes as set forth in Subsection A: Intent, and the Town's Comprehensive Plan.
3. Public hearing. Upon receipt of the report and recommendations of the Planning Board, the Town Board shall schedule and hold a public hearing to solicit public input. Notice of the public hearing shall be

published on at least two different dates in the press, the first publication to be not less than five nor more than 30 days prior to the date of the hearing. In addition, notice shall be posted in conspicuous place at Town Hall. A copy of such notice, with proof of mailing, shall be filed in the Town Clerk's office by the applicant on or before the date of the public hearing.

4. Town Board action. Following the close of the public hearing, the Town Board shall act to approve the proposed rezoning in conformance with the proposed preliminary master site plan, either with or without modifications, or shall disapprove the application. In the event of its approval, notification of the action taken and copies of all application materials shall be forwarded to the Planning Board for its further review and action, as appropriate.
5. Any amendment to the approved preliminary master site plan shall follow the same procedure as set forth above.

#### H. SITE PLAN REVIEW AND APPROVAL

Prior to any construction within any Business Floating Zone, application shall be made for site plan approval by the Planning Board for all or portions of the approved preliminary master site plan in accordance with Article VI – Site Plan Review Regulations.

#### **SECTION 6. I – INDUSTRIAL ZONE:**

Intent: The purpose of the Industrial Zone is to permit, where appropriate, manufacturing and other industrial facilities and to provide sufficient buffers for adjacent property owners for the health, safety and welfare of the Town. Areas may be zoned as an Industrial Zone by the Town Board or upon application for a specific proposal, all in accordance with the normal rezoning procedures and the Town's Comprehensive Plan.

##### A. PERMITTED PRINCIPAL USES

1. Any lawful manufacturing and/or industrial activity.
2. Warehouse
3. Self-Storage Warehouses
4. Research and development facilities utilizing office spaces, indoor scientific laboratories, and other similar indoor spaces.
5. Major Solar Collection system.
6. Wind energy systems.
7. Public utilities and communication services.
8. Mineral Extraction, subject to the requirements of Article V, § 3: Mineral Extraction.
9. Adult Use

##### B. PERMITTED ACCESSORY USES LOCATED ON THE SAME LOT WITH THE PERMITTED PRINCIPAL USE.

1. Accessory storage buildings
2. Signs incidental to the primary use
3. Swelling of an owner, operator, or manager, or a guard, caretaker, or custodian, provided that no more than one dwelling unit per industry shall be established
4. Guardhouse
5. Cafeteria or lunchroom incidental to and related specifically to a permitted use
6. Recreational facilities including playfields, ballfields, tennis and volleyball courts, swimming pools and fitness centers.

##### C. REQUIRED LOT AREA

1. Minimum lot area shall be at least two acres; and
2. Minimum width at the street line shall be 300 feet; and
3. Minimum depth from the street line shall be 300 feet.

#### D. PERCENTAGE OF LOT COVERAGE

1. All buildings and structures, including accessory buildings, shall not cover more than 20 (20) percent of the area of the lot.
2. Private sewage disposal systems and other similar uses shall be not less than twenty (20) feet from any property line.

#### E. YARDS REQUIRED:

Each lot shall have front, side and rear yards with depths and widths of not less than the following:

1. Front Yard: Depth 100 feet measured from curb line or edge of highway.
2. Each Side Yard: Width 100 feet measured from property line.
3. Rear Yard: Depth 100 feet measured from property line.

### **SECTION 7. MH – MOBILE HOME PARK ZONE**

Intent: The Mobile Home Park Zone is a property consisting of a tract of land maintained by an operator for mobile homes and/or manufactured homes, and buildings or other structures that may be pertinent to their use, any part of which may be occupied by persons for residential purposes other than recreation, traveling, or vacationing, and who are provided services or facilities necessary for their use of the property.

#### A. PERMITTED PRINCIPAL AND ACCESSORY USES

1. Mobile Home Parks are permitted and regulated by the New York State Department of Health (e.g., Public Health Law § 225) and the New York State Executive Law Article 21-B.
2. Only residential and related park management, recreational, and service uses shall be generally approved in a Mobile Home Park. Minor accessory uses that are more commercial in nature, such as fee-based or coin operated laundry facilities or small concession stands, may be permitted if approved by the site plan review requirements in this law.

#### B. PERMITTING REQUIREMENTS

1. No person shall operate any mobile home park or cause or allow the same to be occupied without a permit to do so from the permit-issuing official. Permit-issuing official shall mean the New York State Health Commissioner, the Health Commissioner or Health Officer of a County or part-county health district, the State regional health director or area director having jurisdiction, or any County Health Director having all the powers and duties prescribed in § 352 of the Public Health Law. The State regional health director or area director may designate the district sanitary engineer or district administrator as additional persons authorized to issue the permits required.
2. Application for a permit to operate a mobile home park shall be made to the permit-issuing official, on a form and in a manner prescribed by the State Commissioner of Health, by the person who will operate the mobile home park.
3. Application for a permit to operate a mobile home park shall be made at least 30 days before the first day of proposed operation of such mobile home park. In the event of an intended change of the operator of a mobile home park, the new operator shall apply for a permit before the change is effected.
4. The operator shall notify, in writing, the permit-issuing official of any change in the name of a mobile home park within 30 days after such change.
5. No person shall construct or enlarge for occupancy or use a mobile home park or any portion or facility thereof, or develop and improve a property for occupancy and use as a mobile home park, or convert a property for use or occupancy as a mobile home park, without giving notice in writing of his intent to do

so to the town and the permit-issuing official, at least 30 days before the proposed date of beginning of such construction, enlargement, development, improvement or conversion.

6. The notice shall be supplemented by such further information, plans or specifications as may be required by the permit-issuing official. Such plans or specifications must be approved by the permit-issuing official prior to the commencement of any such construction, enlargement, improvement, or conversion.

### C. YARDAGE AND SITING REQUIREMENTS

1. **Mobile Home Parks** may only be sited in **MH**-zoned areas.
2. Individual park and lot layouts are subject to the same form of site plan and subdivision review as are other residential developments, including as set forth elsewhere in this law.
3. Replacement of **mobile homes** or dwelling units at a **Mobile Home Park** will not be made without prior inspection and approval of the installation and the replacement trailer or unit by the Code Enforcement Officer.
4. Nothing in this **MH** zone shall prohibit, or be construed to prohibit, the placement, siting, or use of manufactured or modular housing in any other zone where residential uses are permitted, and in all cases the requirements of the applicable national manufacturing code, the Executive Law, and the New York State, building, fire, and energy codes shall apply.

## SECTION 8. CG - CAMPGROUND ZONE

Intent: A Campground is any parcel or tract of land (or contiguous parcels and tracts) including buildings or other structures, under the control of any person, where five or more campsites are available for temporary or seasonal overnight occupancy.

### A. PERMITTED PRINCIPAL AND ACCESSORY USES

1. Campgrounds are Permitted and Regulated by the New York State Department of Health (Statutory Authority: Public Health Law § 225).
2. Only residentially based campsites and camping facilities are permitted, along with related management, recreational, and service-based uses. Minor accessory uses that are more commercial in nature, such as fee-based or coin operated laundry facilities, shower and childcare facilities, or small concession stands, may be permitted if approved by the site plan review requirements in this law.
3. Overnight transient occupancies are permitted in any structure approved by site plan review, and such shall not require a separate permit to operate, even if such structure does not meet the definition of a camping unit.
4. No other use or uses as may be allowed by this subsection A. in such a configuration, density, or frequency across the parcels in any campground as cause the campground to not remain the predominant land use upon such parcel. Such determination shall be made in the discretion of the town, reasonably applied, including (but not limited to) its code and enforcement officers and town, planning, and zoning boards, and such determination may be part of, or made during, any other form of zoning or land use review, including but not limited to site plan review, special permit review, subdivision review, variance reviews, appeals, permit applications or reviews, public hearings, and requests to amend zoning or any of its boundaries.

### B. PERMITTING REQUIREMENTS:

1. The Permitting and Regulating authority is The State Health Commissioner, the health commissioner or health officer of a county or part-county health district, or the State district director having jurisdiction, or any county or public health director having all the powers and duties prescribed in § 352 of the Public Health Law.
2. Application for a permit shall be made by the operator to the permit-issuing official at least 30 days before operation or the expiration of an existing permit or a change in name of any owner or operator.
3. The permit-issuing official or representative (and the town) shall be allowed entry at any time for the purposes of inspection to any property operated as a campground.

4. No person shall construct, or enlarge for occupancy or use, a campground or any portion or facility thereof, or develop or improve a property for occupancy and use as a campground, or convert a property for use or occupancy as a campground, without giving notice in writing of intent to do so to the town and the permit-issuing official, at least 30 days before the proposed date of beginning of such construction, enlargement, development, improvement or conversion. The construction, enlargement, development, improvement or conversion of any campground, or part thereof, requires prior approval by the permitting authority and the Town, through the town's site plan review requirements.

### C. YARDAGE AND SITING REQUIREMENTS

1. Campgrounds may only be sited in a GC-zoned areas.
2. All new construction including alterations, enlargements, conversions, campsite modifications or relocation of structures, shall conform with the requirements of the Uniform Code and have safe fire lane access and required fire separations between sites and structures.
4. The owner/operator shall submit the following prior to occupancy or use of any new or newly sited facilities:
  - a. A Certificate of Occupancy issued by the Local Code Enforcement official.
  - b. A construction compliance certificate that states that all sites and facilities have been constructed in accordance with approved plans, and which grants to the Town the authority to enter the site and fully inspect the same, either generally or for compliance and verification purposes.

## SECTION 9. CONSERVATION OVERLAY ZONE

INTENT: This Conservation Overlay Zone provides special controls over land development in sensitive environmental areas. It is designed to protect vital environmental features and resources as well as Catharine residents' health, safety, welfare, and general quality of life. It establishes minimum acceptable requirements:

- Protect the streams, wetlands, floodplains, aquifers, and steep slopes in the Town of Catharine;
- Protect the water quality of watercourses, reservoirs, lakes, ponds, groundwater, and other significant water resources within the Town;
- Provide many animal and plant species suitable habitat;
- Protect Town riparian and aquatic ecosystems, the vegetative target being undisturbed native vegetation;
- Prevent public and private losses to flood conditions;
- Prevent erosion and slope failure of steep slopes;
- Provide for the environmentally sound use of Town land resources.

Conservation Overlay Zone regulations are to be superimposed on the Town's primary Zoning Districts and provide the Town with an additional level of review and regulation related specifically to the protection of identified environmental features. This additional level of review and regulation controls how land development permitted by the primary Zoning Districts should occur in sensitive or unique environmental areas. If the Town Board requires professional review of the application by designated private planning, engineering, legal or other consultants, or if it incurs other extraordinary expense to review documents or conduct special studies in connection with the proposed application, reasonable fees shall be paid for by the applicant and an escrow deposit will be required.

### A. WETLANDS

Wetlands are areas saturated or inundated by surface water or groundwater for extended periods during the year and are characterized by special soil types and plant communities. Wetland buffers are measured horizontally from the edge of the delineated wetland boundary and protect and enhance important wetland functions, including erosion control, pollutant removal, diversity of wildlife habitat, water storage, groundwater recharge, and increased aesthetic value. Wetland buffers also provide a separation that reduces human access to sensitive habitat and discourages dumping.

1. Wetlands areas are those areas delineated by the New York State Department of Environmental

Conservation in accordance with the Freshwater Wetlands Act (Article 24).

2. All wetlands delineated by the New York State Department of Environmental Conservation will have a 100' buffer.
3. Allowable uses within the wetlands shall be permitted utility rights of way and agricultural uses.
4. Allowed with Site Plan Review approval by the Planning Board:
  - a. Boardwalks intended for public use and education.
  - b. Footpaths intended for public use and education outside the edge of the wetland but within the 100-foot buffer.
  - c. Enhancement to benefit the ecosystem of a wetland following guidelines established by the New York State Department of Environmental Conservation and/or Federal Army Corps of Engineers as determined by the Town of Catharine.
  - d. The Planning Board may grant a special use permit within the Wetlands if the applicant demonstrates that the activity will not:
    - i. Impair groundwater reservoir capacities;
    - ii. Decrease watercourse flood-carrying capacities;
    - iii. Deteriorate water or air quality;
    - iv. Impair water retention capabilities;
    - v. Increase downstream siltation;
    - vi. Adversely affect the natural wildlife balance; or
    - vii. Impair any natural function of the wetland.

## B. STREAMS

A vegetative Riparian Buffer shall be required for all development activities that occur in proximity to perennial and intermittent streams. Protection shall be a riparian buffer that protects overall water quality by limiting development in accordance with the adjacent land's ability to filter sediment, nutrients, and other pollutants. This protection will provide stability to the stream and stream bank. To prevent animal waste from entering streams, the stabling of horses and agricultural animals adjacent to a stream is prohibited. Animals are to be fenced out of the stream with all runoff addressed with an appropriate collection and treatment system according to Natural Resource Conservation Service standards.

1. Riparian Buffer: The function of the Riparian Buffer is to protect the physical and ecological integrity of the portion of the riparian corridor in closest proximity to the stream through protection and enhancement of the native vegetation. Native vegetation provides shade, leaf litter, woody debris, erosion protection, and filtering of sediment, nutrient and pollutant loads to the stream.
  - a. The Riparian Buffer will begin at the top of the stream bank and extend a minimum of 50 feet horizontally measured in a direction directly perpendicular to the stream bank in a horizontal plane.
  - b. Development and use are restricted to the following, the entirety of which may not modify or interrupt more than 10% of the entire Riparian Buffer unless necessary for the protection of human health, utility usage, public infrastructure, or the betterment of the riparian corridor.
    - Benches or seating;
    - Implementation of educational and scientific research that does not negatively impact the native vegetation;
    - Flood control, stormwater management structures, and stream bank stabilization measures approved by the Schuyler County Soil and Water Conservation District, Natural Resource Conservation Service, Army Corps of Engineering, or New York State Department of Environmental Conservation;
    - Maintenance of roadways or impervious surfaces existing at the time of the adoption of this provision;
    - Stream crossings necessary to access the property by driveway, transportation route, or utility line which are designed to minimize negative impacts to the stream and Riparian Buffer;
    - Public water supply intake structures;
    - Public access and public recreational facilities that must be on the water including boat ramps,

- docks, foot trails leading directly to the stream, fishing platforms and overlooks;
- Utility easements.
- Techniques to remove invasive species;
- Non-paved recreational trails no wider than 10 feet that either provide access to the stream or are part of a continuous trail system running roughly parallel to the stream;
- Temporary use of erosion control measures such as silt fencing;
- Limited tree cutting, forestry or vegetation management done in accordance with a Forest Stewardship Plan prepared by the Department of Environmental Conservation. Any harvest must furthermore be done in accordance with the New York State Forestry Best Management Practices for Water Quality – BMP Field Guide. Tree cutting may not compromise the integrity of the stream bank or negatively impact the function of the Riparian Buffer. Tree cutting within 25 feet of the top of stream bank is prohibited. Any such activity must retain at a minimum 50% of the tree canopy in the Riparian Buffer at all times.

### C. STEEP SLOPES

1. Delineation: Steep Slope boundaries as shown on the Conservation Overlay Zone Map (Steep Slopes) includes all areas with a 15% or greater slope and, as a buffer, all areas within 50 feet of slope top, toe, and side of the slope. Such delineations may change with on-site verification.
  - a. Existing native vegetation within the buffer areas shall be maintained.
  - b. The buffer may be extended beyond these limits as required to mitigate landslide and erosion hazards, or as otherwise necessary to protect public health, safety and welfare as determined by the Town's designated agents or consultants. Any such costs incurred by the Town's agents or consultants shall be reimbursable to the Town.
2. Allowable Uses within Steep Slope boundary:
  1. Forestry
  2. Agriculture
  3. Wildlife refuges
  4. Parks and outdoor recreation and conservation areas and nature trails. In no case shall trails be constructed in such a way as to contribute to surface water runoff unless such construction is necessary to stabilize soil or to prevent soil erosion.

### D. VARIANCE PROCEDURES

Variations from the above Conservation Overlay Zone requirements may be granted only in accordance with the following provisions. Except as provided below, the Board of Zoning Appeals shall grant no variance from this local law without conducting a public hearing on the application for variance, and issue a notice of public meeting on such variance in a newspaper of general circulation in the municipality at least ten working days prior to such hearing. Such notice shall be forwarded at least ten working days in advance by a registered letter to the superintendent of highways or commissioner of public works, to the clerk of the county legislative body, and to the Schuyler County Planning Department.

1. A variance shall be granted only upon a finding that a property's shape, topography or other physical conditions prevents land development unless a variance is granted, or that strict adherence to the minimal buffer and setback requirements would create extreme hardship.
2. A variance request shall include the following information in written documentation:
  - A to-scale site map with stream, wetlands, slopes and other natural features locations as determined by field survey;
  - Description of the topography, slopes and soil type, shape of property, natural vegetation, and other distinguishing or prohibitive physical characteristics of the property;
  - The locations and footprint of all existing structures and other impervious cover on a site map, with footprint for proposed structures. This map shall include the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback;

- The exact area of the affected buffer and setback, and nature of proposed changes to be made to these areas shall be accurately and clearly indicated. A calculation of the total area and length of the proposed intrusion and any pre-existing intrusions shall be included;
  - A stormwater management plan given the proposed changes and intrusions;
  - Documentation of supposed hardship should the buffer be maintained;
  - Proposed mitigation for the intrusion.
3. The following matters will be considered in determining whether to issue a variance:
- The shape and physical characteristics of the property;
  - The locations of all streams on and/or adjacent to the property;
  - The location and extent of the proposed buffer or setback intrusion;
  - Whether alternative designs are possible which require less intrusion;
  - The water quality impacts of the proposed variance.

## **ARTICLE IV ADDITIONAL REQUIREMENTS FOR SPECIFIED USES**

### **SECTION 1. PURPOSE**

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

### **SECTION 2. ANIMAL WASTE STORAGE FACILITY**

#### **A. INTENT**

The Town of Catharine recognizes that many farm operations produce animal waste that, as a necessity, must be stored short or long term in an Animal Waste Storage Facility such as a lagoon or tank. Proper planning and construction of farm-related Animal Waste Storage Facilities ensures the continued protection of groundwater resources within the Town.

#### **B. REGULATIONS FOR ANIMAL WASTE STORAGE FACILITY**

1. Animal Waste Storage Facilities shall be allowed only on a viable farm or agricultural operation as defined by NYS Department of Agriculture and Markets Law.
2. Animal Waste Storage Facilities shall obtain a building permit prior to being constructed and operated. Design plans shall be submitted with every building permit application for a farm-related Animal Waste Storage Facility. All plans for farm related Animal Waste Storage Facilities shall be designed by and stamped with the seal of a New York State licensed design professional.
3. Animal waste storage facilities shall be designed, constructed, and maintained in accordance with the USDA Natural Resources Conservation Service (NRCS). A proposal may be submitted to SCSWCD or NRCS in order for the Planning Board to consider the potential impacts posed by such a facility upon surrounding land uses prior to taking final action.

#### **C. SITE REQUIREMENTS**

All Animal Waste Storage Facilities shall be installed, operated, and maintained pursuant to the following conditions:

1. Animal Waste Storage Facilities shall be placed a minimum of 50 feet from a road right-of-way, but shall not be set closer to the right-of-way than the nearest permanent structure being served.

2. Animal Waste Storage Facilities shall be placed a minimum of 30 feet from a side or rear property line. Animal Waste Storage Facilities shall be placed a minimum of 100 feet from an existing occupied residential or non-agricultural building.
3. Unlined Animal Waste Storage Facilities shall be placed a minimum of 300 feet from any existing well, watercourse, or water body.
4. Lined Animal Waste Storage Facilities shall be placed a minimum of 100 feet from any existing well, watercourse, or water body.

#### **D. PERMIT APPLICATION REQUIREMENTS**

All applications for Animal Waste Storage Facilities shall comply with following:

1. A completed permit application shall be submitted to the Code Enforcement Officer. No fee is required.
2. A site map shall be provided at the time of application which shows the location of the proposed Animal Waste Storage Facilities and distances to all buildings, property lines, water courses, water bodies, wetlands and existing wells.

### **SECTION 3. MINERAL EXTRACTION**

Except where incidental to the construction of a building on the same lot, the excavation, extraction, processing, or sale of top soil, earth, sand, gravel, clay, or other natural deposits are subject to the following standards:

1. Such activity shall not endanger the stability of adjacent land, structures, streets, waterways, other property or water table.
2. The mining and reclamation plan prepared for the Department of Environmental Conservation review shall also be reviewed and found acceptable by the Town Board, including:
  - a. setback from property lines and rights-of-way
  - b. barriers to restrict property access
  - c. dust control
  - d. hours of operation
  - e. enforcement of reclamation requirements contained in the DEC permit
  - f. Excavation applications shall be accompanied by a restoration and rehabilitation plan.
  - g. Bonding will be required by the Town when not required by DEC.
3. Setback: Excavation activities shall be set back one hundred (100) feet from any property line or public road.
4. Excavation activities shall be designed and conducted so as not to cause any excessive dust, noise, traffic, or other conditions inappropriate for the neighborhood in which it is located.
5. A haul route management plan shall be submitted to the Town Board showing ingress and egress to locally controlled roads and routing of mineral transport vehicles on locally controlled roads.
6. No excavation shall endanger the stability of adjacent land or structures.
7. All excavation activities shall be screened from the view of public roads and all residential structures, as approved by the Town Board.

### **SECTION 4. WATER SUPPLY AND SEWAGE TREATMENT**

The source of water supply and the method of sewage treatment must be in accordance with the requirements for the same as promulgated and established by the New York State Department of Health and Schuyler County Watershed Department. Sewage treatment systems must be in accordance with the requirements as dictated by the Town of Catharine Septic Law where applicable.

### **SECTION 5. ECHO UNITS**

- A. The Town of Catharine recognizes the importance of providing for the installation of elderly cottage housing opportunity (ECHO) units on the same lots with single-family dwelling units in the Rural Agricultural (AG) and the Rural Neighborhood (RN) Zones.
- B. Application requirements:
  - 1. The applicant must apply for Site Plan Review and certify that he or she understands that the ECHO unit is issued solely for the use of the named occupants; has made plans for the removal of the unit; agrees to provide the annual recertification required by this section; and recognizes the possible sanctions for failure to promptly remove the ECHO unit upon termination or revocation of the Site Plan approval.
- C. Occupancy requirements:
  - 1. At the time the site plan approval is issued, at least one intended occupant of the ECHO unit must be at least 60 years of age, and any other occupant must be at least 55 years of age. Subsequently, if the occupant who is 60 no longer occupies the ECHO unit, and all other conditions continue to apply, occupancy may be continued for the other occupant, even if the person is less than 60 years of age.
  - 2. At least one occupant of the principal dwelling and at least one occupant of the ECHO unit must be related by blood, marriage, or adoption.
  - 3. In no case shall there be more than two occupants of an ECHO unit.
  - 4. The Certificate of Occupancy shall be issued to the owner of the principal dwelling and lot and shall specify the occupants of the ECHO unit by name.
- D. Number of dwelling units per lot.
  - 1. ECHO units shall only be placed on a lot with a single-family dwelling, limited to one ECHO unit per lot.
- E. Removal. The ECHO unit shall be removed within one year of the date its occupancy ceases to comply with the requirements of this section [i.e., death or permanent change of residence of the original occupant(s) of the ECHO unit]. Once the ECHO unit is removed, the site shall be restored so that no visible evidence remains of the ECHO unit and its accessory elements. If the ECHO unit has not been removed by the end of this 180-day period, in addition to the existing penalties of this chapter, additional actions may be taken to ensure removal, including removal and salvage by the town with a lien imposed to defray any costs incurred. The Planning Board, upon a showing of extraordinary circumstances making removal of the ECHO unit impossible during the ninety-day grace period, may grant one extension of up to 90 days for removal of the ECHO unit.
- F. Annual recertification. Each year, two weeks prior to the anniversary date of the original issuance of a permit for an ECHO unit, the property owner shall provide certification to the Code Enforcement Officer that all the terms, conditions and requirements associated with said Site Plan approval are being fully complied with.
- G. Failure to remain in compliance with the requirements set forth in this section may result in revocation of the Certificate of Occupancy.

**ARTICLE V  
NON-CONFORMING USES, BUILDINGS, STRUCTURES**

**SECTION 1. NON-CONFORMING USES AND STRUCTURES:**

The lawful use of any building, structure, or land at the time of the enactment of this local law may be continued although such use does not conform with the provisions of this local law. Such use is hereby designated as a non-conforming use.

- A. This Section regulates and limits the continued existence of uses, structures, lots and signs established prior to the effective date of this Law that do not conform to the regulations of this Law applicable in the zoning districts in which such non-conformities are located.
- B. The zoning districts established by this Law are designed to guide the future use of the Town's land by encouraging

the development of appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare.

- C. The continued existence of certain non-conformities is frequently inconsistent with the Town's Comprehensive Plan and thus the gradual elimination of such non-conformities is desirable. Other non-conformities may continue to exist and afford adaptive reuse opportunities that can contribute to neighborhood character, diversity and services.
- D. The regulations of this Section are intended to restrict further investments that would make non-conformities more permanent in their location in inappropriate districts as well as to afford opportunities for creative use and reuse of those other non-conformities that contribute to a neighborhood and are consistent with the goals of the Town's Comprehensive Plan, and accordingly, the following rules shall apply:
  - 1. BUILDINGS OR STRUCTURES
    - a. Any building or structure or portion thereof declared unsafe by a proper authority may be strengthened or restored to a safe condition.
  - 2. ALTERATIONS
    - a. No structure shall be structurally altered or enlarged unless the use conforms thereafter to the use regulations of the zoning district in which it is located. No parking, yard or space and bulk nonconformity may be created or increased.
  - 3. RESTORATION
    - a. A non-conforming building either destroyed or damaged may be reconstructed providing there is no change in usage.
    - b. Such reconstruction must be commenced within one year from the time of damage or destruction.
  - 4. CERTIFICATE OF OCCUPANCY
    - a. Each property owner shall be responsible for compliance with all terms of this local law affecting his property including restrictions or changes of use. Upon application and inspection or explanation satisfactory to the Code Enforcement Officer such property owner shall be entitled to a Certificate of Occupancy certifying that the occupancy or proposed occupancy complies with this local law.
  - 5. DISCONTINUANCE
    - a. Whenever a non-conforming use has been discontinued and abandoned for a period of one year such use shall not thereafter be re-established and any further use shall be in conformity with the provisions of this local law.
    - b. For the purpose of this Section, the following circumstances, which shall not be exclusive, shall contribute towards evidence of discontinuance or abandonment of a use:
      - 1. Failure to maintain equipment, supplies or stock in trade, which would be used for the active operation of the use; or
      - 2. Failure to maintain utilities which would be used for the active operation of the use; or
      - 3. Failure to pay taxes, including, but not limited to sales taxes, workers' compensation taxes, corporate taxes, etc., that would be required for the active operation of the use; or
      - 4. Failure to maintain required local, state or federal licenses or other approvals that would be required for the active operation of the use. Prior to a determination by the Code Enforcement Officer, based upon evidence of any of the above circumstances or other relevant evidence that a nonconformity has been discontinued or abandoned, the owner or operator shall have the opportunity to apply for a Certificate of Nonconformity and, thereby, establish by relevant and credible evidence that the use has not been discontinued or abandoned.
  - 6. EXISTING VARIANCES AND SPECIAL PERMITS
    - a. Any Variance, Special Exception, or Special Use Permit lawfully issued prior to the effective date of this Law, or any amendment thereof, shall be deemed to be and continue valid after such effective date. Any structure or use lawfully authorized by any such Variance or Special Permit that could not be so issued after such effective date shall be allowed to continue subject to the provisions of Article V dealing with lawfully existing nonconformities.

## **SECTION 2. ENFORCEMENT:**

This local law shall be enforced by the Code Enforcement Officer. No building permit application shall be approved by the Code Enforcement Officer nor shall a building permit be issued for any purpose except in compliance with the provisions of this local law, and such other local laws, rules and regulations of the Town currently in force at the time of application.

## **ARTICLE VI SITE PLAN REVIEW REGULATIONS**

### **SECTION 1. PURPOSE AND ESTABLISHMENT**

The purpose of Site Plan Review is to provide for the review and approval of development plans to ensure that land development occurs in harmony with surrounding uses and the Town of Catharine Comprehensive Plan, without adversely impacting neighboring parcels, property values, public facilities, infrastructure, or the natural environment. The Planning Board is hereby charged with carrying out the review and approval functions provided for in Town Law § 274-a: to review and approve, approve with modifications and conditions, or disapprove site plans.

### **SECTION 2. SUBMISSION REQUIREMENTS**

The requirements set forth in this section shall apply to all construction, activities, uses, or developments that are referred to elsewhere in the Zoning Law as requiring site plan approval. Before a building permit can be issued for any of the structures for which site plan review is required, a site plan must be approved by the Planning Board in accordance with these and other applicable provisions.

No building permit shall be issued for any proposed improvements that would be in violation of use restrictions, required yard setbacks, lot coverage limits or any other provisions of the Zoning Law. Any change of use of an existing structure to a use that requires site plan approval shall be subject to the requirements of this article.

In addition, and supplementing such provisions, the requirements of this article shall also apply to the following actions except as to those actions specifically exempted, or for which alternative specific Site Plan Review and approval requirements are established, elsewhere in this chapter:

- All new commercial, industrial or institutional development, including any project that will involve soil disturbance of one or more acres, including timber harvesting and processing activities.
- All new multi-family dwellings.
- Any modification of existing commercial, industrial, institutional, or multi-family dwellings, for which no previous site plan exists.
- Any expansion of existing commercial, industrial, institutional, or multi-family dwellings which involve an increase in the gross floor area of an existing building by more than 10% in the aggregate since any previous site plan approval.
- Any conversion of an existing residential structure to a nonresidential use (except as may have occurred in connection with a home occupation established in conformity with the provisions of this chapter).
- Any conversion of an existing nonresidential structure into a residential structure containing three or more dwelling units.
- Any modification to an existing residential structure which increases the number of dwelling units in the building to three or more dwelling units.
- Any change of an existing nonresidential building from one type of use specified in this chapter to another (e.g., conversion of a commercial structure to an industrial facility or conversion from a warehouse to a restaurant).
- Any other modification to any facility or structure not set forth in the preceding subsections, for which final site plan approval was or is presently required by the terms of this chapter or any modification to any previously approved site plan, except as otherwise authorized below.

### **SECTION 3. BOARD REVIEW AND SKETCH PLAN**

A. Sketch Plan Conference. The sketch plan conference with the Planning Board shall precede the submission of a

detailed site plan. The purpose of the sketch plan conference is to allow the Planning Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required in the detailed site plan. A sketch plan conference will be scheduled at the next Planning Board meeting after the Code Enforcement Officer deems the sketch plan materials are complete. The applicant must submit the following materials:

1. Completed and signed application form, including a description of proposed project;
  2. Payment of all application fees, based on the most recent fee schedule adopted by the Town Board;
  3. Completed and signed Part I of the Short Environmental Assessment Form (SEAF) or Long Environmental Assessment Form (LEAF), whichever is required;
  4. Completed and signed Agricultural Data Statement (for properties containing or within 500 feet of a farm operation located in a County-designated Rural Agricultural Zone);
  5. Written approval from the owner to submit the sketch plan, if not the owner of the land under consideration.
  6. Digital and seven (7) paper copies of the following materials:
    - a. Brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and any anticipated changes in the existing topography and natural features;
    - b. Sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements, and other pertinent features within 300 feet;
    - c. Topographic or contour map to adequate scale and detail to show site topography and natural features such as Unique Areas, Critical Environmental Areas, and all streams and wetlands or evidence of these such as hydric soils or vegetation indicative of wetlands;
    - d. Conceptual stormwater management plan that outlines the approach to manage runoff and its post-construction treatment on the site.
- B. At the sketch plan conference, based upon the information provided, the Planning Board will determine any and all additional information required in the detailed site plan, and whether a public hearing will be required. A detailed list of necessary materials for a detailed site plan will be listed in the meeting minutes.
- C. At the completion of the sketch plan conference, the Planning Board will determine which of the following public notices will be required:
1. Signage provided by the Code Enforcement Officer or Town Clerk to be posted at the site by the applicant in a manner that is readily visible to the public from the nearest adjacent public road at least ten (10) days prior to subsequent review of the site plan materials;
  2. Notice of Site Plan Review (or public hearing) to be mailed to the owners of record as of the last filed assessment roll within 500 feet of the subject property at least five (5) days prior to the date of the meeting;  
or
  3. Notice of Public Hearing (See § X.5 below).
- D. The Planning Board may, in appropriate cases and after review of the sketch plan and materials, waive further preliminary review or any specific site planning requirements based upon the information provided in the sketch plan. Detailed site plan materials shall then be delivered to and reviewed by the Code Enforcement Officer in order to determine completeness. When deemed complete, the Code Enforcement Officer will schedule a Site Plan Review meeting and public hearing, if required by the Planning Board. The applicant shall supply all necessary materials for Site Plan Review including digital and paper copies of plans as required by the Code Enforcement Officer.

#### **SECTION 4. BOARD REVIEW, SITE PLAN REVIEW**

At or following the Sketch Plan conference, the Planning Board may request that the applicant provide more information, including, but not limited to any or all of the items from the following checklist. In determining the information it will require, the Board may consider the type of use, its location, and the size and potential impact of the project.

- A. Site plan checklist:

1. Names and addresses of all owners of record.
2. A detailed site plan showing all integral elements within 300 feet of the proposed project site, including but not limited to:
  - a. Project title and address.
  - b. Property lines for the site, including easements, rights of way, and metes and bounds.
  - c. Locations of adjacent public and private streets and highways.
  - d. Approximate size and locations of all existing and proposed buildings and structures, including locations of access drives, parking and pedestrian facilities, and off-street loading facilities.
  - e. Existing vegetation and proposed landscaping.
  - f. Existing and proposed overhead and underground utilities.
  - g. Location and design of all water and sewerage facilities.
  - h. Location of all existing streams or drainage ways, water bodies, wetlands, and drain tile (if available).
  - i. Proposed sign(s) including size, height, and location.
  - j. Proposed exterior lighting.
  - k. Elevation plans at an appropriate scale for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features.
  - l. Dates (and revision dates) on drawings.
  - m. North arrow, numeric, and graphic scale on drawings.
  - n. Current zoning and zoning boundaries of the site.
  - o. Land uses, adjacent public and private roads, and significant features within 200' of the site
  - p. Existing and proposed utilities, including location, size, and flow direction of water supply lines, on-site wastewater treatment systems and/or sewers, and culverts. Electric, gas, and telephone lines should also be shown.
  - q. Proposed planting plan and planting schedule, including (native, non-invasive) plant species and variety, size, and quantity specified.
  - r. Construction phasing lines.
  - s. Construction staging area.
  - t. Existing contours and hydrological and topographical features within 50' of the site, including drainage and runoff patterns, flood hazard areas, wetlands, and average depth to groundwater.
3. For new construction or alterations to any existing building, a table containing the following information must be included that shows:
  - a. area of building to be used for a particular use, such as retail operations, office storage, etc.;
  - b. maximum number of employees;
  - c. maximum seating capacity, where applicable;
  - d. number of parking spaces existing and required for all intended uses; and
  - e. estimated type and volume of traffic.
4. Site topography showing contours at an interval appropriate for the site, ten (10) foot interval is recommended.
5. Stormwater Pollution Prevention Plan (SWPPP), as required by law.
6. Proof of applications to or approvals from any federal, state or county agency from which a permit may be required. In addition to the above, the Planning Board may require other information related to the proposal, including but not limited to:
  - a. Detailed traffic study for large developments or developments, to include:
    - the number of motor vehicle trips projected to enter or leave the site, estimated daily and peak-hour traffic levels;
  - b. The projected traffic flow pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
  - c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities (existing and proposed daily and peak-hour traffic levels as well as road capacity levels shall also be given)
7. Where applicable, historical and cultural resources study completed to standards set forth by the State Historic Preservation Office.
8. If the proposed project includes dwelling units, the Planning Board may, in accordance with the provisions

and requirements of Town Law § 274-a or any similar or successor law, require a park or parks suitably located for playground or other recreational purposes to be shown on the site plan, or, to the extent permitted by § 274-a, require monies in lieu of parkland.

- B. Special Rules for Site Plan checklist for farm operations in a Schuyler County-adopted, State-certified Agricultural District: In lieu of the formalities of a full site plan and full checklist compliance, in any qualifying Agricultural District a farm operation need only submit the following:
1. Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways. Show the existing features of the site including land and water areas, water or sewer systems and the approximate location of all existing structures on or immediately adjacent to the site.
  2. Show the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic. Show the proposed location and arrangement of specific land uses, such as pasture, crop fields, woodland, livestock containment areas, and manure storage/manure composting sites and Animal Waste Storage Facilities.
  3. Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views. Include copies of any available blueprints, plans or drawings.
  4. Provide a description of the farm operation (existing and/or proposed) and a narrative of the intended use and/or location of proposed buildings, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.
  5. If any new structures are going to be located adjacent to a stream or wetland provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
- C. An application form and fee shall be submitted on forms provided and periodically updated by the Town, and the fee due shall be calculated or determined in accordance with a fee schedule approved and periodically updated by the Town Board.
- D. Referral to County Planning is often required under General Municipal Law (GML) Article 12-b, § 239-l, -m and -n, which generally requires that Site Plans be referred to Schuyler County Planning for review prior to a local decision. The requirement seeks to promote coordination of land use decision-making and to enhance consideration of potential inter-municipal and county-wide impacts.
- E. Site inspections shall be allowed and permitted at any reasonable time, and the submission of a development application authorizes the Planning Board, Code Enforcement Officer, or any Town Official they may designate, to enter the property for the purpose of inspection and enforcement of the Zoning, building, and health laws.

## **SECTION 5. BOARD ACTION**

No approval or approval with conditions shall be granted until the Board determines that the applicant is in compliance with all other provisions of this local law and other applicable laws and ordinances.

- A. Public Hearing.
1. The Planning Board may hold a public hearing, which shall be conducted within sixty-two (62) days from the day the site plan materials are deemed complete by the Code Enforcement Officer;
  2. In determining whether a public hearing is necessary, the Board shall be guided by the expected level of public interest in the project;
  3. Applicants may request a Public Hearing. When an applicant requests a Public Hearing, no site plan review may be disapproved without such a hearing;
  4. The Applicant shall be informed of the Public Hearing date by the Code Enforcement Officer at least ten (10) days before said hearing;

5. Notice of the Public Hearing shall be advertised in the official newspaper at least five (5) days prior to the date of said Public Hearing, and the applicant shall be billed by the official newspaper;
  6. Notice of the Public Hearing shall be mailed to the owners of record as of the last filed assessment roll within 500 feet of the subject property at least five (5) days prior to the Public Hearing.
  7. Farm buildings and structures within a State-certified Agricultural District do not require a Public Hearing.
- B. The Planning Board shall make a decision on the site plan within sixty-two (62) days after the Public Hearing, or sixty-two (62) days after the site plan materials are received if no hearing is required. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be filed in the Town Clerk's office within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.
- C. Consultation on Proposed Site Plan: At its sole discretion, the Planning Board may consult with agencies or individuals, including but not limited to the Code Enforcement Officer, Schuylers County Director of Planning, Schuylers County Planning Commission, Southern Tier Central Regional Planning & Development Board, fire commissioner, conservation advisory committee or Schuylers County Soil and Water Conservation Board, Schuylers County Agriculture & Farmland Protection Board, Schuylers County Emergency Services, and other local and county officials, in addition to representatives of federal and state agencies including the USDA Natural Resource Conservation Service (NRCS), the New York State Department of Transportation (NYSDOT), and the New York State Department of Environmental Conservation (NYSDEC), and the New York State Open Space Regional Advisory Committee (RAC).
1. Consultation where fees are involved requires approval by the Town Board.
  2. These fees shall be borne by the applicant.
- D. Submission of Final Detailed Site Plan: After receiving approval, with or without conditions, from the Planning Board on a site plan, the applicant shall submit a final, detailed site plan to the Code Enforcement Officer for verification before a building permit will be issued. If more than twelve (12) months has elapsed between the time of the Planning Board's decision on the proposed site plan and the submission of the final detailed site plan, the Planning Board may require a resubmission of the proposal.

## **SECTION 6. EXPIRATION OF APPROVAL**

Unless otherwise specified by the Planning Board, site plan approval shall automatically lapse and expire eighteen (18) months after the date the decision is filed if the applicant fails to obtain a building permit or fails to comply with the conditions of the site plan approval.

## **SECTION 7. PERFORMANCE GUARANTEE**

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with Highway Department officials and other officials and agencies as appropriate. Prior to the issuance of a Certificate of Occupancy and/or Site Plan Compliance Certificate, the applicant shall complete all required improvements to the satisfaction of the Code Enforcement Officer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. In the instance when all improvements shown on the approved site plan are not yet completed, a Certificate of Occupancy and/or Site Plan Compliance Certificate may be issued upon:

- A. Deposit by the applicant with the Town Clerk of a certified check in an amount set by the Planning Board to cover the full cost of the required improvements, where costs are determined or verified by a consultant hired by the Planning Board, or

- B. Filing by the applicant with the Town Clerk of a performance bond to cover the full cost of the required improvements, where costs are determined by a contractor hired by the Planning Board. Any such bond shall comply with the requirements of § 274-a of the Town Law and, further, shall be satisfactory to the Town Board and Attorney for the Town as to form, sufficiency, manner of execution, and surety. A period of one (1) year, or such other period as the Planning Board may determine appropriate, not to exceed three (3) years, within which required improvements must be completed, shall be set forth in the bond.
- C. Reservation of parkland on site plans containing residential units: Where dedication of open space, recreational space, playgrounds, parklands, or like requirements have been required by the site plan approval, such land shall be dedicated or suitably improved, as required (or such payment indefeasibly made, if so required) prior to the issuance of any Certificate of Occupancy and/or Site Plan Compliance Certificate, or the close-out of any building permit or stormwater permit (including NYS SPDES permits).

## **SECTION 8. MODIFICATIONS TO APPROVED SITE PLANS**

If at any time subsequent to the approval of a final site plan by the Planning Board an applicant or property owner desires to modify the site plan as approved, an application with the revised site plan shall be submitted to the Planning Board for its consideration of approval. The Planning Board may hold a Public Hearing on said application of the proposed site plan, and impose any conditions, modifications or additional requirements upon the approval as it may determine appropriate in the furtherance of this Zoning Law and the Town of Catharine Comprehensive Plan. Such modification may be made without resubmittal and approval by the Planning Board, if it meets all of the following criteria and a building permit has been received for any site improvements or ground disturbances:

- A. It does not involve a violation of any conditions imposed by the Planning Board in its original grant of final site plan approval.
- B. It does not involve the shift of the location of one or more buildings or structures a distance exceeding ten (10) feet in any one direction from the location shown on the final site plan as approved, provided, however, that such a shift does not result in an encroachment on any required yard setback or buffer area.
- C. It does not alter the location of any proposed points of ingress into or egress from the site, or proposed traffic flow within the site.
- D. It involves the construction of or alteration to less than 500 square feet of interior space, or construction which results in the increase in the amount of square feet of an existing building by less than ten (10) percent, whichever is less;
- E. It involves the construction, alterations, or renovations to the exterior of a building without any change in building footprint, provided said alterations do not affect the size and locations of windows or doorways, or are changes necessitated by New York State Fire Prevention Code and Building Construction Code, or its successors.
- F. It involves the installation of any below-ground utilities (above-ground utilities can be quite unsightly and difficult to move after installed and should be included in Site Plan Review).
- G. It is reviewed and approved by the Code Enforcement Officer and Planning Board Chair.

## **SECTION 9. WAIVER OF REQUIREMENTS**

When considering a proposed site plan, whether it is a sketch plan, preliminary site plan or final site plan, the Planning Board may waive one or more items or design details of the plan that are otherwise normally required under Article 3, or required to be shown upon the site plan, if at its discretion it determines that the lack of such information is not a hindrance to its consideration of the proposed site plan.

**ARTICLE VII  
SUBDIVISION REGULATIONS**

**SECTION 1. AUTHORITY**

- A. **PLANNING BOARD AUTHORITY.** The Town Board of the Town of Catharine, in accordance the provisions of the Town Law of the State of New York, has heretofore created a Planning Board and has assigned to it the responsibility and authority to review and approve, modify, and approve or disapprove plans for land subdivision.
- B. **UNDEVELOPED PLATS.** Pursuant to the above authority, using procedures set forth in these regulations, the Planning Board has the power and authority to pass and approve the development of plats already filed in the Clerk of Schuyler County if such plats are entirely or partially undeveloped.
- C. **SECTION 278 AUTHORITY.** The Town Planning Board is also granted the authority to allow an applicant to either propose a clustered subdivision layout or require an applicant to provide a clustered subdivision layout as provided in § 278 of the Town Law of the State of New York.

**SECTION 2. PURPOSE**

- A. The purpose and intent of the Subdivision Regulations of the Town of Catharine is to provide for the orderly growth and development of the Town as has been expressed in the Town of Catharine Comprehensive Plan. These subdivision regulations provide for:
  - 1. Adequate facilities for the housing, transportation, distribution, comfort, convenience, health, safety and welfare of the Town's population and protection of the Town's natural, cultural, historical, and agricultural resources;
  - 2. Recognition that the natural and agricultural resources within the town are an irreplaceable asset which shall be preserved to the extent possible while considering subdivision applications;
  - 3. Establishment of requirements for action on subdivision plats, including a description of maps and supporting materials that the Planning Board requires to carry out its responsibilities under these regulations; and
  - 4. The review and approval procedures designed to safeguard the community.

**SECTION 3. POLICY**

- A. In cases where the Planning Board finds that a proposed subdivision may adversely affect the preservation of natural or cultural resources and/or prime farmland or farmland of statewide importance, according to the soil survey prepared for Schuyler County by the U.S. Department of Agriculture, the Planning Board may require an applicant to submit a plan for a conservation subdivision as provided for in § 278 of New York State Town Law and § E of this Article.
- B. All reviews of applications specified in these regulations shall be coordinated with involved agencies and boards at the local, County and State levels to ensure consistent, well-designed subdivisions and decision-making that will benefit the Town of Catharine.
- C. It is declared to be the policy of the Planning Board to consider land subdivisions as part of a plan for the orderly, efficient, and economical development of the town and in a manner that is reasonable and in the best interests of the community. The Planning Board will be guided in its consideration of an application for the subdivision of land by the following general requirements:
  - 1. **PHYSICAL CHARACTERISTICS** - Land must be buildable and free of hazard. The physical characteristics of the land to be subdivided shall be such that it can be used for natural resource conservation or building purposes without danger to health and safety or peril from fire, flood, or other menace. Proper provision shall be made for stormwater management, water supply, sewage and other needed improvements and, consideration be given to the future development of adjoining lands. Particular attention shall be given

to the arrangement, location and width of streets, their relation to the topography of the land, lot sizes and arrangement and the future development, and, natural and cultural resources of adjoining lands. All parcel developments shall meet Town, County, State, and Federal regulations, and requirements.

2. **NATURAL AND HISTORIC FEATURES** - Land is to be subdivided in a way that protects the natural, cultural and scenic resources of the Town for the benefit of all residents. To the extent possible, all existing features of the landscape, such as trees of significant DBH caliper, vegetative communities, rock outcrops, important ecological communities, surface and groundwater resources, unusual glacial formations, flood courses, cultural and historic sites, viewsheds, and other such irreplaceable assets shall be preserved thereby preventing ecological damage and visual blight which occur when those features or vegetation are eliminated or substantially altered to serve development purposes only. Provision shall be made for maintaining undeveloped natural areas and corridors to mitigate any adverse environmental impacts of a proposed subdivision, and to sustain biodiversity in order to implement the Town's policies of protecting environmental and cultural resources pursuant to the Town Comprehensive Plan and other applicable local laws.
3. **CONFORMITY** – Subdivision plans shall be properly related to and conform to the Town Comprehensive Plan. Proposed development shall be planned such that it is compatible with sound development patterns of adjacent and neighboring properties within the Town of Catharine. Subdivided lots shall be of such character that they can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
4. **TRAFFIC SAFETY AND STREETS** – Proposed public roads shall compose a convenient system and shall be of such width, grade and location as to accommodate present and prospective traffic, and shall meet town highway specifications and other local laws of the Town of Catharine.
5. **PARKS AND OPEN SPACE** – Park areas of suitable location, size and character for playground and other recreational or open space purposes shall be shown on the subdivision plat in proper cases and when required by the Planning Board. Provision shall be made for adequate permanent reservations of open space, pedestrian trails, viewing areas, and parks, and such areas shall be shown on the plat.
6. **PROTECTION OF AGRICULTURAL INFRASTRUCTURE AND SIGNIFICANT AGRICULTURAL LANDS** – Consideration will be given to maintaining agricultural viability and protecting significant agricultural lands by minimizing adverse impacts on agricultural land remaining from the subdivision, prime and unique agricultural soils, adjoining or nearby agricultural land and operations, existing natural buffers, and agricultural infrastructure including but not limited to surface and subsurface agricultural drainage systems, farm equipment access points, and equipment lanes.

#### D. SUBDIVISIONS STRADDLING MUNICIPAL BOUNDARIES

Whenever access to a subdivision can be had only across land in another municipality, the Planning Board may request assurance from the Catharine Town Attorney and the Highway Superintendent of the adjoining municipality, that the access road is adequately improved or that a performance security has been duly executed and is sufficient security to ensure access has been constructed. In general, lot lines shall be laid out so as not to cross municipal boundary lines.

#### E. RESUBDIVISION

Whenever any resubdivision of land in the Town of Catharine is proposed, the subdividing owner or their authorized agent shall apply for and secure approval of such proposed subdivision before any contract for the sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this Article.

#### F. STATE ENVIRONMENTAL QUALITY REVIEW ACT

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations.

## **SECTION 4. LOT LINE ADJUSTMENTS**

### **A. GENERAL REQUIREMENTS FOR WAIVERS**

An applicant may request that the subdivision review process be waived when a proposed subdivision is a lot line adjustment that meets the following criteria:

1. It does not create an additional lot;
2. It is a minor modification of an existing lot line; or is the conveyance and merger of a portion of one parcel to an adjoining parcel;
3. It does not create a non-conforming lot or cause any other parcel to become nonconforming; and
4. It complies with all applicable zoning requirements of this Law and applicable New York State Department of Health regulations and Schuyler County Watershed Protection Agency requirements pertaining to well and septic system distances from parcel boundaries.

### **B. SUBMISSION REQUIREMENTS**

1. To request a lot line adjustment waiver, the applicant shall submit:
  - a. A waiver application that shall be signed by the parcel owners, or their duly authorized agents, of both affected parcels.
  - b. A plat or map of the parcels affected by the proposed adjustment, showing all existing buildings, the location of existing utility or other easements or rights-of-way, of wells and of septic systems. The map shall show the existing lot lines and the location of the proposed new lot line, and the existing and new setback distances to any existing buildings. The map shall have the title "LOT LINE ADJUSTMENT between properties of (name) and (name)", and shall include a restriction to the effect that the land added to the existing parcel, and the existing parcel are combined to form a single, undivided lot.

### **C. PLANNING BOARD REVIEW AND APPROVAL**

1. Upon submission of a complete application, the Planning Board shall, within 62 days, review the application and shall either approve or deny the application. Approval may be granted when the Planning Board determines that the proposed adjustment meets all requirements for a Lot Line Adjustment and would not adversely affect the site's development or neighboring properties, would not alter the essential characteristics of the neighborhood or adversely affect the health, safety or welfare of Town residents.
2. No public hearing shall be required.
3. If the waiver is granted, the applicant shall file a map with the Schuyler County Clerk within 62 days of the approval date. The map shall be signed and stamped by the Planning Board. No person shall file plans for any lot line adjustment without first obtaining the Planning Board's signature and stamp on the plans.
4. If the Planning Board denies the request for waiver, the applicant may proceed with the minor subdivision review process as set forth in this Article.

## **SECTION 5. MINOR SUBDIVISION**

### **A. APPLICATION**

1. Within 6 months after classification of a proposal as a minor subdivision by the Planning Board, the subdivider shall submit a subdivision plat as an application for approval of a minor subdivision plat. Said application shall contain the requirements listed in § I, Subsection 8, Final Plat, of these regulations and shall conform to the general requirements and design standards specified in § K of this Article.
2. Fees as specified in the Town fee schedule for each minor subdivision shall accompany the application.
3. A subdivider is only allowed one (1) minor subdivision of said land every 3 years.
4. The Planning Board shall have the authority to modify survey requirements for minor subdivisions such that only the land being subdivided must be surveyed. The balance of the land, so long as the subdivision

does not result in an undersized lot, does not need to be surveyed unless requested by the Planning Board.

5. Number of copies
  - a. The original and 7 copies of the subdivision plat shall be presented to the Planning Board at least 10 days prior to a scheduled monthly meeting of the Planning Board.
6. Referral to Schuyler County Planning under GML 239
  - a. When applicable, the Planning Board shall refer preliminary and final plats to the Schuyler County Planning Department, and no further action on the application shall be taken until the earlier of:
    1. The Planning Board's receipt of a recommendation from the Schuyler County Planning Department; or
    2. 30 days have elapsed from Schuyler County Planning Department's receipt of the referral without the Planning Board receiving such a recommendation.
7. Public Hearing
  - a. A public hearing shall be held by the Planning Board within 62 days from the time of submission of the subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the Town at least 5 days before such hearing. The Town Clerk will send written notice to adjoining property owners at said property owners addresses as recorded on the latest completed assessment roll of the Town. The notice shall describe said application, state where and by what date written comments will be received on the application under consideration and the date, time, and place of the public hearing.

## B. ACTION ON SUBDIVISION PLAT

1. The Board may require when it deems it necessary for protection of public health, safety, or welfare, that a Minor Subdivision comply with all or some of the requirements specified in § 6: Major Subdivision.
2. The Planning Board shall, within 62 days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the subdivision plat. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the plat.
3. Upon granting conditional approval, with or without modification to the plat, the Planning Board shall empower a duly authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within 5 days of the resolution granting conditional approval, the plat shall be certified by the Code Enforcement Officer as conditionally approved, a copy filed in its office.
4. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed 2 additional periods of 90 days each.
5. Plat void if revised after approval. No changes, erasures, modifications, or revisions shall be made on any plat after approval has been given by the Planning Board. In the event that any plat, when recorded, contains any such changes, the plat shall be considered null and void; the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.
6. Filing of approved plat. Approval of the plat shall expire within 62 days from the date of such approval unless within such 62-day period such plat shall have been duly recorded by the owner in the office of the Schuyler County Clerk. If the plat is not filed within this period, the approval shall expire as provided in § 276 of the New York State Town Law.

## SECTION 6. MAJOR SUBDIVISION

### A. PRE-APPLICATION PROCEDURE

Prior to filing a formal application for approval of a subdivision plat pursuant to this Section, the applicant shall follow the pre-application procedure. This procedure consists of a Pre-Application Meeting and submission of a

Sketch Plan. All applicants are encouraged to attend a Pre-application Meeting prior to submitting the Sketch Plan and applicants for major subdivisions are required to do so. An applicant for a Major Subdivision is also required to submit a Resource Analysis.

1. Pre-application meeting

- a. The Pre-application Meeting is an opportunity for the applicant to present and discuss a conceptual plan for the proposed subdivision prior to committing resources to the preparation of a Sketch Plan. The conceptual discussion shall guide the layout of the subdivision that will be shown in subsequent plan submission(s).
- b. In preparation for this meeting, the applicant should become familiar with this Article and all other relevant provisions of this Law, the Comprehensive Plan and SEQRA requirements in order to have a general understanding of the subdivision review process.
- c. No statement, comment or other communication made during this informal review shall be binding upon any party.
- d. The pre-application process is required solely to assure that Town development goals are recognized as they may apply to the site in question. This should help expedite the process by getting the review off to a cooperative start before the applicant has made a substantial investment in the application process.

2. Resource Analysis for Major Subdivisions

- a. Prior to, or in conjunction with, a submission of a sketch plan, an applicant for a major subdivision shall submit a resource analysis and participate in a discussion with the Planning Board to determine a conceptual plan for the proposed subdivision. The submission requirements for a Resource Analysis are included in § 8, Subsection C. This will provide an opportunity for the owner and the Planning Board to discuss the appropriate range of and intensity of development; the general locations intended for development; areas planned to remain undeveloped; and general access alignment.
- b. To verify that all necessary information is discussed and reviewed in this process, the applicant shall complete a Resource Analysis and provide a copy to the Planning Board upon completion. In its review, the Planning Board members may schedule a field visit to the site, and this site walk may be necessary before the assessment can be accepted as complete.
- c. The Planning Board will make recommendations for modification or redesign to be incorporated by the applicant in the next submission to the Planning Board and indicate to the applicant the priority resources to be preserved. Any requirements of this Law which the applicant requests to be waived should be discussed at this time.
- d. The Resource Analysis and Conceptual Plan discussion does not allow filing of a plat with the County Clerk or authorize the sale or lease of, or any offer to sell or lease any lots in such subdivision or any part thereof. The Resource Analysis and Conceptual Discussion allows the applicant to proceed with Sketch Plan application.

3. Sketch Plan

- a. The purpose of the Sketch Plan is to review and discuss the proposed subdivision and reach general agreement on the requirements of this Article.
- b. Prior to filing a formal application for approval of a subdivision plat pursuant to Subsection 4: Preliminary Plat, the applicant shall submit 7 copies of a Sketch Plan at least 10 days prior to the regular meeting of the Planning Board and a filing fee as specified by the Town Fee Schedule shall accompany the submission.
- c. Required information for the Sketch Plan is specified in § 8, Subsection F: Sketch Plan, of these regulations.
- d. The Subdivider or his/her duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of this Article for street improvements, drainage, sewerage, water supply, fire protection and other improvements, as well as the availability of existing services and other pertinent information. At such meeting, the Planning Board shall also discuss other requirements of this Zoning Local law.
- e. In the event that the sketch plan is unacceptable, the applicant will be asked to submit a new plan before proceeding with a preliminary plat. Reasons for recommended modifications or rejection of

the sketch plan shall be reflected in the minutes of the Planning Board. The Planning Board may, in its discretion, choose to provide a written summary of these determinations.

## B. MAJOR SUBDIVISION

1. Preliminary Plat. Prior to filing an application for the approval of a plat, the applicant shall comply with the Pre-Application procedure as described in § 6, Subsection A by attending a Pre-Application Meeting, providing a Sketch Plan, and preparing the Resource Analysis as described in Subsection A above.
2. Application procedure. Prior to filing an application for the approval of a plat, the applicant shall file an application for the approval of a preliminary plat. The application shall:
  - a. Be made on forms available at the office of the Code Enforcement Officer.
  - b. Include all land that the applicant proposes to subdivide.
  - c. Be accompanied by 3 copies of the preliminary plat and supplementary material described in § 8, Subsection G: Preliminary Plat, of these regulations.
  - d. Comply in all respects with the requirements specified in § 8: General Requirements and Design Standards, of these regulations and with the provisions of §§ 276 and 277 of the New York State Town Law.
  - e. Be submitted to the Chairperson of the Planning Board.
  - f. Be accompanied by fees as specified by the Town fee schedule.
3. Study of preliminary plat.
  - a. The Planning Board will carefully study the practicability of the preliminary plat, taking into consideration the results of the resource analysis and sketch plan discussions, the requirements of the community, the best use of the land being subdivided, and the policy set forth in § 3: Policy.
  - b. Particular attention will be given to the proposed arrangement, location, and width of streets; the relation of proposed streets to the topography of the land; sewage disposal; drainage; proposed lot sizes, shape and layout; future development of adjoining lands as yet unsubdivided; the requirements of the Town Comprehensive Plan, this Law and the Official Map; and matters enumerated in § 277 of the New York State Town Law.
4. Applicant to attend Planning Board meeting:
  - a. The applicant shall attend a regular meeting of the Planning Board to discuss the preliminary plat and the Board's tentative conclusions.
5. Referral to Schuylar County Planning under GML 239:
  - a. Notice to the Schuylar County Planning Department; impact upon action by Planning Board on application. When applicable, the Planning Board shall refer preliminary and final plats to the Schuylar County Planning Department, and no further action on the application shall be taken until the earlier of:
    1. The Planning Board's receipt of a recommendation from the Schuylar County Planning Department; or
    2. 30 days have elapsed from Schuylar County Planning Department's receipt of the referral without the Planning Board receiving such a recommendation.
6. Approval of the preliminary plat
  - a. Within 62 days after the receipt of such preliminary plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat.
  - b. Within 62 days after the date of such hearing, the Planning Board shall approve, with or without modification, or disapprove such preliminary plat; and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plant in final

form.

- c. Within 5 days of the approval of such preliminary plat it shall be certified by the Chairperson of the Planning Board as granted preliminary approval, a copy filed in the office of the Code Enforcement Officer, a certified copy mailed to the owner and a copy forwarded to the Town Board. Failure of the Planning Board to act within the time periods prescribed herein shall constitute approval of the preliminary plat.
  - d. When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to the preliminary plat; the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare; and the amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the subdivision plat. Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.
  - e. Approval of the preliminary plat may not be revoked by the Planning Board unless a substantial change in the character of the area or the availability of new information about the site and its surroundings indicate the unsuitability of the development, as shown on the preliminary plat. Before revocation the applicant shall be informed, in writing, of the reasons therefore and shall be given an opportunity to be heard before the Planning Board.
  - f. Approval of a preliminary plat shall expire six (6) months from the date of approval. Extensions for periods of six (6) months may be granted by the Planning Board upon application. Such applications for extensions may be granted unless changed conditions or new information indicate the unsuitability of the development as shown on the preliminary plat.
7. Final plat
- a. Application procedure. Within 6 months after tentative approval of the preliminary plat is granted, the applicant shall file with the Planning Board an application for approval of a plat. The application shall:
    1. Be made on forms provided by the Planning Board at the time tentative approval of the preliminary plat was granted.
    2. Include the entire subdivision or a section thereof which derives access from a street improved to Town standards or for which street a performance bond for such improvement is held by the Town.
    3. Be accompanied by eight (8) copies of the plat, as described in § 8, Subsection H: Final Plat.
    4. Comply in all respects with the preliminary layout as tentatively approved.
    5. Comply with the improvement requirements of § 10: Required Agreements and Improvements, of these regulations.
    6. Be presented to the Clerk of the Planning Board at least 10 days prior to a regular meeting of the Board.
  - b. Public hearing. Within 62 days of the submission of a plat in final form for approval, a hearing shall be advertised at least once in a newspaper of general circulation in the Town at least 5 days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under § B, Subsection 6: Preliminary Plat, and modified in accordance with the requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing. The Town Clerk shall send written notice to adjoining property owners at said property owners addresses as recorded on the latest completed assessment roll of the Town. The notice shall describe said application, state where and by what date written comments will be received on the application under consideration and the date, time, and place of the public hearing.

- c. Action on proposed subdivision plat. The Planning Board shall, by resolution, conditionally approve, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days of its receipt by the Clerk of the Planning Board, if no hearing is held, or in the event a hearing is held, within 62 days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefore shall be deemed approval of the plat.
  - 1. Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within 5 days of such resolution, the plat shall be certified by the Chairperson of the Planning Board as conditionally approved, a copy filed in the office of the Code Enforcement Officer and a certified copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements that, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion, such extension is warranted in the circumstances, for not to exceed 2 additional periods of 90 days each.
- d. Plat void if revised after approval. No changes, erasures, modifications, or revisions shall be made on any plat after approval has been given by the Planning Board. In the event that any plat, when recorded, contains any such changes, the plat shall be considered null and void and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.
- e. Filing of approved plat. Approval of the plat shall expire within 62 days from the date of such approval unless within such 62-day period such plat shall have been duly recorded by the owner in the office of the Schuyler County Clerk. If the plat is not filed within this period, the approval shall expire as provided in § 276 of New York State Town Law.
- f. Division of plat into 2 or more sections. The Planning Board may permit the plat to be divided into 2 or more sections, subject to such conditions as it deems necessary to assure orderly development of the subdivision. Approval of the sections shall be granted concurrently with the approval of the plat. The approved plat, or any approved section thereof, shall be recorded within 62 days of approval, subject to any conditions imposed, and shall encompass at least 10% of the total number of lots shown on the plat. Approval of any other sections not recorded shall expire unless recorded before the expiration of the period to which such plat is entitled under the provisions of § 265-a of the Town Law. In the event the applicant does not record all approved sections, the entire plat shall be filed with the Town Clerk within 30 days from the recording of the plat or any approved section thereof, and the applicant shall file with the Planning Board a raised seal copy of the plat certified by the County Clerk to be a true copy of the recorded plat.
- g. Public acceptance of proposed streets and park areas. The approval by the Planning Board of a plat shall not be deemed to constitute or imply the acceptance by the Town of any street, park, playground, or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future title, dedication, and provision for the cost of grading, development, equipment and maintenance of any park or playground area.
- h. As-built drawings of required improvements. Drawings showing the location of all required improvements as built shall be certified by a licensed land surveyor and filed with the Planning Board at least 30 days prior to the acceptance of the improvements by the Town.
  - 1. Issuance of building permits. A building permit for erection of a structure in a development laid out subsequent to the adoption of these regulations shall not be issued unless the street giving access to the proposed building appears on a recorded plat approved by the Planning Board and unless such street has been suitably improved or bonded to cover the full cost of

- improvement.
2. Improvements in streets. No public municipal street utility or improvement shall be constructed by the Town in any street or highway until it has become a public street or highway and is duly placed on the Official Map. However, subject to the discretion of the Town Board, a subsurface utility or improvement operated from revenue by the Town or by a special district may be constructed by the Town in a private street, provided that a public easement satisfactory to the Town Board is obtained for such utility or improvement.

## **SECTION 7. CONSERVATION SUBDIVISION**

### **A. APPLICABILITY**

1. These regulations apply to all properties within the Town. The use of conservation subdivisions is intended to protect tracts of environmentally and scenically significant undeveloped land in the Town, including road corridors and buffer areas, and implement the Town of Catharine Comprehensive Plan.
2. Conservation subdivisions result in the preservation of contiguous open space and important scenic and environmental resources, while allowing compact development and more design flexibility than traditional subdivisions. Conservation subdivisions must satisfy the standards in this chapter. The procedure for approving conservation subdivisions is described in this Section. Subject to the criteria of these regulations, the implementation of conservation subdivision is the primary method of subdivision unless the findings set forth in this chapter allow for a traditional subdivision.
3. For major subdivisions, the Planning Board may require, at its discretion, a Conservation Subdivision as outlined herein whereby at least 40% of the land is permanently preserved. Conservation Subdivision requirements may be applied to minor subdivisions if desired by the applicant.

### **B. PURPOSE**

1. To permanently protect open space and recreational opportunities, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, in a manner that is consistent with the Town of Catharine Comprehensive Plan;
2. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;
3. To minimize the total amount of disturbance on the site;
4. To further the goals and policies of the Town of Catharine Comprehensive Plan;
5. To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economical and efficient manner.
6. To achieve a balance between well-designed residential development, meaningful open space conservation, and natural resource protection in the countryside by requiring conservation subdivisions instead of traditional subdivisions.

### **C. RESOURCE ANALYSIS**

1. The Resource Analysis required in this Article shall be used to determine the amount of constrained land and other unique features with conservation value.
2. The Planning Board shall make a final determination as to which land has the most conservation value and should be protected from development. This determination shall be based upon an analysis that weighs the relative importance of the environmental resources on the site and shall be expressed in a written report supporting its decision (the Conservation Findings).
3. The Planning Board may incorporate information provided by, but not limited to, its own research, site visits, consultants, other qualified experts or agencies or from public comments. If, as a result of the SEQRA review, information arises to cause the Resource Analysis to change, such change will be made at that time, by the Planning Board, in its sole discretion.
4. The outcome of the Resource Analysis and the Planning Board's Conservation Findings shall be used as

the basis for Sketch Plan Review.

#### D. SKETCH PLAN REVIEW

1. At the conclusion of the Resource Analysis process a Sketch Plan shall be submitted.
2. The Sketch Plan shall show the following:
  - a. Preferred locations for intensive development as well as acceptable location for less dense development.
  - b. Proposed lot locations and roads.
  - c. Land to be permanently preserved and recommended conservation uses, ownership, and management guidelines for such land.
  - d. Land suitable for stormwater management facilities, which may be located within the preserved land area.
  - e. At least 40% of the total acreage shall be preserved by and shown as such on the Sketch Plan, based upon the Conservation Findings. The Planning Board may require more based on the findings of the Resource Analysis.

#### E. LOT SIZES IN CONSERVATION SUBDIVISIONS

1. The Planning Board shall determine appropriate lot sizes in the course of its review of a Conservation Subdivision based upon the criteria established in this section and the requirements of the Schuyler County Department of Health and the Schuyler County Watershed Protection Agency. Town services, if available, and/or private water/sewage systems may be used to meet these requirements. In order to permit a clustered lot configuration, wells and septic systems may also be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities.

#### F. OTHER AREA AND DIMENSIONAL REQUIREMENTS

1. There shall be no required area, bulk, or dimensional standards in a Conservation Subdivision with the exception of building height and building length as stated in Table A: Dimensional Standards and where such subdivision abuts an existing residence, all side and rear yard setbacks are required as stated in Table A: Dimensional Standards for the zone where the Conservation Subdivision is located.
2. The applicant shall specify dimensional requirements for a proposed Conservation Subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat. The Planning Board may vary bulk requirements to accommodate a Conservation Subdivision. The Planning Board may consider an application to develop a portion of a parcel if a Resource Analysis is provided for the entire parcel.

#### G. PERMANENT OPEN SPACE IN CONSERVATION SUBDIVISIONS

1. Open space set aside in a Conservation Subdivision shall be permanently preserved as required by this Section. Developed lands shall not impact the conservation value of the permanent open space.
2. Open space permanently preserved shall be done in the manner described in § 7, Subsection I: Reservations and dedications, of this Article.

### **SECTION 8. GENERAL REQUIREMENTS AND DESIGN STANDARDS FOR SUBDIVISIONS**

#### A. COMPLIANCE REQUIRED

The Planning Board, in considering an application for the subdivision of land, shall be guided by the policy considerations specified in § C, Policy, of these regulations and the following standards.

#### B. PRESERVATION OF EXISTING FEATURES

Existing features which would add value to residential development, such as scenic views from roadways and public trails, ridgelines, water resources, steep slopes, active farmland, rock outcrops, forested areas, stonewalls, hedgerows, wildlife nesting or migration areas and similar irreplaceable assets, shall be preserved, to the greatest extent possible, through harmonious design of the subdivision.

### C. STREETS

1. General planning standards
  - a. The arrangement, character, extent, width, grade, and location of all streets shall be considered in relation to the proposed uses of the land to be served by such streets.
2. Relation to topography
  - a. Streets shall be logically related and conform insofar as possible to the original topography. They shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and sharp curves shall be avoided.
3. Visibility at intersections
  - a. Within the triangular area formed at corners by the intersecting street lines, for a distance of 30 feet from their intersection and the diagonal connecting the endpoints of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Fences, walls, hedges or other landscaping shall not obstruct such visibility.
4. Block Length
  - a. Blocks shall ordinarily not exceed one thousand feet (1000') in length. Where it is necessary for blocks to exceed this length, pedestrian ways and/or easements may be required near the center of the block.
5. Rear Lanes
  - a. Rear lanes may be provided in any districts as private accessways.
  - b. Intersections of rear lanes and sharp changes in alignment shall be avoided.
  - c. Dead-end rear lanes shall be avoided when possible, but, if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Planning Board and Highway Superintendent.
6. Design Standards
  - a. Subdivision streets shall be designed to reflect the rural character of the Town of Catharine. Roads will meet the specifications of the Town Highway Supervisor.
7. Continuation of streets into adjacent property
  - a. Streets shall be arranged to provide for the continuation of streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly, where such continuation is in accordance with the Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround, a minimum of 50 feet in radius, shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.
8. Permanent dead-end streets (cul-de-sac)
  - a. Where a street does not extend to the boundary of the subdivision and it is not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than 100 feet.
9. Street names
  - a. All streets shall be named, and such names shall be subject to the approval of the Town Planning Board. Names shall be sufficiently different in sound and in spelling from the other street names in the Town so as not to cause confusion. A street that is a continuation of an existing street shall bear the same name.
10. Sidewalks, Bike Lanes and Curbs
  - a. Sidewalks, bike lanes and curbs shall be provided when considered necessary and appropriate, as for pedestrian safety. Sidewalks and curbs shall be made of concrete unless other materials are approved at the discretion of the Planning Board. Sidewalks shall be constructed in accordance with provisions

of the Americans with Disabilities Act (ADA).

11. Improvements

- a. Improvements shall be as indicated in § 10: Required Agreement and Improvement, of this Article.1

12. Private roads

- a. The Planning Board may approve paved or unpaved private roads to provide access to lots in subdivisions, provided that the Planning Board finds that the proposed subdivision will protect the rural, scenic character of the Town. The private road requirements are as follows:
  1. The maximum number of lots gaining access through any portion of a private road shall be 4.
  2. Written approval from the Highway Superintendent shall be secured before approval of any private roads. A Homeowners Association (HOA) must be created to own and provide for the perpetual care and maintenance of the private road. The Planning Board shall have discretion to determine whether a performance bond must be posted by the applicant to ensure the proper completion of the private road and, if so, how much the performance bond shall be and what form it shall take.
- b. Such HOA must have the power to assess the subdivision lot owners for their share of the maintenance costs of the private road. The HOA shall ensure that the road will always be maintained and kept open to permit emergency vehicle access.
- c. The private road can only be offered for dedication to the Town of Catharine if it conforms to Town Highway specifications for private roads in effect on the date of the offer of dedication. However, the Town Board shall be under no obligation to accept such an offer of dedication, even if the road conforms to Town Highway specifications. In the event such dedication becomes necessary to ensure public safety, the cost of bringing the road up to Town Highway specifications shall be borne by the HOA.
- d. The subdivision plat shall show the road clearly labeled “private road.”
- e. Road design shall comply with the Town Highway standards for private roads.
- f. The Planning Board may waive the requirement of a private road maintained by a HOA if it finds, after consulting with the attorney for the Planning Board or the Town Attorney, that a common drive maintained pursuant to a recorded maintenance agreement, executed by the applicant as a condition of subdivision approval, will provide the same protections to lot owners and the Town as would a private road owned by a HOA.

D. BLOCKS

1. General planning standards

- a. The length, width and shape of blocks shall be determined with due regard to:
  1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  2. Zoning requirements as to lot sizes and dimensions.
  3. Need for convenient access, circulation, and control safety of street traffic.
  4. Limitations and opportunities of topography.
2. Irregular-shaped blocks or oversize blocks indented by cul-de-sac, parking courts or loop streets and containing interior block parks or playgrounds will be acceptable when properly designed, as determined by the Planning Board. Such blocks shall include adequately screened off-street parking, facilities for pedestrian access from streets to all lots, proper easements for utility lines and satisfactory provision for maintenance of park and open space, where included.
3. Non-residential blocks intended for commercial or industrial use shall be of such length and width as is suitable for their prospective use. Such blocks shall include adequate provisions for off-street parking and servicing.
  - a. Design standards
    1. Block lengths for residential access roads shall not be less than 400 feet; blocks abutting on designated arterial streets shall be not less than 500 feet.
    2. Blocks over 800 feet in length may be required to have a crosswalk, if necessary, to facilitate pedestrian circulation to a school, park, recreation area, or other similar neighborhood facility.
4. Non-residential blocks
  - a. Driveways
    1. The maximum grade for any new driveway accessory to a single-family dwelling and connecting

its off-street parking area to a street shall be 10%. In cases of unreasonable hardship affecting a particular property, the approving authority may permit construction of a driveway that exceeds this standard provided that the increase in driveway grade is the minimum increase required, and further provided that in no case shall such driveway grade be permitted to exceed 15%.

2. The minimum width of the driveway at the street pavement line shall be 15 feet, tapering to a minimum of 10 feet at the right-of-way line.
3. Clear visibility shall be provided in both directions at all exit points so that the driver of a motor vehicle will have an unobstructed view of the highway from the driveway for a reasonable distance (commensurate with the speed and volume of traffic on such highway) and so that there is a similar view of the motor vehicle in the driveway.
4. Shared driveways are encouraged where appropriate to maintain rural character and provide an economical and attractive method of serving up to 3 homes.

## E. LOTS

### 1. Number of Lots

- a. The maximum density (number of lots) allowed for residential units is calculated by a formula based upon the acreage of “unconstrained land” on the property, as determined by the resource analysis.
  1. To determine unconstrained acreage, the resource analysis shall subtract from the total (gross) acreage of the proposed development parcel the acreage of “constrained land.” Constrained land includes NYS Department of Environmental Conservation and Army Corps of Engineers wetlands, watercourses, one-hundred-year floodplains, public and private road rights-of-way, utility easements, steep slopes (containing an average grade of 15% or more, and which slopes are 5,000 square feet or more of contiguous sloped area), lands designated for protection by an official plan or unit of government, and lands currently under conservation easement.
  2. To determine the “base” number of allowable residential units on the site, divide the unconstrained acreage by the minimum lot size requirement of Schedule A: Dimensional Table for the Zone in which the subdivision is located. Round down fractional units. The resulting number is the maximum allowable residential units allowed on the site.
  3. The number of lots permitted by this section shall not be reduced as a result of the resource analysis required in § 6, Subsection C: Resource Analysis or as a result of the reservation of parkland or open space during the subdivision process.

## F. DENSITY BONUSES

1. The maximum density permitted in Subsection E (1): Number of Lots, may be increased through density bonuses designed to advance important goals of the Comprehensive Plan.
  - a. In accordance with § 261-b of the Town Law of the State of New York, the Town Board of the Town of Catharine is empowered to provide for a system of zoning incentives or bonuses in exchange for specific social, economic, or cultural benefits or amenities as the Town Board deems necessary and appropriate and which are consistent with the intent and purpose set forth in the Comprehensive Plan.
  - b. These density bonuses may be combined to result in a total density bonus not exceeding 25%. The density permitted by this section shall not be reduced as a result of the Resource Analysis required in § I (above) or as a result of the reservation of parkland during the subdivision process. Density bonuses are given at the discretion of the Planning Board based upon written findings by the Planning Board documenting the expected public benefit. Density bonuses are calculated by first determining the allowable base density under § F, Subsection 6-a and then multiplying that number by 100% plus the percentages that follow:
    1. If the applicant allows public access to protected open space on the property and the Planning Board finds that such public access provides a significant recreational benefit to the Town (such as a trail connector or access to an important natural area): a maximum of 25% density bonus.
    2. If the applicant preserves at least 50% of the parcel as working farmland (including the creation and preservation of new working farmland): a maximum of 25% density bonus.

3. If the applicant preserves at least 50% of the parcel as permanent open space: a maximum 25% density bonus. The requirements for permanent open space are provided in Subsection 7, Preservation of Open Space.

#### G. LOT STANDARDS

1. Lots shall be arranged in a manner that protects land of conservation value and protects the scenic resources of the Town. Compact development is encouraged if it advances the protection of significant resources.
2. The minimum lot size, lot width and other dimensional standards of Article III: Zone Regulations may be waived at the discretion of the Planning Board for any subdivision that meets the policy standards of § C of this Article, except where such subdivision abuts an existing residential lot, a public trail, and/or an agricultural use and provided that there is adequate lot area for the siting of on-site wells and on-site sewage treatment and disposal systems where planned.
3. Where lot width requirements have been waived, the minimum road frontage for each lot shall not be less than 50 feet.
4. Side lot lines shall be substantially at right angles or radial to street lines.
5. Through lots or reverse-frontage lots shall be avoided except where essential to overcome specific disadvantages of topography and orientation. An easement of suitable width, across which there shall be no right of access, may be required along the line of lots abutting such road or other disadvantageous use. As an alternate, where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access driveway in order to limit possible traffic hazard on such street.
6. The plat shall provide each lot with satisfactory access to an existing public street or to a subdivision street that will be ceded to public use at the time of final plat approval. Private streets may be permitted only by resolution of the Town Board.
7. Radius corners shall be provided on the property line substantially concentric with the curb radius corners.

#### H. PRESERVATION OF OPEN SPACE

1. If the arrangement of lots results in large expanses of preserved open space, the preserved open space may be included as a portion of one or more large lots, or may be contained in a separate open space lot. Such open space may be owned by a homeowner's association, private landowner(s), utility company, a non-profit organization, or the Town or other governmental entity, as long as it is permanently protected from development by a conservation easement held by a unit of government or qualified conservation organization.
2. Permanent Preservation by Conservation Easement
  - a. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry and silviculture, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to § 247 of the New York State General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, may be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of Final Plat approval. The conservation easement shall be recorded in the Schuyler County Clerk's Office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's Office. The Town shall maintain a current map which displays all lands under easement or deed restricted.
  - b. The conservation easement shall limit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation). Access roads, driveways, wells, local utility distribution lines, underground sewage disposal facilities, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures may be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry and silviculture shall be conducted in conformity with

- applicable New York State Department of Environmental Conservation best management practices.
3. Ownership of Open Space Land
    - a. Open space land shall under all circumstances be protected by a perpetual conservation easement, but may be owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
      1. The HOA must be established before the approved subdivision Final Plat is signed, and must comply with all applicable provisions of the General Business Law.
      2. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
      3. The open space restrictions must be in perpetuity.
      4. The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
      5. Property owners must pay their pro rate share of the costs in subsection (2) (d) above and the assessment levied by the HOA must be able to become a lien on the property.
      6. The HOA must be able to adjust the assessment to meet changed needs.
      7. The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the Town. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder, or to pay its real property taxes.
      8. Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
      9. The attorney for the reviewing board shall find that the HOA documents presented satisfy the conditions in Subsections (a) through (h) above and such other conditions as the Planning Board shall deem necessary.

## I. RESERVATIONS AND DEDICATIONS

1. Public sites, parks, playgrounds, and recreational areas
  - a. The Planning Board shall require adequate, convenient and suitable areas for parks and playgrounds, or other recreational purposes, to be reserved on the plat, but in no case more than 10% of the gross area of any subdivision. The area shall be shown and marked on the plat "reserved for park, playground or recreational purposes." In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for parks, playgrounds and recreational areas cannot be properly located therein, or if in the opinion of the Board, is not desirable, the Board may waive this requirement. The Board shall then require the payment of a park fee in accordance with the Town's fee schedule.
2. Dedications
  - a. Where a dedication is required, it shall be accomplished as follows:
    1. subdivider shall provide not less than 10% of the gross area of the subdivision as shown on the preliminary layout. Where such dedication would amount to less than 2 acres, the subdivider shall, in lieu thereof, pay a fee to the Town for each lot in his subdivision, to be computed as follows: average value of one (1) acre of undeveloped land adjacent to a public road within 1/4 mile of any point within that subdivision, divided by 50 dwelling units, equals the fees per lot.
    2. Moneys received by the Town from such payments shall be placed in a parkland acquisition and development fund, such moneys to be expended for acquiring parklands.
3. Easements for pedestrian access
  - a. The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least 20 feet in width.

4. Responsibility for ownership of reservations.
  - a. Ownership shall be clearly indicated on all reservations.

## **SECTION 9. REQUIRED DATA AND DOCUMENTS**

### **A. COMPLIANCE REQUIRED**

1. Any subdivider who proposes to develop a subdivision in the Town of Catharine shall submit plats and documents as provided in this Section.

### **B. GENERAL REQUIREMENTS**

1. The following general requirements are applicable to the sketch plan, preliminary layout, and the subdivision plat submittal.
  - a. Sketch plans and plats shall be clearly and legibly drawn at an adequate scale to provide detail of 1" = 50' up to 1" = 200' for parcels under 100 acres and 1" = 200' for parcels of 100 acres or more.
  - b. Drawings shall be submitted on uniform size sheets not larger than 36" x 48". When more than one (1) sheet is required to show the plat, an index map of the same size shall be submitted.
  - c. All submissions shall indicate the proposed subdivision name or identifying title; the words "Town of Catharine, Schuyler County, New York"; the name and address and seal of the land surveyor responsible for the plat; and the date, approximate true North point and graphic scale.

### **C. RESOURCE ANALYSIS ASSESSMENT DATA AND DOCUMENTS**

1. Pre-applications for a major subdivision shall be submitted to the Planning Board in 3 copies and shall include a resource analysis with the following information:
  - a. The proposed subdivision name or identifying title, and the words "Town of Catharine, Schuyler County, New York."
  - b. The name of the property owner(s) and the authorized applicant, if different from the property owner(s).
  - c. Aerial map at a scale of 1" = 400' or larger, showing the location of the proposed subdivision parcel with respect to all streets and property within 1,000 feet of the applicant's parcel and superimposed with 10' contours, NYSDEC wetlands, NWI wetlands, floodplains, streams, water bodies, NYSDEC Natural Heritage Program data, and public trails.
  - d. A list including general location of features known to exist on the parcel including, but not limited to, historic buildings, stone walls, rock outcrops, significant trees and stands of trees, potential wildlife habitats and viewsheds. This list is a preliminary step in identifying natural features and is subject to modification and interpretation of the reviewing bodies.
  - e. Provide an 8½" x 11" soils map indicating if Prime and/or Statewide important soils, as defined by the Soil Survey of Schuyler County, New York, exist on the property.
  - f. General subdivision information necessary to explain and/or supplement the Aerial Map.

### **D. SEQRA**

1. New York State Environmental Quality Review Act (SEQRA) classification should be determined by the Planning Board and discussed with the applicant at completion of the Pre-Application Meeting.
2. The Planning Board shall initiate the New York State Environmental Quality Review Act (SEQRA) process, as defined in Article 8 of the Environmental Conservation Law and Part 617 of the New York Code of Rules and Regulations, upon completion of the Sketch Plan phase of the Pre-Application process, and when a Preliminary Plat application is determined to be complete. The Planning Board shall review the short or full Environmental Assessment Form, and if applicable, the draft Environmental Impact Statement submitted by the applicant with the Preliminary Plat application materials. The applicant shall be informed by the Board as to whether the application will be subject to additional environmental review as specified in the SEQRA regulations. All requirements of SEQRA shall be completed prior to any approval of the

Preliminary Plat by the Planning Board.

3. Any applicant for incentives or bonuses shall pay a proportionate share of the cost of preparing any required environmental impact statement, and that such charge shall be added to any site-specific charge made pursuant to the provisions of § 8-0109 of the New York Environmental Conservation Law and New York Town Law 261-b(3)(d).

#### E. SKETCH PLAN

1. The Sketch Plan should show the proposed layout of streets, lots, and other major subdivision features based upon the resource analysis and density calculation including the following:
2. A vicinity map sketched at a scale of 2,000 feet to the inch, showing the relationship of the proposed subdivision to existing community facilities and amenities that serve it, such as roads, commercial areas, schools, etc. Such a sketch may be superimposed upon a United States Geological Survey Map of the area.
  - a. A density calculation as outlined in § K, Subsection 6, Lots.
  - b. Sketch plan on a topographic survey of the proposed area to be subdivided showing, in simple sketch form, the proposed layout of streets, lots and other features
  - c. General subdivision information necessary to explain and/or supplement the vicinity map and sketch plan.

#### F. PRELIMINARY PLAT

1. The preliminary plat submitted to the Planning Board shall be at an adequate scale to provide detail such as 1" = 50' up to 1" = 200' for parcels under 100 acres and 1" = 200' for parcels of 100 acres or more and shall extend an 200 feet past the parcel boundary and shall show or be accompanied by the following information, except where requirements have been waived:
  - a. Data required by § L, Subsection 3, Required Data and Documents
  - b. The name of the property owner(s) and the authorized applicant, if different from the property owner(s).
  - c. Tax number of all parcels to be subdivided.
  - d. Location, bearings, and distances of trace boundary.
  - e. A vicinity map sketched at a scale of 2,000 feet to the inch, showing the relationship of the proposed subdivision to existing community facilities that serve it, such as roads, commercial areas, schools, etc. Such a sketch may be superimposed upon a United States Geological Survey Map of the area.
  - f. Topography at a contour interval of not more than 10 feet, unless waived by the Planning Board and referred to a datum satisfactory to the Board.
  - g. The names of property owners within 200 feet of the property boundary, including those adjoining and those across roads fronting the proposed development. If the proposed development property is within an Schuyler County-adopted, State-certified Agricultural District containing a farm operation or within 500 feet of a farm operation located in an Agricultural District, the applicant shall complete an Agricultural Data statement, in accordance with NYS Ag & Markets Law, which shall contain the name and address of the applicant, a description of the proposed project and its location, and the name and address of all property owners within 500 feet of the property boundary.
  - h. Location, name and dimensions of existing streets, easements, deed restrictions, zoning district boundaries, property lines, buildings, parks and public properties.
  - i. Location of any existing sewers, on-site wastewater treatment, culverts and stormwater controls, if any, including pipe sizes, grades and direction of flow.
  - j. Location of pertinent natural features such as watercourses, wetlands, floodplains, rock outcrops, stone walls, agricultural district lands, contiguous forest, and single trees 16 or more inches in diameter at breast height (dbh) as measured 4 feet above the base of the trunk.
  - k. Location, width and approximate grade of all proposed streets with approximate elevations shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in the slope or direction.
  - l. Proposed provision of fire protection, stormwater drainage, street trees, streetlight fixtures, street signs and sidewalks.

- m. Proposed provision of sanitary waste disposal.
- n. Proposed provision of water supply and related data including the following:
  - 1. Location of any existing wells onsite and other proposed lot wells.
  - 2. Copies of New York State Department of Environmental Conservation Well Completion Reports for completed well(s) (including the well log and pump test data).
  - 3. Any and all water quality testing results.
  - 4. Proposed individual water supply system details such as pumps, storage, treatment, controls, etc.
  - 5. A completed hydrogeological study, as may be required by the Planning Board at its discretion.
- o. Lot lines of all proposed or existing lots, and suggested building envelopes.
- p. Conceptual future plans for the parcel, if any.
- q. Location and approximate dimensions of all property proposed to be reserved for park or public uses.
- r. Information on all County and State permits required for subdivision plat approval.
- s. Other approvals or permits required (Town, County, NYS, and Federal).
- t. A written statement of any requests for specific waivers of requirements by the Planning Board.
- u. Other data which must be available for consideration of the subdivision at this stage.

## H. FINAL PLAT

- 1. The plat submitted to the Board shall show or be accompanied by the following information:
  - a. Data required by § L, Subsection 2, and § L, Subsection 7, Preliminary Plat, subsections b through u.
  - b. Location, width and name of each proposed street and typical cross sections showing street pavement and, where required, curbs, gutters, and sidewalks.
  - c. Lengths and deflection angles of all straight lines and radii: length, central angles, chords and tangent distances of all curves for each street proposed.
  - d. Profiles showing existing and proposed elevations along the centerline of all proposed roads and the elevations of existing streets for a distance of 100 feet either side of their intersection with a proposed street.
  - e. Present elevations of all proposed roads shown every 100 feet at 5 points on a line at right angles to the centerline of the street, said elevation points being indicated at the center line of the road, each property line and points 30 feet inside each property line (only when required by the Board because of the existence of steep slopes).
  - f. Setback lines.
  - g. Location, size and invert elevations of existing and proposed stormwater controls and on-site wastewater facilities; the exact location of utilities.
  - h. Location of any existing wells onsite and other proposed lot wells and individual water supply system details such as pumps, storage, treatment, controls, etc.
  - i. Location of street trees, street lighting standards and street signs.
  - j. Areas of all lots in hundredths of an acre; lot numbers as directed by the Town Clerk or Code Enforcement Officer; and location, material and size of all permanent monuments.
  - k. Accurate location of all property to be offered for dedication for public use, with the purpose indicated thereon, and of all property to be reserved by deed covenant for the common use of the property owners of the subdivision.
    - l. Sufficient data, acceptable to the Highway Superintendent, to readily determine the location, bearing and length of all street, lot and boundary lines and to reproduce such lines upon the ground.
  - m. Necessary agreements in connection with required easements or releases.
  - n. Formal offers of cession to the Town of all streets and public parks.
  - o. Key map showing the location of the subdivision.

## SECTION 10. REQUIRED AGREEMENTS AND IMPROVEMENTS

### A. COMPLETION OF IMPROVEMENTS OR FILING OF BOND REQUIRED.

Prior to an action by the Planning Board approving a plat, the applicant shall be required to complete, in accordance

with the Planning Board's decision and to the satisfaction of the appropriate Town departments, all the street and other improvements specified in the action approving said plat or, as an alternative, to file with the Town Board a bond in an amount estimated by the Planning Board to secure to the Town the satisfactory construction and installation of the incomplete portion of the required improvements. All required improvements shall be made by the applicant at his expense without reimbursement by the Town or any district therein.

## B. PERFORMANCE BONDS

Performance bonds shall comply with the requirements of § 277 of the New York State Town Law and shall be satisfactory to the Town Board as to form, sufficiency and manner of execution. A period of one (1) year, or such other period as the Planning Board may determine appropriate, within which required improvements must be completed shall be specified by the Planning Board and expressed in the bond. The bond shall also provide that an amount determined adequate by the Planning Board shall be retained for a period of one (1) year after the date of completion of the required improvements to assure their satisfactory condition.

## C. REQUIRED DOCUMENTS

1. Monuments. Monuments shall be placed at all block corners, angle points, points of curvature in streets and points of tangency or horizontal curves, and at intermediate points as required by the Town Highway Superintendent and Code Enforcement Officer. However, in no case shall there be less than 4 permanent monuments per block. At least one (1) monument in each subdivision shall be related to the United States Geological Survey system and shall bear the true elevation above sea level. In addition, markers shall be placed at all points when street lines intersect the plat boundary and at all lot corners. The monuments and markers shall be of such material, size and length as may be approved by the Town Code Enforcement Officer.
2. Water and on-site wastewater facilities. Facilities for water and on-site wastewater shall be provided in each new subdivision in accordance with the requirements of the appropriate agency having jurisdiction over the planning and installation of these in the area of the subdivision; however, the following minimum requirements of the Town shall be met:
  - a. Existing and proposed wells are located at minimum separation distances from on-site and off-site potential sources of contamination as specified in Appendix 5-B of 10 NYCRR Part 5.
  - b. Supply suitability. A representative number of well(s) indicate that the available quantity and quality of on-site groundwater resources are suitable for household purposes.
3. Adverse impacts. For proposed subdivisions requiring a hydrogeological study, the determination has been made that the subdivision avoids adverse impacts to existing or future groundwater users and/or surface waters within 1,500 feet of the subdivision. If adverse impacts cannot be avoided, the applicant must provide adequate mitigation of such impacts. For purposes of this Article, an adverse impact to groundwater can be defined as any reductions in groundwater levels or changes in groundwater quality that limit the ability of a groundwater user to withdraw ground water. An adverse impact to surface water would be any reductions in the level of flow or water quality needed for beneficial uses such as protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, cultural and aesthetic values, drinking water supply, agriculture, electric power generation, commercial, and industrial uses.
4. On-site wastewater systems shall not be used for stormwater drainage.
  - a. Central sewerage or on-site wastewater treatment system shall provide a 4" minimum size connection to each lot or meet the requirements of the Schuyler County Health Department and the Schuyler County Watershed Protection Agency.
5. Storm drainage facilities
  - a. Regulation. The New York State Department of Environmental Conservation regulates stormwater management practice installation under SPDES General Permit GP-02-01. The technical standards for stormwater practice design are in the New York Stormwater Management Design Manual ('Blue Book').
  - b. Drainage. A primary goal is to ensure that the peak rate of surface water flowing off site shall not

- increase above pre-development conditions and shall not adversely affect drainage on adjacent properties or public roads.
- c. Safety. Broad, shallow courses shall be created wherever necessary to increase capacity or eliminate steep banks, except in those areas where natural conditions are such that erosion of banks will not occur. Ditches shall, wherever feasible, be in the shape of a wide-top “V” with rounded or squared invert.
  - d. Erosion control. Adequate measure shall be taken to prevent erosion. The Planning Board shall require seeding, sodding, planting, riprap, or such other measures as may be necessary to prevent scouring.
  - e. Drainage. The developer shall avoid the creation or continuation of swampy areas or stagnant pools. The Planning Board shall require fill and/or channel improvements in order to forestall such problems.
  - f. Protection of capacity. The developer shall provide adequate measures for the protection of open drainage channels by establishing drainage easements sufficiently wide (generally 20 feet) to enable the working of the channel by motorized equipment. All easements shall prohibit the erection of structures, the dumping of fill, or the alteration or obstruction of the watercourses without the written permission of the Town Board. Property lines shall be so drawn as to allow drainage easements alongside and rear lot lines, except that drainage easements may be allowed to cross lots larger than 1 acre.
  - g. Appearance. As natural watercourses can be an attractive asset to the subdivision as well as to the community, the developer shall, where possible, improve and beautify the watercourses to this end.
6. Design of ditches and gutters
- a. Length of flow. Subdivisions shall be so designed that the length of flow of water in a gutter or roadside ditch does not exceed 300 feet except as permitted by the Planning Board. Runs exceeding the maximum shall be put in storm sewers or diverted to natural drainageways.
  - b. Minimum grade. All enclosed drainage courses shall be designed with sufficient grade to create a water flow velocity of 3 feet per second. A lesser grade may be permitted by the Planning Board where such a grade cannot be achieved.
  - c. Street crossing. Water in gutters and ditches shall not be allowed to flow over intersecting streets but shall be placed in adequate culverts.
  - d. Depth and shape of ditches. Where roadside ditches are permitted for runs of more than 300 feet, or where subgrade drainage is necessary, the bottom of such ditch should be below the subgrade and/at a minimum, should be approximately 18 inches below the crown of the road. Ditches shall be V-shaped or parabolic with sides sloping at approximately 1 inch to 3 inches horizontal, except where another cross-section plan is authorized.
  - e. Erosion control. Suitable headwalls, endwalls, ditch seeding or sodding and other procedures or devices to prevent erosion shall be used. Town soil and erosion control regulations or New York State Standards and Specifications for Erosion and Sediment Control should be referenced.

#### **D. STREET AND OTHER IMPROVEMENTS**

1. Streets shall be graded and improved with pavement, street signs, sidewalks, street lighting standards, curbs, and gutters (where applicable), and trees, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers not requisite in the interest of public health, safety, and general welfare.
2. Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location and repair of the lines, the subdivider shall install underground service connections to the property line of each lot before the street is paved. Utility location should take into consideration the location of future street trees so as to minimize the risk of future disturbance of trees during repair activities.
3. Grading and improvements shall conform to the Town minimum road specifications and shall be approved as to design and specifications by the Town Highway Superintendent.

### **ARTICLE VIII PLANNING BOARD**

#### **SECTION 1. ESTABLISHMENT AND MEMBERSHIP**

The Town of Catharine Planning Board is created pursuant to Article 16, § 271 of the Town Law of the State of New York. The Planning Board shall consist of five (5) members who shall be appointed by a resolution of the Town Board. The Town Board shall appoint a secretary to the Planning Board and the Planning Board members shall elect a chairperson and vice-chairperson. In the absence of the chairperson, the vice-chairperson shall serve as chairperson. No member of the Planning Board shall be the Town Supervisor, a member of the Town Board or a member of the Zoning Board of Appeals. Each member shall be appointed for a term of five (5) years.

## **SECTION 2. POWERS AND DUTIES**

The Planning Board shall discharge the following duties pursuant to this Local law:

- A. Formulation of Zoning Local law and Amendments: The Planning Board shall be responsible for formulation of the Zoning Local law, review of amendments to the Zoning Local law, holding hearings on a proposed Zoning Local law or amendments, and reporting its findings and recommendations concerning the Zoning Local law or amendments to the Town Board.
- B. Site Plan Review: The Planning Board shall be responsible for review of applications for Site Plan approval in accordance with Article V. As provided for in Article V, the Planning Board shall be responsible for either making a determination to grant approval, approval subject to revisions, or denial of site plan approval.
- C. Subdivision Review: The Planning Board shall be responsible for reviewing all preliminary and final subdivision plats and making a recommendation on action to be taken by the Town Board.
- D. Review of Zoning Board of Appeals Applications: The Planning Board shall review and issue an advisory opinion to the Zoning Board of Appeals on all applications referred to them as provided in Article IX.
- E. Review of Matters Referred by the Town Board: The Planning Board shall be responsible for review of matters relating to land development referred to it by the Town Board. The Planning Board shall recommend appropriate regulations and action on such matters.

## **SECTION 3. PROCEDURE**

The Planning Board by resolution shall determine the time and place of meetings. A special meeting may be called by the chairperson or upon written request by two (2) members of the Planning Board. The presence of four (4) members shall constitute a quorum. The concurring vote of four (4) members of the Planning Board shall be required to decide on any matter upon which the Board is required to pass. The Planning Board shall adopt rules for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations. A copy of the minutes from all Planning Board meetings shall be filed in the office of the Town Clerk and any decision on a Site Plan Review request shall be dated and filed with the Town Clerk and have copies forwarded to the Town Board for its information and to Schuyler County Planning pursuant to § 239 of the General Municipal Law of the State of New York.

## **SECTION 4. PUBLIC NOTICE AND HEARINGS**

The Planning Board shall fix a reasonable time and date for all public hearings, whether required or optional, and shall give public notice by publication in the official Town newspaper of such public hearing. Public notice of any hearing required to be open to the public shall be printed in the Town newspaper at least five (5) days prior to the date of a public hearing to consider a Site Plan Review application. The Board hearing the case shall send written notice to adjoining property owners at said property owners addresses as recorded on the latest completed assessment roll of the Town. The notice shall describe said application, state where and by what date written comments will be received on the application under consideration and the date, time, and place of the public hearing.

**ARTICLE IX**  
**ZONING BOARD OF APPEALS**

**SECTION 1. ESTABLISHMENT**

There is hereby created a Board of Appeals having the powers authorized under § 267 of the Town Law of the State of New York. The members shall be residents of the Town of Catharine, New York and shall be appointed by the Town Board to serve initially in the order of their respective appointments; one for the term of one year, one for the term of four years, and one for the term of five years from and after said appointments. One of the said members of the Board of Appeals will be designated and appointed chairperson by the Town Board. The Town Board shall appoint a secretary to the Board of Appeals. In the absence of the chairperson, the vice-chairperson shall serve as chairperson. No member of the Board of Appeals shall be the Town Supervisor, a member of the Town Board, or a member of the Planning Board.

**SECTION 2. POWERS AND DUTIES**

The Zoning Board of Appeals shall perform its duties and exercise its powers so that the of this Local law shall be attained and the Town of Catharine's public health, safety, and welfare is secured. The Board of Appeals shall hear and decide on only those matters which it is specifically authorized to hear and decide as provided therein; administrative review, interpretation, variance, and expansion of nonconforming buildings and structures.

All questions concerning application of the provisions of this Local law shall first be presented to the Code Enforcement Officer. Such questions shall be presented to the Board of Appeals only on appeal from the decisions of the Code Enforcement Officer. Recourse from decisions of the Board of Appeals shall be to the courts as provided by law.

The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Local law, but does have power to act on those matters for which this Local law provides, including:

- A. Review: The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decisions or determination of the Zoning Enforcement Officer.
- B. Interpretation: The Zoning Board of Appeals shall have the power to:
  - 1. Interpret, upon request, the provisions of this Local law in such a way as to carry out the intent and purpose of this Local law. Where the Local law is clearly silent and the intent is not known, the issue shall not be acted upon but shall instead be referred to the Town Board for consideration of an Amendment.
  - 2. Determine the precise location of the boundary lines between Zoning districts when there is dissatisfaction with a decision made by the Code Enforcement Officer.
  - 3. Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. If the use is clearly different from any of the uses indicated in this Local law, then the issue shall be referred to the Town Board for consideration of an Amendment.
- C. Variances: The Zoning Board of Appeals shall have authority in specific cases to authorize variances from the strict letter and terms of this Local law by varying or modifying any of its rules or provisions so that the spirit of this Local law is observed, public safety secured, and substantial justice done. Such authority shall be exercised in accordance with the following standards.
  - 1. Use Variance: A use variance is a variance that permits a use that is otherwise prohibited in a zoning district. No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under 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. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - c. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - d. That the alleged hardship has not been self-created (including by the applicant or the applicant's predecessors in title).
2. Area Variance: The Zoning Board of Appeals may grant an area variance only upon a finding that practical difficulty exists. An area variance is a variance from any standard or requirement of the Local law, such as, but not limited to, a deviation from density, height, bulk, setback, or parking, landscaping and sign standards and requirements. A finding of practical difficulty shall require demonstration by the applicant of the following factors, which shall be reviewed and balanced to compare any detriment to the neighborhood or public against any benefit to the applicant, as required by Town Law Article 16:
- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - 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 area 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; and
  - e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.
3. In determining whether the effect a variance will have on the character of the area or a neighborhood, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
4. The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

### **SECTION 3. PROCEDURE**

The Board of Appeals shall adopt rules and regulations to govern its procedures. The presence of three (3) members shall constitute a quorum. The concurring vote of three (3) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or interpretation of the Code Enforcement Officer, or to decide in favor of an applicant any matter upon which they are required to pass under this Local law.

Meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure may specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon each question, or if absent or failing to vote indicating such fact, and all of its official actions.

All meetings and records shall be open to the public. All minutes shall be filed in the office of the Town Clerk and any decision on a variance request forwarded to the Town Board for its information and to Schuyler County Planning Board pursuant to § 239-l, *et seq.*, of the General Municipal Law of the State of New York. The secretary of the Zoning Board of

Appeals shall transmit to the Planning Board a copy of said application or appeal, together with a copy of the notice of public hearing. The Planning Board shall then render an advisory opinion to the Board of Appeals on the application prior to the date of the public hearing.

### **SECTION 4. PUBLIC NOTICE AND HEARINGS**

The Board of Appeals shall fix a reasonable time and date for a public hearing required for every appeal or application and shall give public notice including:

- A. Publication in the official paper of a notice of such public hearing at least ten (10) days prior to the date of the hearing.
- B. At least ten (10) days prior to the public hearing, mail notices to the parties involved, including adjoining property owners and to any property affected by such application.

**ARTICLE X  
ADMINISTRATION AND ENFORCEMENT**

**SECTION 1. ZONING ADMINISTRATOR**

The provisions of this Local law shall be enforced by the Town of Catharine Code Enforcement Officer.

- A. The Code Enforcement Officer shall administer and enforce all of the provisions of this local law.
- B. The Code Enforcement Officer shall receive applications and issue permits for the erection, alteration, removal, and demolition of buildings and structures or parts thereof and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of insuring compliance with the provisions of this local law.
- C. The Code Enforcement Officer shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction, and to insure compliance during the entire course of construction with the requirement of such laws, local laws, local laws, or regulations.
- D. The Code Enforcement Officer shall make all inspections which are necessary or proper for the carrying out of these duties.

**SECTION 2. BUILDING PERMITS**

- A. No person, firm, or corporation shall commence the erection, construction, enlargement, alteration, removal, demolition, conversion, or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit from the Code Enforcement Officer for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.
- B. Application shall be made by the owners or lessees, or agent of either, or by the architect, engineer, or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized by the owner to make such application. Application for a building permit shall be made to the Code Enforcement Officer and shall contain the following information:
  - 1. A description of the land on which the proposed work is to be done;
  - 2. A statement of the present and proposed use or occupancy of all parts of the land and of the building or structure.
  - 3. The full name and address of the owner and of the applicant and the names and addresses of their responsible officers if any of them are corporations.
  - 4. A brief description of the nature of the proposed work.
  - 5. A duplicate set of plans and specifications as set forth in subdivision C of this section.
  - 6. Such other information as may be reasonable required by the Code Enforcement Officer to establish compliance of the proposed work with the requirements of this local law.
- C. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing

construction on the site, the nature and character of the work to be performed, distance from lot lines, the relationship of structures on adjoining property. Plans and specifications shall bear the signature of the person responsible for the design and drawings.

- D. The Code Enforcement Officer shall keep permanent official records of all transactions and activities. This would include, in part, all applications received, permits and certificates, fees charged and collected, inspection reports, and notices and orders issued. All such records shall be public records open to public inspection during business hours.
- E. The Code Enforcement Officer shall annually submit to the Town Board a written report and summary of all business conducted.
- F. Amendments to the Application or to the plans and specifications accompanying the same may be filed at any time prior to the completions of the work, subject to approval of the Code Enforcement Officer.
- G. If this local law cannot be met and it is evident that a variance is necessary for a change in use, a request for a variance shall be made of the Board of Appeals. The Code Enforcement Officer, or the Board of Appeals, whichever has jurisdiction, shall not require plans and specifications until after the variance is granted, at which time they shall be prepared and submitted; it shall be ascertained that all the requirements of the Zoning Local law for the type use requested have been met before a building permit is issued.
- H. The Code Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. [The Code Enforcement Officer shall approve or disapprove the application within a reasonable period of time, but in no event should the time limit exceed 30 days.](#)
- I. [The following non-exclusive rules and standards apply to the issuance of building permits:](#)
  - 1. Upon approval of the application and upon receipt of the legal fees, the Code Enforcement Officer shall issue a building permit to the applicant affixed with the Code Enforcement Officer's signature.
  - 2. 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 files of the Code Enforcement Officer 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.
  - 3. If the application together with the plans, specifications and other documents filed therewith describes proposed work which does not conform to all of the requirements of this local law, the building and zoning official 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 such refusal together with reasons thereof, to be transmitted to the applicant in writing.
  - 4. A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of six months after the date of its issuance. For good cause the Code Enforcement Officer may allow a maximum of two extensions for a period not exceeding three months each. The issuance of building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved application.

### **SECTION 3. REVOCATION OF BUILDING PERMIT**

- A. The Code Enforcement Officer may revoke a building permit previously issued and approved in the following instances:
  - 1. Where there has been any false statement or misrepresentation as to an essential fact in the application, plans, or specifications on which the building permit is based.
  - 2. When a building permit was issued in error, revocation must be reviewed by the Board of Appeals.
  - 3. Where the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

4. Where the person to whom the building permit has been issued fails or refused to comply with a stop order issued by the Code Enforcement Officer.
  5. [Whenever authorized to do so under the Uniform Code or the Town's Code Enforcement Law.](#)
- B. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is being done in violation of the provisions of this local law or not in conformity with the provisions of the application, plans or specifications, or in an unsafe and dangerous manner, the Code Enforcement Officer shall notify the owner of the property, or applicant, to suspend all work, and any and all such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally, or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by certified mail.

#### **SECTION 4. CERTIFICATES OF OCCUPANCY**

- A. No building erected subject to the New York State Uniform Fire Prevention and Building Code shall be occupied or used, in whole or in part, for any purpose whatever until a certificate of occupancy is issued by the Code Enforcement Officer in accordance with its class and kind under the provisions of the New York State Uniform Fire Prevention and Building Code.
- B. Each certificate of occupancy may state the purpose for which the building may be used in its several parts, the maximum permissible live loads on the several floors, the number of persons that may be accommodated in the several stories in case such number is limited by any provision of the New York State Uniform Fire Prevention and Building Code, this chapter, other local laws or laws of the Town of Catharine or the approved specifications and special stipulations of the building permit, if any.

#### **SECTION 5. PENALTIES FOR OFFENSES**

[Any violation of, or non-compliance with, the requirements of this law is hereby declared to be an offense](#), punishable by a fine not exceeding one thousand dollars (\$1,000) per day or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation. In the event of continuous violation, the Town of Catharine may apply to the County Court or Supreme Court for an injunction and/or other equitable relief.

#### **SECTION 6. SCHEDULE OF FEES**

The Town Board shall determine the fee for Building permits on a periodic basis. The current fees will be listed on the Town Website and also available at the Town Clerk's office.

#### **SECTION 7. RIGHT OF INSPECTION**

The Code Enforcement Officer, upon the showing of proper credentials and in the discharge of these duties, may inspect any building or structure under construction at any reasonable hour, and no person shall interfere with or prevent such inspection.

#### **SECTION 8. COUNTY REFERRAL**

Pursuant to [§§ 239-1 through 239-nn](#) of General Municipal Law of the State of New York, certain classes of land use and zoning actions shall be referred to the Schuyler County Planning Board ([and sometimes to neighboring municipalities](#))

before final action is taken. The actions to be referred **generally** include the following:

- A. Any municipal zoning regulation or any amendment thereof, which would change the district classification of or the regulations applying to real property lying within a distance of five hundred (500) feet from:
  1. Any municipal boundary;
  2. The boundary of any existing or proposed County or State Park or other recreational area;
  3. The right-of-way of any existing or proposed County or State parkway, thruway, expressway, road, or highway;
  4. The existing or proposed boundary of any County or State owned land on which a public building or institution is situated.
  5. The boundary of any New York State Rural Agricultural Zone, as defined by Article 25-AA of the Agricultural Markets Law.
- B. And, any Special Use Permit or variance affecting such real property within such distance of five hundred (500) feet. Within thirty (30) days after receipt of such referred matter, the Schuyler County Planning Board shall report its recommendations thereon to the referring municipal body for site plan review.
- C. If the Schuyler County Planning Board fails to report within such period or within such mutually agreed extension thereof, the municipal body may act without such report. If the Schuyler County Planning Department recommends disapproval of the proposal, or recommends modification thereof, the municipal body shall not act contrary except by a vote of majority plus one of its full membership, and after adoption of a resolution fully setting forth the reasons for such contrary action.

## **ARTICLE XI DEFINITIONS**

### **SECTION 1. DEFINITIONS:**

**ACCESSORY APARTMENT:** A second residential unit that may be contained within an existing single-family home, garage, or carriage house that is required to be a complete housekeeping unit that can function independently, with separate access, kitchen, bedroom, and sanitary facilities (though may share a common septic system if the design is approved by the Schuyler County Public Health Department).

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

- Is subordinate to, incidental to, and customarily found in connection with the principal building or a principal use; and
- Is subordinate in area, extent and purpose to the principal structure or principal use served; and
- Contributes to the comfort, convenience or necessity of the occupants, business or industry in the principal structure or principal use served; and
- Is located on the same lot as the principal structure or principal use

**ADULT USE:** A business that provides sexual entertainment or services to customers. Adult uses include X-rated video shops and bookstores, live or video peep shows, topless or fully nude dancing establishments, combination book/video and marital aid stores, non-medical massage, hot oil salons, hourly motels, body painting studios, swingers' clubs, X-rated movie theaters, escort service clubs, and combinations thereof.

**AGRICULTURAL USE:** The use of land for the production, preparation, marketing or transportation of grain, vegetable, fruit, and other crops, horticultural and floricultural products, animal husbandry, livestock and livestock products, as well as the buildings, structures, equipment, animal waste and manure processing and handling facilities and associated operations necessary to support such production activities and practices, including a commercial horse boarding operation as defined in NYS Agriculture and Markets Law Article 25-AA, § 301.

**AGRICULTURE-RELATED ENTERPRISES:** A retail or wholesale enterprise providing services or products

principally utilized in agricultural production, including structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations.

**AGRICULTURAL EDUCATION AND RECREATIONAL EVENTS:** Recreational, educational and entertainment activities operated in conjunction with and as part of an overall direct marketing strategy for an active agricultural operation or farm market that contribute to the production, preparation and marketing of crops, livestock and livestock products, and including activities such as petting zoos, hayrides, corn mazes and other such recreational activities, educational demonstrations, the on-site processing of foodstuffs and sale of prepared foods comprised primarily of ingredients produced on the premises for consumption on-site and off-site.

**ALTERATIONS:** As applied to a building or structure, the change or rearrangement in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, or in the exit facilities; an enlargement of a building or structure, whether by extending on a side or by increasing in height; the moving from one location or position to another; any alteration whereby a structure is adapted to another or different use. This designation does not apply to changes such as installation of cupboards, paneling, interior walls, re-roofing, shingling, or weather boarding exterior walls.

**ANIMAL WASTE STORAGE FACILITY:** Any building, structure, pond, lagoon or yard for the bulk storage of animal waste for eventual removal and/or dispersion.

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

**APPLICANT:** See ‘owner.’

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

**AREA OF SPECIAL FLOOD HAZARD (See also ‘SPECIAL FLOOD HAZARD AREA’):** The land located in the one-hundred-year floodplain as depicted on the Town’s Flood Insurance Rate Map (FIRM).

**AUTOMOBILE SALVAGE (See also ‘Junk Yard’):** The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, resale, deposit or dumping of dismantled or wrecked vehicles or their parts operating under a valid Junk & Salvage License from New York State Department of Motor Vehicles. This shall include property used for the storage of impounded, abandoned, partially dismantled, obsolete or wrecked automobiles other than wholly within an enclosed building whether in connection with another business or not. The outdoor storage of any of the following is included in this definition:

- Two or more unlicensed junk vehicles;
- Two or more abandoned mobile homes or recreational vehicles;
- Two or more abandoned all-terrain vehicles or snowmobiles (as defined in New York State Vehicle and Traffic Law).

**BASEMENT:** A story partly underground and having at least 50% of its clear height below finished grade.

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

**BILLBOARDS AND SIGNS:** Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency, or of any civic, charitable, religious, patriotic, fraternal, or similar organization.

**BUFFER AREA** – A vegetated area, including but not limited to trees, shrubs and herbaceous vegetation; which exists or is established to protect a stream system, lake, wetland, steep slope, or reservoir or to protect an area from the impacts of an adjacent zoning district or from a highway.

**BUILDING**: Any construction, other than a mobile home or vehicle, having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals, or property.

**BUILDING ENVELOPE**: The preferred area(s) for development on a property based upon site conditions and after discussion with the Planning Board.

**BUILDING, FRONT LINE OF**: The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed but does not include steps. The area between the front line of the lot and the front line of a building is the front yard.

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

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

- Does not comply with all of the regulations of this Law, or any amendment of this Law, governing space and bulk requirements for the zoning district in which such building or structure is located; or
- Is located on a lot which does not, or is so located on a lot as not to, comply with the yard requirements for the zoning district in which such building or structure is located.

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

**CODE ENFORCEMENT OFFICER**: The person designated by the Town Board of the Town of Catharine, New York to perform the duties of Town Code Enforcement Officer.

**COMPREHENSIVE PLAN**: The long-term planning document or set of documents which is the culmination of a planning process establishing the official land use policy and presenting goals and a vision for the future that guides official decision-making of the Town of Catharine, prepared by the Planning Board pursuant to Article 272-a of New York State Town Law.

**CONSERVATION EASEMENT**: The grant of a property right or interest from a property owner to a unit of government or qualified conservation organization that permanently limits some uses of the land in order to protect its conservation values. Landowners continue to own and use their land and may sell or pass it on to heirs.

**CONSERVATION SUBDIVISION**: A subdivision that preserves at least 40% or more of a property's buildable land in large contiguous areas of open space and/or agricultural soils through more compact design, and that does not alter the underlying density for that zone unless through specific incentives defined in this Law.

**DAY CARE**: Daytime care or instruction of three or more persons away from their own homes for more than three but less than 24 hours per day, by an individual, association, corporation, institution or agency, whether or not for compensation or reward. This includes day care and group family day care requiring compliance with state laws and regulations under 18 NYCRR Parts 416 and 417 that relate to licensing and adequacy of the facility.

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

**DOUBLE-WIDE**: See 'Mobile home.'

**DWELLING:** A building, or mobile home, designed or used exclusively as the living quarters for one or more families.

**DWELLING, MULTI-FAMILY:** A dwelling or group of dwellings, on one plot containing separate living units for three or more families, but which may have joint services or facilities or both.

**DWELLING, ONE FAMILY:** A building or mobile home designed for or used exclusively as the living quarters for one family.

**DWELLING, TWO-FAMILY:** A building designed for or occupied exclusively by two families independently of each other.

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

**ECHO Unit:** Elderly cottage housing opportunity (ECHO) unit, an accessory structure constructed and installed in accordance with the New York State Uniform Fire Prevention and Building Code, the New York State Energy Code and any other applicable laws, local laws and/or regulations of the Town of Catharine. Documentation from the Schuyler County Health Department and Watershed Protection Agency that the water supply and wastewater treatment systems are adequate for both the principal dwelling and ECHO unit must be provided to the Code Enforcement Officer.

**ENGINEER OR LICENSED PROFESSIONAL ENGINEER:** For the purpose of this local law, a person licensed as a Professional Engineer by the State of New York.

**FACTORY-MANUFACTURED HOME:** For the purposes of this local law shall have the same meaning as “modular” and “modular dwelling.” [A] structure designed primarily for residential occupancy constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site. Modular dwelling units contain the same utility systems as conventional dwelling units. Modular dwelling units are not designed to be moved after they have been lifted onto a foundation and shall be treated the same as a conventional home for Building Code of New York State enforcement purposes.

**FAMILY:** One (1) or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club fraternity, or hotel.

**FARM:** Not less than seven (7) acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products and/or a commercial horse boarding operation of an average gross sales value of ten thousand dollars (\$10,000) or more.

**FARMWORKER HOUSING:** Farm labor housing, including mobile homes, used for the on-farm housing of permanent and seasonal employees farm labor housing purposes.

**FENCE** – Any artificial permanent fence, partition, structure or gate erected as a dividing marker, barrier or enclosure.

**FLOATING ZONE** – A floating zoning district defines a use that the community wants to encourage in a specific place. The floating zone can be affixed to a qualifying parcel of land, either upon the application of the parcel’s owner or upon the initiative of the Town Board

**HOME OCCUPATION:** An occupation, profession, or personal service for gain or support conducted only by members of a family residing on the premises, and conducted entirely within the dwelling, provided that no article or service is sold or offered for sale except such as may be produced by member of the immediately residing family on the premises. For the purposes of this local law an occupation that produces offensive noise, vibration, smoke, dust, odors, heat, or glare shall not be considered to be a home occupation. A home occupation shall be clearly secondary to the use of the dwelling unit for living purposes and should not change the character of the area or neighborhood.

**HOMEOWNERS ASSOCIATION (HOA):** An incorporated organization that owns and maintains property for the common benefit of individual homeowners or lot owners in a subdivision, condominium or planned community. The Association collects monthly fees from all owners to pay for common area maintenance, handle legal and safety issues and enforce the covenants, conditions, and restrictions set by the developer.

**INDUSTRIAL:** Firms engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products mainly by providing centralized services for separate retail outlets.

**JUNK YARD (See also ‘Automobile Salvage’):** Any property or place where the business of a junk dealer or salvage dealer buys, exchanges, collects, receives, stores, accumulates, sells or otherwise transfers junk or salvage materials other than wholly within an enclosed building. The outdoor storage of any of the following is included in this definition:

- Five or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
- Five and more inoperable pieces of equipment;
- Collection and storage of any second-hand or used material which, taken together, equal in bulk volume of 2000 cubic feet or more.

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

**LOT –** A tract of land under single ownership and occupied by, or designated to be developed for, a building and its accessory buildings, or a principal use, together with such open spaces and yards as are designed and arranged, or required under this Law, to be used with such buildings or use.

**LOT AREA:** The total square footage of horizontal area included within the property lines of a lot.

**LOT COVERAGE:** The total square footage of porches, vestibules, bay windows, fireplaces and chimneys added to the area of the principal building (including mobile home) and the areas of accessory buildings and structures on a lot, excluding the area occupied by a solar collector. For the purposes of this definition, a permanent overhang area, other than roof overhang, shall also be used.

**LOT LINE ADJUSTMENT:** A modification of lot boundaries in which a portion of one (1) or more lots is added to an adjoining lot without increasing the total number of buildable lots.

**MAJOR SOLAR COLLECTION SYSTEM:** A system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity and/or for on-site use. Facilities consist of one or more ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Major solar collection systems are defined as ground-mounted accessory systems with a total surface area greater than 5,000 square feet.

**MINOR SOLAR COLLECTION SYSTEM:** A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, accessory to the use of the premises for other lawful purposes. Minor solar collection systems are defined as roof- or building-mounted solar collectors on any code-compliant structure, and ground-mounted solar collectors with total surface area less than 5,000 square feet.

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

**MIXED-USE:** A development or redevelopment that allows for more dense development in a single building or on a single lot and includes a mixture of residential and commercial uses.

**MOBILE HOME:** A structure, transportable, in one section on wheels, which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein. Distinguished from modular homes which, although assembled in a factory, do not have a permanent chassis and are constructed or installed at the building site.

- **Single-wide Mobile home:** A Mobile home that is 18 feet or less in width and 90 feet or less in length and can be towed to their site as a single unit.
- **Double-wide Mobile home:** A Mobile home that is 20 feet or more wide and 90 feet or less in length and are towed to their site in two separate units

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

**MOTOR VEHICLE SERVICE STATION:** Any building, structure or land used to disperse, sell or offer automotive fuels, oils or accessories, including lubrication, washing, polishing or cleaning and the replacement or installation of minor parts and accessories to passenger automobiles or trucks not exceeding 1-1/2 tons' rated capacity, but not including any major mechanical repair, rebuilding or reconditioning of engines, motor vehicles or trailers or collision service, body repair, frame straightening, painting, undercoating, or upholstery.

**NEIGHBORHOOD COMMERCIAL:** Customary neighborhood retail and personal service amenities, including food retail (supermarket/grocery/bakery/butcher with retail sales of candy, ice cream, gifts, flowers, and similar sundry items);

community-serving retail (convenience store, farmers market, hardware store, drugstore/pharmacy, medical or dental clinic, art gallery/studio, photography store/studio, florist, bicycle sales/repairs, plant nursery which may include outside displays, painting and decorating, bookstore or newsstand, photocopying/related printing); neighborhood services (bank or other financial institution, theater, gym, health club, exercise studio, laundromat, dry cleaner, hair care/barbershop or beauty parlor, milliner/dressmaker/tailor, shoe maker/repair), restaurant or coffee shop, caterer); civic and community facilities (community/recreation center, museum, performing arts, education facility, business, professional, administrative, or governmental office, fire station and emergency medical services, post office, library).

**NON-CONFORMING BUILDING OR STRUCTURE:** Any building or structure, lawfully existing on the effective date of this Law, or any amendment to it rendering such building or structure nonconforming, which:

- Does not comply with all of the regulations of this Law, or any amendment of this Law, governing space and bulk requirements for the zoning district in which such building or structure is located; or
- Is located on a lot which does not, or is so located on a lot as not to, comply with the yard requirements for the zoning district in which such building or structure is located.

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

**OFFICIAL MAP, TOWN:** A map established by the Town Board under § 270 of the New York State Town Law, showing the streets, highways and parks theretofore laid out, adopted and established by law and all changes or additions thereto made under the provisions of § 273 of the New York State Town Law.

**OFFICIAL SUBMITTAL DATE:** The date when a sketch plan, a preliminary layout, or a subdivision plat shall be considered submitted to the Planning Board, hereby defined to be the date of the meeting of the Planning Board at which

all required surveys, plans, and data described in § F of Article VII are submitted.

**OPEN COURT:** An uncovered area partly or wholly surrounded by buildings, structures, or by walls.

**OWNER:** The owner of the land proposed to be subdivided or his/her duly authorized agent.

**PERCENTAGE OF LOT COVERAGE:** Lot coverage divided by "Lot Area".

**PARCEL:** A parcel of land legally in existence on the effective date of this Law as shown on the records of the Schuyler County Real Property Tax Service as of the effective date of this Law.

**PERSONAL CARE FACILITY:** A residential facility, consisting of a single building or a group of buildings, under common or related ownership, located on a single Lot or on contiguous Lots, without reference to contiguous streets, containing two or more of the following services for elderly or disabled persons who are residents of the facility in an Adult Family Day Care Home, a Family Day Care Home, Housing For The Elderly, a Nursing Home, or Residential Care Facilities.

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

**PLAT:** A map representing a tract of land showing the boundaries and location of individual properties and streets prepared by a licensed land surveyor and a licensed professional engineer, registered architect, or licensed landscape architect, which shall have their New York State seal affixed thereon and on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording.

**PRE-APPLICATION MEETING:** Discussion of initial concepts for a proposed subdivision with the reviewing board and, for Major Subdivisions, with submission of a Resource Analysis.

**PRELIMINARY PLAT:** A plan prepared by a licensed professional engineer, licensed land surveyor, registered architect or a licensed landscape architect, on a base map prepared by a licensed land surveyor, showing existing features of the land and proposed street utility and lot layout within and adjacent to a subdivision.

**PRELIMINARY REVIEW:** Preliminary project plans submitted to the Planning Board for review and comment prior to the submission of a formal application.

**PRINCIPAL DWELLING UNIT:** The structure which houses the residential use permitted under the zoning classification in accordance with the zoning district regulations.

**PRINCIPAL USE:** The primary use of a lot that is permitted under the district regulations. Unless the district specifically allows mixed uses, only one principal use may be made of a single lot, along with uses that are accessory to that principal use.

**PROPERTY LINES:** For the purpose of this local law the property line shall be considered as the boundary between the property and adjacent property.

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

**REAR LANE:** A strip of land over which there is a right-of-way, publicly or privately owned, on which no building fronts, serving as a secondary means of access to 2 or more properties.

**RECREATIONAL VEHICLE:** See ‘Travel Trailer.’

**RESOURCE ANALYSIS:** The inventory and evaluation of natural, historic, and cultural resources on a property to identify those resources to be protected, provide the basis for the maximum density calculation and determine locations for building envelopes.

**RESTAURANT:** An establishment where food is prepared and available to the general public, for a determined compensation, primarily for consumption within a structure on the premises and where the consumption of food in motor vehicles on the premises is neither encouraged nor permitted.

**RESUBDIVISION:** A change in a subdivision plat or resubdivision plat filed in the office of the Schuyler County Clerk, which change affects any street layout shown on such plat, affects any area reserved thereon for public use or diminishes the size of any lot shown thereon.

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

**RIDGE:** A ridge is a geological feature that includes a continuous elevational crest for some distance. Ridges can be termed hills or mountains depending on size and shape.

**RIGHT-OF-WAY:** The usage of the term “right-of-way” for subdivision platting purposes means that every right-of-way established and shown on a final plat is separate and distinct from the lots or parcels adjoining the right-of-way, and is not included, within the dimensions or areas of such lots or parcels. Rights-of-way involving maintenance by a public agency are dedicated to public use by the maker of the plat on which the right-of-way is established and are accepted for dedication at the agency’s discretion.

**ROADSIDE STANDS:** Sales limited to vegetables, fruits, herbs, flowers, plants, eggs, and other farm products; handcrafts produced as part of a home occupation; and syrups, jams and jellies, juices, honey, baked goods and other foodstuffs grown or produced as part of a home occupation, however in no case shall the sale of goods requiring refrigeration or freezing be permitted.

**ROOMING AND BOARDING HOUSES:** A dwelling or other structure in which lodging facilities are supplied for pay over an extended period of time as distinguished from a tourist home.

**SALVAGE YARD:** A lot, land, building, or structure, or part thereof, used primarily for collecting, storing, or selling waste paper, rags, glass, scrap metal or discarded materials of any kind or nature.

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

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

**SHARED DRIVEWAY:** A privately owned and maintained driveway that serves up to three (3) residences, does not require a turnaround, and is governed by a shared maintenance agreement among all owners. Driveway access is typically controlled by sightline, grades, and ecological factors, such as wetlands and stream crossings.

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

**SIGHT DISTANCE:** The distance an object 18 inches off the pavement (such as a headlight) is visible from an eye level 4 ½ feet above the pavement.

**SIGNIFICANT WILDLIFE HABITATS:** Lands that contain significant food, water, or cover for native terrestrial and aquatic species of animals and plants.

**SINGLE-WIDE:** See 'Mobile Home.'

**SILVICULTURE:** An on-going practice involving the dedicated and cyclic use of land expressly for the periodic production of timber including harvesting operations, nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, surface drainage, and directly associated road construction and maintenance including the felling, skidding, preparation (e.g., delimiting and trimming), loading and initial transport of forest products from an active harvest site.

**SKETCH PLAN:** A freehand sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions.

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

**SPECIAL FLOOD HAZARD AREA (See also 'AREA OF SPECIAL FLOOD HAZARD'):** The land located in the one-hundred-year floodplain as depicted on the Town's Flood Insurance Rate Map (FIRM).

**STABLING OF AGRICULTURAL ANIMALS:** A concentration of horses and/or livestock within a building, structure or other defined area for the purpose of housing or feeding.

**STORY:** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it; also, any portion of a building used for human occupancy between the topmost floor and the roof.

**STORY, HALF:** A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such area.

**STREAM:** A watercourse or surface depression characterized by a defined channel and stream bed that contain rocks or gravel and where water flows perennially or intermittently; this does not include man-made stormwater conveyances, such as grassy or riprap stabilized swales, roadside ditches, or stormwater management practices.

**STREET:** A public or private way, which affords the principal means of access to abutting properties including any highway. The following functional classification is used in these regulations.

- A. **RESIDENTIAL COLLECTOR ROAD:** A residential collector road collects traffic from residential areas and channels it to larger roads, such as county and state highways. It is well-traveled and accommodates a variety of vehicles, including large delivery trucks, school buses, vans, and cars.
- B. **RESIDENTIAL AND FARM ACCESS ROAD:** This road, used mostly by cars, small trucks and farm vehicles, provides access solely to residences or to residences and farm areas. Traffic on this road is light, but it may include occasional large trucks, school buses and farm equipment.

- C. **PRIVATE ROAD:** This is a paved or unpaved road that serves a limited number of single-family residences or a recreational area. Private roads can be maintained by local highway departments or by a private homeowner association.
- D. **CUL-DE-SAC or DEAD-END STREET:** A minor street with one end open for public vehicle and pedestrian access and the other end terminating in a vehicular turnaround.

**STREET WIDTH:** The distance between property lines.

**STRUCTURE:** A combination of materials to form a construction erected on the ground or upon another structure or building. Structures include, among other things: stadiums, platforms, unroofed porches, animal pens, roofless storage bins, radio towers, and display signs. "Structure" also includes anything that is constructed or erected underground and projects up to the ground surface or above, or anything that is constructed or erected wholly underground other than utility lines, septic and water systems, or other similar types of underground construction wholly ancillary to a principal building or structure on the premises. "Structure" also includes constructed parking spaces. The term "structure" includes a building.

**SUBDIVIDER:** Any person, firm, corporation, partnership, or association who or which shall lay out, for the purpose of sale or development, any subdivision or part thereof, as defined herein, either for themselves or others.

**SUBDIVISION:** The division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts or parcels of land for the purpose, whether immediate or future, of transfer of ownership for residential, commercial, industrial or recreational purposes; or the division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, tracts, or parcels by means of buildings, building groups, streets, alleys, parking areas, or leaseholds, for the purpose, whether immediate or future, of building development for residential, commercial or industrial purposes.

**SUBDIVISION, MAJOR:** A subdivision not classified as a minor subdivision.

**SUBDIVISION, MINOR:** Any subdivision containing not more than two lots, each of at least the minimum size as permitted by this Local law, each fronting on an existing public street, not involving any new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining properties, and not in conflict with any provision or portion of the Comprehensive Plan.

**SUPERINTENDENT:** The duly elected or appointed Town Superintendent of Highways or other such authorized official.

**TIMBER HARVESTING:** The clear-cutting and the harvesting of timber as a one-time, non-recurring practice of a total land disturbance of one or more acres, including but not limited to logs, lumber, posts and firewood, through the use of a readily moveable, nonpermanent saw mill. Land disturbance for timber harvesting projects is defined as soil exposure resulting from clearing, grading and excavation (cuts and fills).

**TOURIST HOMES:** Any private home which normally rents rooms for a limited period of time to transient persons for lodging purposes.

**TOWN CLERK:** The person elected by the Town of Catharine, New York to perform the duties of secretary to the Town board for all purposes of these regulations.

**TRAVEL TRAILER:** Any vehicle used or arranged to be used for living or as temporary sleeping quarters, mounted on wheels and movable or propelled either by its own power or drawn by another power vehicle built on a chassis and designed to be used as a temporary residence for recreational or vacation purposes. A visiting travel trailer is defined to be a travel trailer which is occupied or intended to be occupied by one or more persons, occupied or not, connected to any electrical service outlet, sewage removal facility or has any operational heating, cooking, or lighting systems.

**WALL:** A continuous vertical brick or stone structure that encloses or divides an area of land.

**WATERCOURSE:** Every spring, pond, lake, stream, marsh or channel of any kind, the water of which flows or may flow within the Town of Catharine.

**WATERSHED INSPECTOR:** The Schuyler County Official charged with maintaining the nature and quality of the County's Watershed areas pursuant to said County's Watershed Law.

**WIND ENERGY SYSTEM:** A wind energy conversion system with a rated capacity of not more than 300 kW which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment.

**YARD:** Any unoccupied space open to the sky, on the same lot with building or structures.

**YARD, FLAG LOT:** A flag lot consists of a narrow strip of land extending to or from a larger piece of land. The narrow strip of land serves to provide access to the main property. The front yard of a flag lot shall be on the side of the parcel that is most closely parallel to the street which the access strip of land connects to.

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

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

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

## **SECTION 2. WORD USAGE**

For the purpose of this local law, certain terms or words used herein shall be interpreted or defined as follows:

- A. Words in the present tense include the future tense;
- B. Words in the singular include the plural and the plural the singular;
- C. The word "shall" is always mandatory;
- D. The word "lot" shall include the word "plot" or "parcel";
- E. The word "street" includes "road," "highway" and "lane";
- F. The word "watercourse" includes "drain," "ditch" and "stream";
- G. The word "person" shall include an individual, firm, or corporation;
- H. A building or structure includes any part thereof;
- I. The word "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".
- J. The word "and" indicates that all connected items, conditions, provisions or events shall apply;
- K. The word "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination;
- L. The words "either...or" indicates that the connected items, conditions, provisions or events may apply singly but not in any combination.
- M. The word "Town" means the Town of Catharine, New York.
- N. The word "County" means the County of Schuyler, New York.

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

## **ARTICLE XII SOLAR ENERGY**

### **SECTION 1. AUTHORITY**

This Solar Energy Local Law is adopted pursuant to §§ 261-263 of the Town Law of the State of New York, which authorize the Town of Catharine to adopt zoning provisions that advance and protect the health, safety, and welfare of the community and, in accordance with the Town Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor, and §§ 10(1)(i)(a)(9-a), (11) and (12) of the Municipal Home Rule Law of the State of New York.

### **SECTION 2. STATEMENT OF PURPOSE**

- A. This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Town by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:
1. To take advantage of a safe, abundant, renewable, and non-polluting energy resource;
  2. To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
  3. To increase employment and business development in the Town, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
  4. To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources, and;
  5. To create synergy between solar and existing Town goals, such as: protecting assets that are essential to the Town’s rural character; developing and enhancing regional approaches to economic development; advancing community development objectives.

### **SECTION 3. DEFINITIONS**

**BUILDING-INTEGRATED SOLAR ENERGY SYSTEM:** A combination of Solar Panels and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

**CODE ENFORCEMENT OFFICER:** Building Inspector 3, and/or such other officer(s) designated by the Town Board for administration and enforcement of this Local Law.

**FARMLAND OF STATEWIDE IMPORTANCE:** Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, which is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

**GLARE:** The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

**GROUND-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

**HAZARDOUS WASTE:** As defined by the United States Environmental Protection Agency in 40 CFR Part 261 and New York State Department of Environmental Conservation in 6 NYCRR Part 371 as well as other material regulated

for the purpose of release, reuse, disposal, or recycling (e.g., CFC's, ethylene glycol, toxic heavy metals, oil). Disposal of such waste shall be conducted in accordance with the provisions set forth in § 8: Permitting requirements for Tier 3 Solar Energy Systems, Subsection H: Decommissioning and in Appendix 4: Example Decommissioning Plan.

**NATIVE PERENNIAL VEGETATION:** Native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

**OPERATOR:** The party or parties that owns and/or operates a Solar Energy System, which may be the same as, or different than, the Owner.

**OWNER:** The record owner(s) of the real property upon which a Solar Energy System is situated.

**POLLINATOR:** bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and include both wild and managed insects.

**POLLINATOR PLANT:** flora which attract or provide habitat for pollinator species such as bees, birds, bats, and other insects or wildlife that pollinate flowering plants.

**PRIME FARMLAND:** Land, designated as "Prime Farmland" in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)'s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

**ROOF-MOUNTED SOLAR ENERGY SYSTEM:** A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

**SOLAR ACCESS:** Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

**SOLAR ENERGY EQUIPMENT:** Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

**SOLAR ENERGY SYSTEM:** The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows:

- A. Tier 1 Solar Energy Systems include the following:
  1. Roof-Mounted Solar Energy Systems
  2. Building-Integrated Solar Energy Systems.
- B. Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to 25kW AC and that generate no more than 110% of the electricity consumed on the site over the previous 12 months.
- C. Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

**SOLAR PANEL:** A photovoltaic device capable of collecting and converting solar energy into electricity.

**STORAGE BATTERY:** A device that stores energy and makes it available in an electrical form.

ZONING LAW: Zoning Local law of the Town of Catharine.

#### **SECTION 4. APPLICABILITY**

- A. The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Town after the effective date of this Local Law, excluding general maintenance and repair.
- B. Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- C. Modifications to an existing Solar Energy System that increases the Solar Energy System area by more than 5.0% of the original area of the Solar Energy System *or* by more than an additional area of more than 2.0 acres (exclusive of moving any fencing), whichever area threshold is met first, shall be subject to this Local Law.
- D. All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code ("Building Code"), the NYS Energy Conservation Code ("Energy Code"), and the Zoning Law; provided, however, that in the event of any conflict between the Zoning Law and this Local Law, this Local Law shall control.

#### **SECTION 5. GENERAL REQUIREMENTS**

- A. A building permit shall be required for installation of all Solar Energy Systems.
- B. Issuance of permits and approvals by the Town Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 ("SEQRA")].

#### **SECTION 6. PERMITTING REQUIREMENTS FOR TIER 1 SOLAR ENERGY SYSTEMS**

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

- A. Roof-Mounted Solar Energy Systems. Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
  - 1. Solar Panels on pitched roofs shall be mounted with a maximum distance of 8 inches between the roof surface the highest edge of the system.
  - 2. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
  - 3. Glare: All Solar Panels shall have anti-reflective coating that meets commercially reasonable standards.
  - 4. Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.
- B. Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

#### **SECTION 7. PERMITTING REQUIREMENTS FOR TIER 2 SOLAR ENERGY SYSTEMS**

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

- A. Glare: All Solar Panels shall have anti-reflective coating that meets commercially reasonable standards.

- B. Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground-Mounted Solar Energy Systems shall only be installed in the side or rear yards in the Rural Development district.
- C. Height: Tier 2 Solar Energy Systems shall comply with the height limitations in Appendix 3.
- D. Screening and Visibility:
  - 1. All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
  - 2. Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
- E. Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

## **SECTION 8. PERMITTING REQUIREMENTS FOR TIER 3 SOLAR ENERGY SYSTEMS**

All Tier 3 Solar Energy Systems are permitted through the issuance of a Special Use Permit and are subject to site plan application requirements set forth in this section.

- A. Applications for the installation of Tier 3 Solar Energy Systems shall be:
  - 1. Reviewed by Code Enforcement Officer for completeness prior to referral to the Planning Board for substantive review. Applications shall not be considered complete until marked as such by the Code Enforcement Officer. Applicants shall be advised within 10 business days following submission of an application, or any resubmission, amendment, or supplement to an application, of the completeness of their application or any deficiencies that must be addressed prior to substantive review.
  - 2. Subject to a public hearing to hear all comments for and against the application. The Planning Board of the Town shall have a notice printed in a newspaper of general circulation in the Town and posted on the Town website at least 5 business days in advance of such hearing. Applicants shall deliver notice of the public hearing by first class mail to adjoining landowners or landowners within 2500 linear feet of the property at least 10 business days prior to such a hearing. Proof of mailing shall be provided to the Planning Board prior to the public hearing.
  - 3. Referred to the Schuyler County Planning Department pursuant to General Municipal Law § 239-m if required.
  - 4. Upon closing of the public hearing, the Planning Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Planning Board and the applicant.
- B. Underground Requirements: All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
- C. Vehicular Paths: Vehicular Paths within the site shall be designed to minimize the extent of impervious materials and soil compaction.
- D. Signage:

1. With the exception of signage for public education mutually agreed upon by the Planning Board and the applicant, no signage or graphic content shall be displayed on the Solar Energy Systems except the following mandatory content: manufacturer's name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted at each perimeter access gate or along the perimeter fence such that a sign is accessible every 2640 linear feet along the Solar Energy System's perimeter.
  2. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- E. Glare: All Solar Panels shall have anti-reflective coating that meets commercially reasonable standards.
- F. Lighting: Lighting of the Solar Energy Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties. Wherever practicable, energy-efficient LED lighting shall be used.
- G. Tree-cutting: Removal of existing trees larger than 6 inches in diameter shall be minimized to the extent possible.
- H. Decommissioning:
1. Solar Energy Systems that have been abandoned as determined by the Code Enforcement Officer and/or not producing material amounts of electricity for a period of 6 months shall be removed at the Owner's and/or Operator's expense.
  2. A decommissioning plan (see Appendix 4) signed by the Owner and the Operator shall be submitted by the applicant, addressing the following:
    - a. The cost of removing the Solar Energy System.
    - b. The time required to decommission and remove the Solar Energy System and any ancillary structures.
    - c. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.
    - d. The process for proper handling, off-site disposal, and, where applicable, recycling of the Solar Energy System and any ancillary structures, including mandatory use of qualified recyclers for hazardous waste. Qualified recyclers must possess certifications that meet or exceed applicable federal, state, and local standards. Recycler certifications should meet or exceed ISO-, OHSAS 18001- or WEEE Labex-certified criteria for handling and recycling hazardous waste.
  3. Security:
    - a. The deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security acceptable to the Planning Board, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal of the Solar Energy System and restoration of the site subsequent to removal. The amount of the bond or security shall be 125% of the cost of removal of the Tier 3 Solar Energy System and restoration of the property with an escalator of 2.5% annually for the life of the Solar Energy System as determined by the Planning Board's engineer. The decommissioning amount shall be reviewed by the Planning Board every (5) years following permit issuance and may be reduced or increased as circumstances dictate as determined by the Planning Board in consultation with its engineer.
    - b. The cash deposit, bond, or security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. In the event of default in performance of any conditions or requirements of the decommissioning plan, the cash deposit, bond, or security shall be forfeited to the Town without any requirement of notice to the Owner or Operator, and the Town shall be entitled to maintain an action thereon.
  4. Successors and Assigns: The decommissioning plan shall bind the Owner and the Owner's successors and assigns. As a condition of insurance of the special use permit, a restrictive covenant binding the Owner and all successors and assigns to the decommissioning plan, and permitting enforcement thereof by the Town,

in a form approved by the Town's attorney, shall be recorded in the Schuyler County Clerk's Office at the Owner's or Operator's cost.

- I. Site plan application: For any Solar Energy System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:
1. Property lines and physical features, including roads, for the project site.
  2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
  3. A one- or three-line electrical diagram detailing the Solar Energy System layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
  4. A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
  5. Name, address, and contact information of proposed or potential system installer and the Owner and Operator. Such information of the final system installer shall be submitted prior to the issuance of building permit.
  6. Name, address, phone number, and signature of the project applicant and the Owner and Operator, and a signed statement by the Owner demonstrating the Owner's consent to the application and the use of the property for the Solar Energy System.
  7. Zoning district designation for the parcel(s) of land comprising the project site.
  8. Property Operation and Maintenance Plan; such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
  9. Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.
  10. Prior to the issuance of the building permit or final approval by the Planning Board, but not required as part of the application, engineering documents must be signed and sealed by a New York State (NYS) Licensed Professional Engineer or NYS Registered Architect.

J. Special Use Permit Standards:

1. Lot Size. The property on which the Tier 3 Solar Energy System is placed shall meet the lot size requirements in Appendix 1.
2. Setbacks. The Tier 3 Solar Energy Systems shall meet the setback requirements in Appendix 2.
3. Height. The Tier 3 Solar Energy Systems shall comply with the height limitations in Appendix 3.
4. Lot coverage
  - a. The following components of a Tier 3 Solar Energy System shall be considered included in the calculations for lot coverage requirements:
    1. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
    2. All mechanical equipment of the Solar Energy System, including any pad mounted structure for batteries, switchboard, transformers, or storage cells.
    3. Paved access roads servicing the Solar Energy System.
  - b. Lot coverage of the Solar Energy System, as defined above, shall not exceed the maximum lot coverage requirement of the underlying zoning district.
5. Fencing Requirements: All mechanical equipment, including any structure for storage batteries, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access.
6. Screening and Visibility
  - a. Solar Energy Systems smaller than 10 acres shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area.

- b. Solar Energy Systems larger than 10 acres shall be required to:
  - 1. Conduct a visual assessment of the visual impacts of the Solar Energy System on public roadways and adjacent properties. At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, shall be required to be submitted by the applicant.
  - 2. Submit a screening and landscaping plan to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment shall be minimized as reasonably practical from public roadways and adjacent properties to the extent feasible.
    - a. The screening and landscaping plan shall specify the locations, elevations, height, plant species and/or materials that will comprise the structures, landscaping, and/or grading used to screen and/or mitigate any adverse aesthetic effects of the system. The landscaped screening shall be comprised of a minimum of 1 evergreen tree plus 2 supplemental shrubs at the reasonable discretion of the Town Planning Board, all planted within each 10 linear feet of the Solar Energy System. Existing vegetation may be used to satisfy all or a portion of the required landscaped screening.
- c. All Solar Energy Systems shall be designed to the extent feasible such that panels are of similar height or otherwise aesthetically compatible with the lay of the land.
- d. Agricultural Resources. For projects located on agricultural lands:
  - 1. Any Tier 3 Solar Energy System located on the areas that consist of Prime Farmland or Farmland of Statewide Importance which exceeds 50% of the area of Prime Farmland or Farmland of Statewide Importance on the parcel shall undergo additional impact analyses at the discretion of the Town Planning Board.
  - 2. Tier 3 Solar Energy Systems shall be required to seed at least 20% of the total surface area of all solar panels on the parcel with native perennial vegetation designed to attract pollinators, with the exception of Tier 3 Solar Energy Systems located on brownfield sites as defined by New York State Department of Environmental Conservation or similarly contaminated sites determined by the Town Planning Board to be unsuitable for attracting pollinators.
  - 3. To the maximum extent practicable, Tier 3 Solar Energy Systems located on Prime Farmland shall be constructed in accordance with the construction requirements of the New York State Department of Agriculture and Markets.
  - 4. Tier 3 Solar Energy System owners shall develop, implement, and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds, pollinators, and pollinator plants. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the owners shall use native plant species, seed mixes, and pollinator plants.

K. Ownership changes. If the Owner or Operator changes, the Town Planning Board shall be notified within thirty days following such a change, and an application for continuance of the special use permit shall be filed within 60 days following such change. The application for continuance of the special use permit shall be made on such form as the Town Planning Board shall require and, at a minimum, shall demonstrate compliance with all conditions of the special use permit. The application for continuance shall be deemed complete when the Code Enforcement Officer has marked it as such and referred it to the Town Planning Board for review. Provided that all terms and conditions of the special use permit are complied with, and subject to such additional conditions as the Planning Board may reasonably impose, the special use permit shall be continued by the Planning Board within sixty days following the submission of the complete application for continuance.

## **SECTION 9. SAFETY**

A. Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.

- B. Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Tier 3 Solar Energy System is located in an ambulance district, the local ambulance corps.
- C. If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

## **SECTION 10. PERMIT TIME FRAME AND ABANDONMENT**

- A. A building permit for construction of a Solar Energy System shall be issued within six months following site plan and special use permit approval, and construction of the Solar Energy System shall be completed, as determined by the Code Enforcement Officer and evidenced by a certificate of completion, within twelve months following issuance of the building permit, failing which the site plan approval and special use permit shall expire and be of no further effect. The Operator may apply to the Code Enforcement Officer to extend the time to complete construction for up to 180 days.
- B. Upon cessation of material electricity generation of a Solar Energy System for six months, the Town may notify and instruct the Owner and/or Operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within 360 days of notification.
- C. If the Owner and/or Operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

## **SECTION 11. ENFORCEMENT**

Any violations of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the Zoning Law.

## **SECTION 12. HOST COMMUNITY AGREEMENT**

- A. Findings. With respect to § 12 of this Local Law, the Town Board of the Town of Catharine makes the following findings:
  - 1. While commercial-scale solar energy development projects may benefit the Town, they also will impose costs such as requirements for infrastructure additions or improvements, environment impacts, needs for new and/or enhanced public safety and emergency services response, aesthetic and quality of life concerns, loss of farmland, erosion of tax base, and other foreseen and unforeseen impacts.
  - 2. Existing revenue sources are not sufficient to fund and/or offset the detrimental impacts of commercial-scale solar development in the Town.
  - 3. It is desirable for the Town to provide for a requirement that developers of commercial-scale solar energy projects enter into an agreement with the town prior to commencement of operation of such facilities to ensure that such developers provide for an ongoing level of support, care, and maintenance of the facilities during their useful life, pay to the Town a fee as shall be determined to be necessary to offset the costs and impacts to the Town incident to a facility's development and/or operation, and to address such other matters as are determined by the Planning Board and/or the Town Board to be necessary or advisable to the development of any such facility. Such an agreement is herein after referred to as a "Host Community Agreement."

- B. Host Community Agreement

Prior to the issuance of a building permit for any Tier 3 Solar Energy System, the Operator shall enter into a Host Community Agreement with the Town of Catharine. The Host Community Agreement shall:

1. Contractually obligate the Operator to comply with any terms and conditions of any special use permit approval of the Planning Board;
2. Provide for payment by the Operator to the Town of an impact fee to be used and applied by the Town to pay for and/or offset the costs and impacts incurred by and/or arising due to the development and/or operation of the Tier 3 Solar Energy System. The amount of such impact fee shall be established by the Town Board by resolution adopted from time to time, based upon the amount of energy produce by the project and such other factors as the Town Board shall determine;
3. Provide for such other contractual requirements as may be necessary given the specific elements of a particular project; and
4. In the event that the Operator and/or Owner shall enter into an agreement with the Schuyler County Industrial Development Agency to provide for an abatement in real property taxes or other tax exemption or abatement, be cross-defaulted with the agreements between the Operator and/or Owner and the Schuyler County Industrial Development Agency.

### **SECTION 13. SEVERABILITY**

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgement of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

### **ARTICLE XIII AMENDMENTS**

This local law may be amended or varied in the manner required by the Town Laws of the State of New York. Any proposed amendment or variance shall be referred to the Board of Appeals for their recommendation before being acted upon by the Town Board. All changes must be preceded by a public notice and public hearing.

### **ARTICLE XIV MISCELLANEOUS**

#### **SECTION 1. REPEAL OF PRIOR PROVISIONS**

The Town of Catharine Zoning Local law dated 1967 is hereby repealed in its entirety. Except as expressly provided in said local law, as revised thereby, such repeal shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been affected. [Prior local laws and local laws amending the zoning rules and regulations \(including the maps\) of the Town of Catharine are amended, updated, and superseded by this local law, and any zoning maps updated in furtherance hereof.](#)

#### **SECTION 2. CONFLICT WITH OTHER LAWS**

This land use law shall not repeal, abrogate, annul, or in any way impair or interfere with any provisions of law or rules of regulations previously adopted or issued and still in effect relating to the use of structures or premises, provided that where this land use law imposes a greater restriction upon the use of structures or premises or requires larger lots or yards that are imposed or required by such existing laws, rules, or regulations, the provisions of this land use law shall control.

### **SECTION 3. SEVERABILITY**

If any court of competent jurisdiction shall adjudge any provision of this local law to be invalid, such judgment shall not affect any other provisions of this local law. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this local law to a particular property, building or structure, such judgment shall not affect the application of the said provision to any other property, building or structure.

### **SECTION 4. EFFECTIVE DATE**

This local law will take effect immediately.

## APPENDIX 1: LOT SIZE REQUIREMENTS

The lot size requirements for Ground-Mounted Solar Energy Systems shall be as follows:

**Table 1: Lot Size Requirements**

| ZONING DISTRICT   | TIER 3 SOLAR ENERGY SYSTEMS |
|-------------------|-----------------------------|
| Rural Development | $\geq 2$ acres              |
| Business          | $> 1$ acre                  |

**APPENDIX 2: PARCEL LINE SETBACKS**

**Table 2: Set-back Requirements**

| <b>ZONING DISTRICT</b> | <b>TIER 3 SOLAR ENERGY SYSTEMS</b>                                 |
|------------------------|--|
| Rural Development      | Front Yard – 50 Feet<br>Side Yard – 50 Feet<br>Rear Yard – 50 Feet |
| Business               | Front Yard – 75 Feet<br>Side Yard – 50 Feet<br>Rear Yard – 50 Feet |

Fencing, access roads, and landscaping may occur within the setback.

### APPENDIX 3: HEIGHT REQUIREMENTS

The following table displays height requirements for each type of Solar Energy System. The height of systems will be measured from the highest natural grade below each solar panel.

**Table 3: Height Requirements**

|                        | <b>TIER 1 ROOF-MOUNTED</b> | <b>TIER 2</b> | <b>TIER 3</b> |
|------------------------|----------------------------|---------------|---------------|
| <b>ZONING DISTRICT</b> |                            |               |               |
| Business               | 2' above roof              | 10'           | 15'           |
| Rural Development      | 2' above roof              | 15'           | 20'           |

**APPENDIX 4: EXAMPLE DECOMMISSIONING PLAN LETTER**

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and submitted by [Solar Developer Name], the owner of [Solar Farm Name], as required by the Town of Catharine, [Operator Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for 6 months
3. The system is damaged and will not be repaired or replaced.

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state, and federal waste disposal regulations.
4. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within 6 months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Owner Name], is responsible for this decommissioning.

Facility Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_