Town of Scipio
Zoning Ordinance

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Cayuga County, New York

Adopted
October 06, 2021

Amended
July 13, 2022

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ARTICLE I
General Provisions

Section 1.01 - Short Title

A. This Ordinance shall be known as the "Zoning Ordinance of the Town of Scipio, NY".

Section 1.02 - Purpose

A. Such Ordinance is made under and pursuant to Article 16 of the Town Law of the State of New York and in accordance with the Town's adopted Comprehensive Plan; and is designed to promote the health, safety, and general welfare of the community; to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements; the size of buildings and other structures; the percentage of lot that may be occupied; the size of yards; the density of populations; and the use of buildings, structures and land for trade, industry, residence or other purposes are hereby restricted and regulated as hereinafter provided.

B. Such regulations were made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality.

Section 1.03 - Jurisdiction

A. The regulations and provisions of this Ordinance shall apply to and affect all lands within the legal municipal boundaries of the Town of Scipio.

Section 1.04 - Application of This Ordinance

A. No building, structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered unless in conformity with the regulations of this Ordinance. However, this Ordinance shall not require any change to any building, structure or use legally existing at the effective date of this Ordinance, or any amendment thereto; or to any building, structure, or use planned and construction started in compliance with existing laws prior to the effective date of the Ordinance, or any amendment thereto, and completed within a one year period after the effective date of this Ordinance, or any amendment thereto, except as provided in Article XIII.

ARTICLE II
Rules of Interpretation and Definitions

Section 2.01 - Rules of Interpretation

A. Subject to the provisions of Article I thereof, in the interpretation of this Ordinance, the following rules shall apply:

(1) Words used in the present tense include the future tense.

(2) The singular includes the plural and the plural the singular.

(3) The word "person" includes an individual, firm, partnership, association or corporation.

(4) Any use of the gender specific words (his, hers, him, her) shall imply both genders.

(5) The word "lot" includes the word "plot" or "parcel."

(6) A building or structure includes any part thereof.

(7) The term "used" or "occupied," as applied to any land or structure, shall be construed to include the words "intended, arranged or designed to be used or occupied."

(8) The word "shall" is intended to be mandatory.

(9) The word "may" is permissive.

(10) The word "and" indicates that all connected items, conditions, provisions or events shall apply.

(11) The word "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(12) The words "either . . . or" indicates that the connected items, conditions, provisions or events may apply singly but not in any combination.

(13) The word "Town" means the Town of Scipio, New York.

(14) The word "County" means the County of Cayuga, New York.

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

Section 2.02 - Definitions

A. As used in this Ordinance, the following terms shall have the meanings indicated:

Abandonment - The voluntary, and intentional relinquishment of property or cessation of the use of property by the owner or lessee without any intention of transferring rights to another owner or of resuming the use of the property. "Abandonment" shall also mean to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure. An "intent to resume" can be shown through continuous operation of a portion of the facility, maintenance of sewer, water, and other public utilities including electric service, or other outside proof of continuance such as bills of lading, delivery records, etc.

Abandoned Item - Any item which has ceased to be used for its designed and intended purpose. The factors used in determining whether or not an item has been abandoned, include but are not limited to the following: (1) Present operability and functional utility of the item; (2) the date of

last effective use of the item; (3) the condition of disrepair or damage; (4) the last time an effort was made to repair or rehabilitate the item; (5) the status of registration or licensing of the item; (6) the age and degree of obsolescence; (7) the cost of rehabilitation or repair of the item when compared to its market value; or (8) the nature of the area and location of the item.

Accessory - The term applied to a building, structure, system, or use (except for an accessory dwelling unit) that (1) is customarily incidental and subordinate to and serves a principle building or use served; (2) is subordinate in area, extent, or purpose to the principle building or use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principle building or principle use; and (4) is located on the same parcel as the principle building or principle use.

(1) **Accessory Structure -** A subordinate structure detached from but located on the same lot as a principal structure. The use of an accessory structure must be identical and accessory to the use of the principal stricture. Accessory structures include but are not limited to garages, sheds, decks, fences, swimming pools, etc.

(2) **Accessory Use -** A use that is incidental to and customarily found in connection with the principal use. An accessory use must be conducted on the same zoning lot as the principal use to which it is related.

Accessory Dwelling Unit - A subordinate building located on the same lot as a principal building and clearly incidental and subordinate to the principal building. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an Accessory Dwelling Unit.

Adult Oriented Business - Any use or substantial or significant part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods, including books, magazines, pictures, slides, film, and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewings and encounters, the principal feature or characteristic of which is the nudity or partial nudity of any person, or in respect of which the word "nude", "naked", "topless", "bottomless" "sexy" or any other word, picture, symbol or representation having like meaning or implication is used in any advertisement.

Agricultural Data Statement – A written statement to accompany any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval that would occur on property within a New York State Certified Agricultural District containing a farm operation or property with boundaries within 500 feet of a farm operation located in an Agricultural District, including: name of applicant; mailing address; description of the proposed project; project site address; project site tax map number and whether the project is located on the property, within an Agricultural District containing a farm operation, or with boundaries within 500 feet of a farm operation located in an Agricultural District; number of acres affected by project; whether any portion of the project site is currently being farmed and, if so, how many acres or square feet; name and address of any owner of land containing farm operations within the Agricultural District and located within 500 feet of the boundary of the property upon which the project is proposed; and a copy of the current tax map showing the site of the proposed project relative to the location of farm operations identified.

Agriculture - The use of land and resources for the production of food, fiber, fuel, and for agri-tourism activities in accordance with the accepted practices of land, nutrient, and farm management as defined by the New York State Department of Agriculture & Markets including but not limited to the raising, harvesting, and selling of crops; feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees; dairying and the sale of dairy products; any other aquacultural, floricultural, horticultural, silvicultural or viticultural use; animal husbandry, agricultural support industries, or by any

combination thereof; and the use of land for the primary purpose of stabling or training equines including, but not limited to, providing riding lessons, training clinics and schooling shows.

Agricultural Practices - Those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. Examples of such practices include, but are not limited to: operation of farm equipment, construction and use of farm structures, proper licensed use of agricultural chemicals, and proper nutrient management activities (e.g. spreading of manure or compost, application of nutrients like nitrogen on the soil, and other accepted crop production methods) as defined by the New York State Department of Agriculture & Markets.

Agricultural Sales And Service - A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products and farm supplies. This definition includes the sale of large implements, such as tractors and combines, and farm machinery, as well as repair services that are accessory to the principal use.

Agri-Tourism - a form of commercial enterprise that links agricultural production and/or processing with tourism in order to attract visitors onto a farm or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm or business owner including but not limited to: pumpkin picking patches, corn mazes, U-pick or Community Supported Agriculture (CSA) operations, petting and feeding zoos, hay rides, cut-your-own Christmas tree farms, demonstration farms, agricultural museums, living history farms, on-farm farmers' markets or road-side stands, and garden tours.

Alteration - As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Animal Care Facility - Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal. This term is also commonly referred to as an animal hospitals or veterinary clinics.

Animal Kennel - Any structure, land, or combination thereof used, designed, or arranged for the commercial boarding, breeding or care of dogs, cats, pets, fowl, horses, or other domestic animals for profit, but exclusive of animals used for agricultural purposes.

Animal Shelter - A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Area Regulations - Those regulations which refer to dimensional or numerical requirements in this Ordinance, such as but not limited to lot size, lot width, setback dimensions, percentage of lot coverage, percentage of impervious material, building height, number of parking spaces, density and supplemental regulations which refer to dimensional or numerical requirements.

Artist/Artisan One skilled in an applied art; a craftsperson.

Artist's Studio/Artisan's Workshop - An establishment for the preparation, display, and sale of individually crafted fine arts such as but not limited to: artwork, drawings, furniture, hand-woven articles, jewelry, leathercraft, painting, pottery, sculpture, vocal or instrumental music, writing and related items by an artist, artisan, or craftsperson, including persons engaged in the application, teaching, or performance of any of these skilled crafts. Accessory dwelling units in the form of live-work space for artists/artisans may be allowed as part of this use as otherwise permitted in this Ordinance.

Automobile Sales - The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new or used motor vehicles, boats, trailers (as defined elsewhere in this Ordinance), or farm equipment of all types. This use may also include any warranty repair work and other repair service conducted as an accessory use.

Basement - A story that is partly underground with less than half of its clear height below finished grade. A basement shall be counted in determining the permissible height of a building in terms of the number of stories.

Bed and Breakfast - An owner-occupied dwelling in which not more than five (5) sleeping rooms are provided or offered for overnight temporary accommodations for transient guests for compensation and serving breakfast to guests only. Such use shall not be construed as a Boarding House.

Benevolent Society Clubs and Lodges - Buildings and facilities, owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

Boarding House - An owner-occupied dwelling in which not more than five (5) sleeping rooms are provided for definite periods of time including for weeks, months or years. The common parts of the house are maintained, and some services, such as laundry and cleaning, may be supplied. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests. Such use shall not be construed as a Bed and Breakfast.

Building - A structure having a roof which is used or intended to be used for shelter or enclosure of persons, animals, or property. The word "building" shall include any part thereof.

Building Line - A line drawn parallel to any front boundary along the front face of a building or through the point on a building closest to the front boundary.

Bulk Storage of Petroleum or Gas Products - The storage of chemicals, petroleum products, or hazardous materials in above ground or below ground storage containers designed for wholesale distribution or mass consumption. NYS DEC and or the US EPA regulate and require permits for these facilities. One typical example from NYS DEC is: one or more tank systems that are designed to store a combined capacity of more than 1,100 gallons or more of petroleum in aboveground and/or underground storage tanks; or one or more underground tank systems that are designed to store 110 or more gallons of petroleum.

Business - Any commercial venture designed to generate income.

Camp - Any temporary or portable shelter, such as a tent, recreational vehicle, or trailer.

Cannabis - means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined by this section or any drug products approved by the federal Food and Drug Administration. Associated definitions as defined in New York State Law, Chapter 7-A of the Consolidated Laws of New York; Cannabis Law dated March 31, 2021 or as amended include:

(1) **Cannabinoid** - means the phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law.

(2) **Cannabinoid Hemp** - means any hemp and any product processed or derived from hemp that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three tenths of a percent delta-9 tetrahydrocannabinol.

(3) **Cannabis Product** - or "adult-use cannabis product" means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

(4) **Cannabis-Infused Products** - means products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.

(5) **Cannabis Trim** - means all parts of the plant of the genus Cannabis other than cannabis flower that have been harvested, dried, and cured, but prior to any further processing.

(6) **Hemp** - means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in this section.

(7) **Hemp Extract** - means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the office in regulation. For the purpose of this article, hemp extract excludes (a) any food, food ingredient or food additive that is generally recognized as safe pursuant to federal law; or (b) any hemp extract that is not used for human consumption. Such excluded substances shall not be regulated pursuant to the provisions of applicable state law, rules and regulations.

(8) **Medical cannabis** - means cannabis as defined in this section, intended for a certified medical use, as determined by the NYS Cannabis Control Board in consultation with the NYS Commissioner of Health.

Cellar - A story partly underground having one half or more of its height (measured from floor to ceiling) below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories or square footage.

Cemetery - A place used for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

Code Enforcement Officer - A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the code enforcement officer may be construed to include building inspector, plumbing inspector, electrical inspector, and the like, where applicable.

Commercial Cultivation or Processing of Cannabis and Cannabis Products - A business located wholly within one or more buildings where cannabis is grown and or processed for distribution including wholesale. This use may be conducted as a principal use, an accessory use or in combination with another permitted use. In cases and scenarios, the Commercial Cultivation or Processing of Cannabis and Cannabis Products Business must be licensed by the State of New

York and receive necessary approvals from the Town of Scipio to operate. Associated definitions as defined in New York State Law, Chapter 7-A of the Consolidated Laws of New York; Cannabis Law dated March 31, 2021 or as amended include:

(1) **Cultivation** - means growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license- and permit-holders.

(2) **Nursery** - means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult use cannabis cultivators, microbusinesses, cooperatives and registered organizations.

(3) **Processor** - means a licensee that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products, but not the cultivation of the cannabis contained in the cannabis product.

Construction Service - Any of the activities commonly referred to as construction and shall include without limiting thereby, plumbing, heating, roofing, interior remodeling, excavating.

Corner Lot - A parcel of land fronting on the junction of two or more intersecting streets.

Craft Beverage Industry - Land and buildings used for the production and sale of craft beverages, including offering of tastings with or without an accessory restaurant use. Examples of craft beverage industries include wineries, breweries, cideries, and distilleries; and includes operations that are classified as either a “regular”, “farm”, “special”, or “micro” based operation by the NYS Alcohol and Beverage Control Law.

Cultural Establishments - A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

Daycare Facility - A facility licensed by the state; providing care for six or more children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and which may include some instruction.

Deck - A deck is a roofless outdoor space built as an aboveground platform projecting from the wall of a building and is connected by structural supports at grade or by the building structure.

Detached Dwelling - A single place of residence within a building from ground to roof that also has independent outside access, and is unattached to other buildings on all sides.

Dock - A structure projecting from or along the shore into the water of Owasco Lake and including piers and wharfs used as a berthing place for boats to load or unload.

Drinking Establishment - Any building or structure which is not part of a larger restaurant and where alcoholic beverages are sold for on-site consumption. This includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages.

Dwelling - A house, apartment building, or other permanent building designed or used primarily for human habitation. A dwelling shall not be deemed to include a hotel, motel, or bed and breakfast. A dwelling is more specifically defined as the following:

(1) **Dwelling Unit** - A dwelling or portion thereof providing a complete self-contained residential unit, with living, sleeping, cooking and sanitary facilities within the unit, for use by one (1) family.

(2) **Multi-Family Dwelling** - A residence designed for or containing three (3) or more dwelling units, and occupied by three (3) or more families, with separate living, sleeping, cooking, and sanitary facilities for each unit. Apartment houses are considered to be "Multi-Family Dwellings."

(3) **Single-Family Dwelling** - A detached residence designed for or containing only one (1) dwelling unit, and occupied by only one (1) family.

(4) **Two-Family Dwelling** - A residence designed for or containing only two (2) dwelling units, and occupied by only two (2) families, with separate living, sleeping, cooking, and sanitary facilities for each**.**

Educational Facility - An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities.

Electric Vehicle (EV) - any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. “Electric vehicle” includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.

Electric Vehicle Charging Station - a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

(1) **Charging levels** - the standardized indicators of electrical force, or voltage, at which an electric vehicle’s battery is recharged. Levels 1, 2, and 3 are the most common EV charging levels, and include the following specifications:

a. **Level 1** is considered slow charging and uses a standard 120V AC outlet and is capable of charging an EV battery in approximately 8-12 hours. Typically located in a residential garage.

b. **Level 2** is considered medium charging and uses a free-standing or hanging 240V AC charging station to make the connection between power outlets and vehicles and is capable of charging an EV battery in approximately 4-8 hours. Can be private or public use. Located outdoors adjacent to a designated EV parking space.

c. **Level 3** is considered fast or rapid charging and requires an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels. Level 3 chargers use a 480-600V DC fast charger which is capable of charging an EV battery in approximately 30 minutes. Can be private or public use, but typically a public use in a very visible area with high vehicle turnover. Located outdoors adjacent to a designated EV parking space.

Elder Cottage - A small (under 950 sq. ft) self-contained dwelling unit designed for installation on the same property as an existing single-family home usually located at the side or back of a family member's home on the same lot, for use by a relative for whom members of the family are providing assistance and care. An elder cottage shall be considered the same as an accessory dwelling unit.

Elderly Congregate Housing - A type of housing in which each individual or family has a private bedroom or living quarters but shares with other residents a common dining room, recreational room, or other facilities.

Emergency Service Facility - Facilities operated by public agencies including, but not limited to, fire stations, other fire prevention and firefighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities, and emergency medical and ambulance service.

Excavation - The process of altering the natural (grade) elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

Extraction - To draw out or forth; hence to derive as if by drawing out; removal of physical matter in a solid, liquid, or gaseous state from its naturally occurring location; the initial step in use of a natural resource; examples include petroleum and natural gas wells, shale and coal mines, gravel pits, timber cutting.

Extensive Rock Outcroppings - Rock outcrops and boulder-fields more than 1,000 sq. ft. in area.

Extractive Industry/Mining - The extraction or removal of minerals, including solids, such as sand, shale, soil, gravel, coal, and ores; liquids, such as crude petroleum; and gases, such as natural gases from the ground or the breaking of the surface soil, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity. This term shall not include excavation or grading when conducted for farm improvement including tilling of soil for planting or harvesting crops; or the incorporation of manure or other fertilizers into the soil for agricultural purposes.

Family – One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

Farm Stand - A structure or vehicle whose principal use is the seasonal display and sale of agricultural and value-added products; and may also involve the accessory sales of home-made handicrafts.

(1) **Agricultural Product** - Any agricultural product of the soil or water, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, nuts, and cut or potted flowers or plants.

(2) **Value-Added Agricultural Product** - The increase in the fair market value of an agricultural product resulting from the processing of such product. Examples of value-added agricultural products include, but are not limited to honey, preserves, maple sap products, apple cider, fruit juice, and baked goods.

Farm Worker Housing - Dwelling units, including mobile homes, for use by full-time, temporary, or permanent employees, maintained exclusively for the occupancy of farm employees and their families in connection with any farm work or place where farm work is being performed, and the premises upon which they are situated.

Farmers' Market - An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths, tents or vehicles located on-site.

Farmland - Land which is currently used for crop production, pasture, farmstead, field drainage and irrigation infrastructure, or conservation; and land which is not currently in use for but, is suitable for these purposes in the future (e.g. idle farmland).

(1) **Active Farmland -** Field-verified active agriculture land use (including all lands involved in the production of crops, livestock and livestock products for at least three (3) of the last five (5) years).

(2) **Inactive Farmland -** Field-verified inactive or abandoned agriculture land use (including all lands not involved in the production of crops, livestock or livestock products for at least three (3) of the last five (5) years). This term does not include fallow fields that are part of a documented planned cycle of field management.

Farmstead - The land upon which agricultural buildings and equipment is located or stored which may or may not also include a single-family residence and associated accessory buildings, and/or farm worker housing.

Flag Lot - A lot with road frontage that is limited to a width that substantially accommodates an entry drive only, and where the remaining bulk of lot area is located behind a road frontage lot.

Floodplain - The non-wetland portion of any FEMA 100 year floodplain (area subject to a 1% probability of a certain size flood occurring in any given year).

Floor Area - The sum of the areas of the several floors of a building structure, including areas used for human occupancy, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches and attics not used for human occupancy.

Foundations, Permanent - To be constructed of materials that are permanent in nature and shall be either a slab on grade or a wall with footers to be below frost line and have anchors to secure the structure to the slab or wall as required by the NYS Building Code.

Funeral Home - A building or portion of building designed and occupied for the preparation of deceased persons or animals for burial and for the arrangement and management of burial ceremonies; the use commonly includes accommodations for people to congregate and hold ceremonies and includes the terms “funeral parlor” “mortuary” or “undertaker.” The term excludes facilities for the cremation of human remains or animals.

Gasoline Service Station - A facility used and designed for the dispensing of gasoline or other petroleum products or the servicing, repairing or performing similar work upon motor vehicles.

Golf Course/Country Club - A facility and tract of land laid out with a least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards, providing a private or public golf recreation area designed for executive or regulation play, excluding miniature golf. A golf course may include a clubhouse, restrooms, driving range, and shelters as accessory uses; and may also include related retail sales, a restaurant and/or cocktail lounge if approved as a part of the required use permit.

Greenhouse/Nursery, Commercial - An operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale, and for related accessory sales and uses.

Habitable Floor Area - The total floor area devoted to habitable space of a building, above finished grade, measured from the outside dimensions of the exterior walls used for dwelling purposes, and excluding all non-dwelling areas such as an attic, storage, carport, cellar, and/or garage.

Habitable Space - A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

Health Care Facility - As used in this Ordinance, the term Health Care Facility defines a facility where patients are treated or attended to by licensed medical practitioners that include but are not limited to physicians, dentists, physical or occupational therapists, laboratory tests and diagnostic (X-ray, MRI, etc.) testing.

Heavy Industrial - A use characteristically employing some of, but not limited to the following: smokestacks, tanks, distillation or reaction columns, chemical processing or storage equipment, scrubbing towers, water-treatment or storage lagoons, reserve pits, and derricks or rigs, whether temporary or permanent. Examples of heavy industry include, but are not limited to: chemical manufacturing, oil or gas drilling, oil refineries, natural gas processing plants and compressor stations, petroleum and coal processing, coal mining, and steel manufacturing. Generic examples of uses not included in the definition of "heavy industry" include, but are not limited to: milk processing plants, dairy farms, woodworking and cabinet shops, motor vehicle repair shops, wineries and breweries, and equipment repair and maintenance structures. Agriculture and logging are not considered "heavy industry" uses.

Home Occupation - An activity customarily carried on in a dwelling unit or in a building or other accessory structure to a dwelling unit, for profit, conducted by a person or persons residing on the premises; and which activity is clearly incidental to the principal use of any dwelling. In particular, a home occupation includes the following or similar uses: the office or studio of a physician or surgeon, dentist, artist, musician, lawyer, architect, teacher, real estate agent or other like professional person residing on the premises, including a child daycare facility as described in New York State Social Services Law §390(12) (b); home workshops which do not constitute a nuisance by reason of smoke, odor, vibrations, dust or noise; and dressmaking and hairdressing. The following uses SHALL NOT be interpreted to be a home occupation are the following: animal hospital, commercial stables and kennels, restaurant, junkyard, dismantling business, repair garage, and small engine repair.

Hotel - A building or group of buildings in which there are rental sleeping rooms for temporary lodging and which may also include dining rooms, kitchens, serving rooms, meeting rooms, ballrooms, and other facilities and services intended primarily for the accommodation of its patrons.

Impervious Surface - Any material which prevents, impedes, or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation-bearing soils, including building, asphalt, concrete, compacted gravel, and other surfaces.

Indoor Recreation - An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities.

Junk - The outdoor storage or deposit of any of the following shall constitute junk: two (2) or more inoperable unlicensed or unregistered motor vehicles; one (1) or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, refrigerators, freezers, stoves and televisions; one (1) or more abandoned or irreparably damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers.

Junkyard - A lot, or part thereof, whether inside or outside a building, used primarily for the collecting, storing and sale of wastepaper, rags, scrap metal or discarded material; and/or for the collecting, dismantling, storage and salvaging of machinery or two (2) or more unregistered vehicles, whether in running condition or not, or parts thereof. The term shall include any place of storage or deposit for any purpose of used parts or waste materials from motor vehicles which, taken together, equal in bulk two (2) or more such vehicles.

Laundromat - A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

Light Industrial - Uses engaged in the manufacture, predominantly from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, or distribution of such products. Further, "light industrial" shall mean uses such as the manufacture of electronic instruments, food processing, pharmaceutical manufacturing, research and scientific laboratories, or the like. "Light industrial" shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, primary metal, or related industries.

Lot - A parcel of land used or set aside and available for use as the site of one or more buildings accessory thereto of for any other purpose, in one ownership and not divided by a street, not including any land within the right-of-way of a public or private street upon which said lot abuts, even if the ownership to such way is the owner of the lot. A lot for the purpose of this Ordinance may or may not coincide with the lot of record.

(1) **Lot Area** - The computed area contained within the lot lines.

(2) **Lot Coverage** - The percentage of the lot area that is covered by impermeable areas including paved surfaces such as roads and drives, and structures on foundations other than posts or piers.

(3) **Lot Lines** - The property lines bounding the lot.

a. **Lot Line, Front** - The line separating the lot from a street right-of-way. In the case of properties along Owasco Lake, the front lot line is the line separating the lot from the mean high-water mark of the lake.

b. **Lot Line, Rear** - The lot line opposite and most distant from the front lot line.

c. **Lot Line, Side** - Any lot line other than a front or rear lot line. A side lot line separating a lot from a street right-of-way is called a side street lot line.

(4) **Lot Width** - The width of the lot between side lot lines at the front lot line.

Major Site Plan Projects - Any proposed development of land over one (1) acre, or with any new road, or building of 5,000 square feet or more.

Marina - a dock or basin providing secure moorings for boats and/or offering supply, repair, and other boat-related facilities.

Mean High-Water Mark - The location where the mean high-water level intersects the adjoining parcel.

Mean High-Water Level - The approximate average high water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS). According to the New York State Department of Environmental Conservation, Division of Environmental Permits, the Mean High-Water Level for Owasco Lake is 713.90 feet above mean sea level.

Minor Site Plan Projects - Any proposed development of land less than one (1) acre, without any new roads, and where all existing and proposed structures combined total less than 5,000 square feet.

Mobile Home - As used in this Ordinance, the term mobile home is defined by the N.Y.S. Residential Code, Appendix E Section AE201 as follows: A movable or portable dwelling unit that was built prior to June 15, 1976 and that was designed and constructed to be towed on its own chassis comprising frame and wheels; connected to utilities; and designed and constructed without a permanent foundation for year round living, excluding travel trailers.

Mobile Home Park - Any court, park, place, lot, or parcel under single ownership which is improved for the placement of two (2) or more mobile homes to be used as permanent residences.

Motel - A building or series of buildings in which lodging is offered for compensation, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit.

Motor Vehicle - Any vehicle propelled or drawn by power other than muscular power and originally intended for use on public highways.

Motor Vehicle Repair Shop - Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, recreational vehicles, boats, or similar vehicles including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage. Gasoline stations, as defined elsewhere in this Ordinance, are not considered motor vehicle repair shops and as such as not included in this definition.

Municipal/Public Facility - Any facility, including but not limited to buildings, property, recreation areas, and roads, which are leased or otherwise operated or funded by a governmental body or public entity.

Native Species - A species that normally lives and thrives in a particular ecosystem. This can include any species that developed with the surrounding habitat, and can be assisted by or affected by a new species. Native species are not considered invasive species.

(1) **Invasive Species -** Any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem; and whose introduction does or is likely to cause economic or environmental harm or harm to human health.

Nonconforming Structure Or Lot - A structure or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure or lot was in existence at the effective date of this Ordinance and was lawful at the time it was established.

Nonconforming Use - A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the effective date of this Ordinance and was lawful at the time it was established.

Office, Professional - The office of a member of a recognized profession maintained for the conduct of business in any of the following related categories: architectural, engineering, planning, law, interior design, accounting, insurance, real estate, medical, dental, optical, or any similar type of profession.

Oil or Gas Drilling - The process of exploration and drilling through wells or subsurface excavations for oil or gas, and extraction, production, transportation, purchase, processing, and storage of oil or gas, including, but not limited to, the following:

(1) A new well and the surrounding well site, built and operated to produce oil or gas, including auxiliary equipment required for production (separators, dehydrators, pumping units, tank batteries, tanks, metering stations, and other related equipment.

(2) Any equipment involved in the re-working of an existing well;

(3) A water or fluid injection station(s), including associated facilities;

(4) A storage or construction staging yard associated with an oil or gas facility;

(5) Gas pipes, water lines, or other gathering systems and components including, but not limited to, drip station, vent station, chemical injection station, and valve boxes; and

(6) Test wells or waste disposal wells associated with oil or gas exploration or production activities.

Open space - Land that remains free from development of impermeable areas including paved surfaces such as roads and drives, and structures on foundations other than posts or piers.

Outdoor Recreation - A commercial recreational land use conducted almost wholly outdoors. Typical uses may include, but are not limited to athletic fields, basketball courts, batting cages, golf driving ranges (not associated with a golf course), laser tag, miniature golf, motorized cart and motorcycle tracks, motorized model airplane flying facilities, paintball, swimming pools, tennis courts, and skateboard parks.

Outdoor Storage - The storage of business property, including motor vehicles, in any outdoor location not designated and approved as a retail sales display and also not as defined elsewhere in this Article as junk. This definition does not apply to the storage of goods, materials or equipment used or maintained for agricultural operations.

Parking Space - An area for the temporary parking of a motor vehicle, capable of containing a rectangle nine (9) feet six (6) inches wide by nineteen (19) feet long and clear to a height of seven (7) feet, together with access aisles for maneuvering and passage to and from the public street.

Park Model Recreational Unit - A Park Model Recreational Unit is transportable and primarily designed for long-term permanent placement on a site. When set-up, park model units are to be connected to utilities which are necessary to operate fixtures and appliances, they are not self-contained as an RV. Because of its more permanent nature, Park Model Recreational Units may only be located in an approved Recreational Vehicle Park.

Patio - A level, surfaced area usually made of concrete, brick, or other masonry material, directly adjacent to a principal building at or within three feet of the finished grade, without a permanent roof intended for outdoor lounging, dining, and the like.

Permit - A document issued by the Code Enforcement Officer allowing a person to begin an activity provided for in this Ordinance.

(1) **Building Permit** - A permit issued by the duly designated building official authorizing the erection, construction, reconstruction, alteration, repair, conversion, or maintenance of any building, structure, or portion thereof. Such a permit shall not be issued without the signature of the Code Enforcement Officer, certifying compliance with this Ordinance.

(2) **Occupancy Permit** - The written approval of the Code Enforcement Officer certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this Ordinance and that such structure is habitable and in conformance with all applicable sections of the NYS Uniform Fire Prevention and Building Code. Also referred to as a Certificate of Occupancy.

(3) **Permit, Zoning** - A statement, signed by the Code Enforcement Officer, setting forth that a building, structure, or use complies with the zoning law and the NYS Uniform Fire Prevention and Building Code and that the same may be used for the purposes stated on the permit. Also referred to as a certificate of zoning compliance.

Permitted Use - Any use which is or may be lawfully established in a particular district, provided it conforms with all the requirements applicable to that district.

Person - Includes corporations, companies, associations, societies, firms and partnerships, as well as individuals.

Personal Service Use - An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops, shoe repair shops, and tailor shops.

Physical Fitness Center - A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

Plat - A map prepared by a licensed architect, engineer, or surveyor representing a tract of land or a subdivision showing the boundaries and location of individual properties and streets.

(1) **Final Plat** - A drawing or drawings, in final form, showing a proposed subdivision, containing all information or details required by law and by these regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

(2) **Preliminary Plat** - A drawing or drawings, clearly marked ‘preliminary plat,” showing the significant features of a proposed subdivision, as specified in Article XIX of this Ordinance, submitted to the Planning Board for the purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

Porch - A roofed but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes; and that is not used for livable space.

Public Utility, Essential Service - Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings used or intended to be used for human habitation. This term does not include Solar Energy or Wind Energy Systems which are defined elsewhere in this Ordinance.

Recreation - The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife. Recreation activities may take place indoors or outdoors.

(1) **Indoor Recreation** - A commercial recreational land use conducted entirely within a building. Typical uses may include, but are not limited to an arcade, arena, bowling alley, community center, gymnasium, pool or billiard hall, skating rink, swimming pool, or tennis court.

(2) **Outdoor Recreation** - A commercial recreational land use conducted almost wholly outdoors. Typical uses may include, but are not limited to athletic fields, basketball courts, batting cages, golf driving ranges (not associated with a golf course), laser tag, miniature golf, motorized cart and motorcycle tracks, motorized model airplane flying facilities, paintball, swimming pools, tennis courts, and skateboard parks.

(3) **Recreational Camp** - Premises and facilities used or designed to be used occasionally or periodically for seasonal accommodation of individuals or members of groups or associations where outdoor recreational activities are provided. Facilities provided are typically rustic structures built as a permanent building, group of permanent buildings, tents, or other shelters (not including recreational vehicles or mobile homes). This definition does not include a Recreation Vehicle Campground as defined elsewhere in this Ordinance.

Recreational Vehicle (RV) - A vehicle built on a single chassis, containing 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towed by another vehicle; and able to have movement on roadways without an oversized load permit (less than 8 ½ feet wide). A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house boats, and campers; but shall not include the term Park Model Recreational Unit as defined elsewhere in this Ordinance.

Recreational Vehicle, Habitation - Recreational Vehicles located outside of a designated recreational vehicle park occupied by one or more persons for an extended period of time as a primary residence.

Recreational Vehicle Park/Campground - A recreational vehicle park (RV Park) or campground is a place where people with recreational vehicles can stay overnight, or longer, in allotted spaces known as "sites". It may also be referred to as a campground, which also provides facilities for tent camping.

Religious Institution - A building used as a church, place of worship, or religious assembly, with or without related accessory buildings or uses such as the following in any combination: rectory or convent, private school, meeting hall, offices for administration of the institution, licensed child or adult daycare, playground, or cemetery, where persons regularly assemble for religious purposes and related social events, which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

Regulatory Floodway - Channel of any watercourse and the adjacent land areas designated by FEMA to be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Residential Property - Lands with permanent structures used to provide housing for one or more persons.

Restaurant - A building or portion thereof where food and beverages, whether or not alcoholic, are sold to the public for consumption on the premises.

Retail Business Establishment - A place of business devoted in whole or in part to the sale, rental, or servicing of goods or commodities which are normally delivered or provided on the premises to a consumer. Typical categories of goods and services provided by retail business establishments include, but are not limited to artist and hobby supplies, books, clothing and clothing accessories, food and liquor, flowers, furniture sales, garden supplies, gifts, newspapers and stationery, pharmacy and medical supplies, sporting goods, and variety goods. The limited production of such goods, which are primarily intended for retail sale on the premises, shall be permitted provided that such production is a necessary adjunct of the retail establishment. Specifically excluded from the category of "retail uses" are flea markets, indoor/outdoor amusement businesses, automotive sales, car washes, gasoline stations, betting parlors, building supply stores, adult bookstores, massage parlors, and mini-storage facilities.

Right-of-way - Land set aside for use as a street, alley, bike path, foot path, or other means of travel.

SEQRA - Abbreviation for the State Environmental Quality Review Act adopted by New York State and administered by the New York State Department of Environmental Conservation (NYS DEC). This State Act requires local legislators and land use agencies to consider, avoid, and mitigate significant environmental impacts of the projects that they approve, the plans or regulations that they adopt, and the projects they undertake directly.

Setback - The least required horizontal distance between a lot line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps and ramps; except that the front setback shall be measured from the centerline of the road to the closest point of the building. All setback lines shall be drawn parallel to their respective lot lines regardless of the shape of the lot. See Figure 1 below for a typical example of the location of lot lines and measured setbacks for all properties in the Town except those along Owasco Lake. See Figure 1a below for a typical example of the location of lot lines and measured setbacks for properties along Owasco Lake.

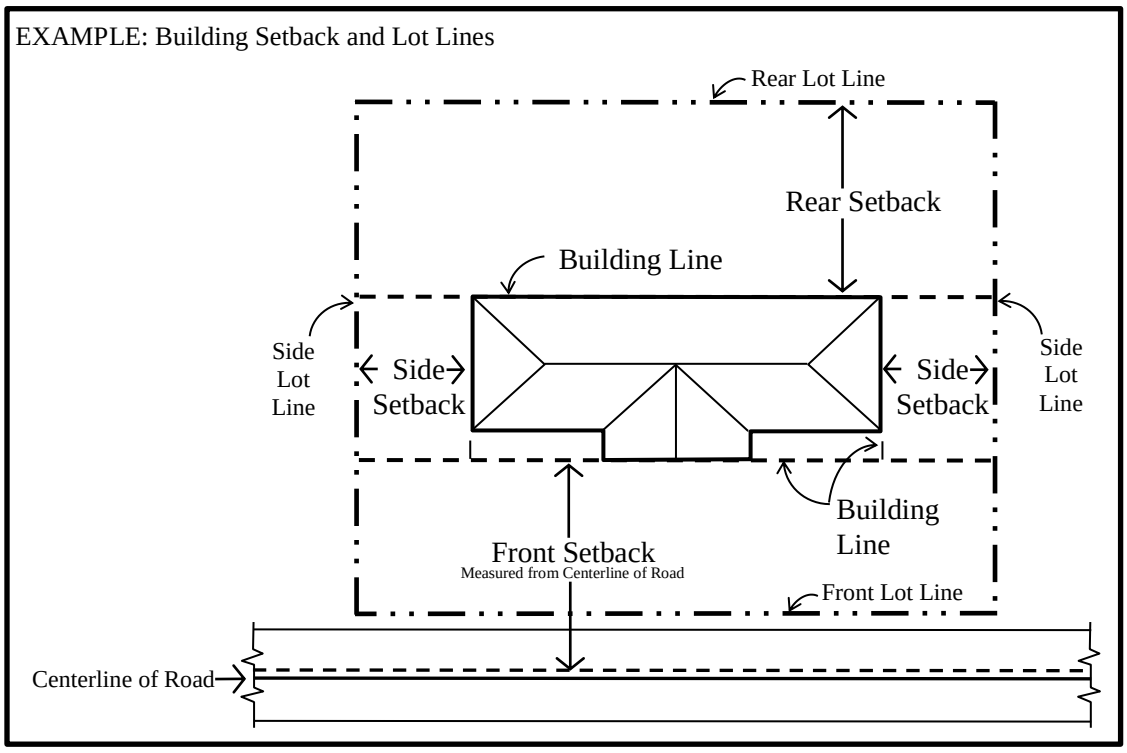


Figure 1: Building Setbacks and Lot Lines - Non Lakefront Properties

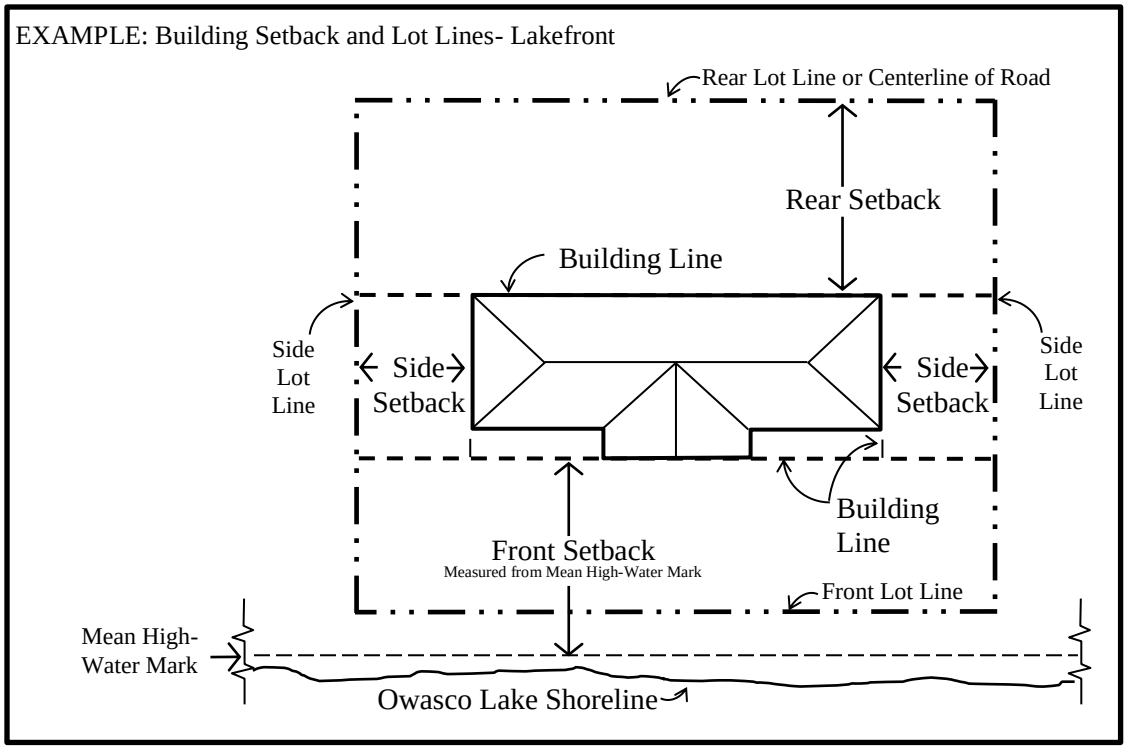


Figure 1a: Building Setbacks and Lot Lines - Lakefront Properties

Short-Term Rental - The rental of a Residential Property to an individual or a single group for a term of fewer than 30 calendar days in any given 12 month period regardless of how the property is listed including privately, via website such as Airbnb, VRBO, Craigslist, Facebook, etc.

Short-Term Rental Property - A Residential Property in the Town of Scipio used for Short-Term Rental.

Sight Distance Triangle - An area of land at the intersection of streets, or a street and a driveway, within which nothing may be erected, planted, placed, or allowed to grow in a manner which will obstruct the vision of motorists entering or leaving the intersection.

Sign - Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is to be in the nature of an announcement, direction or advertisement. A "sign" includes any billboard. A "sign" does not include temporary real estate "for sale", A-shaped signs, political campaign signs, or paper posters announcing temporary events, provided that such are not in excess of four square feet (length by width). See Article IX of this Ordinance for more definitions related to signs.

Site - A lot or group of contiguous lots not divided by any alley, street, other right-of-way or the Town boundary line that is proposed for development in accordance with the provisions of this Ordinance, and is in a single ownership or has multiple owners, all of whom join in an application for development.

Site Plan - A plan of a lot on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

Site Plan Review - Authority delegated to the Planning Board by the Town Board, which enables the Planning Board to approve, approve with conditions, or disapprove the site development plans for all buildings or uses where site plan review is required.

Sketch Plan - The first step in the site plan review process, often referred to as a concept plan. Sketch plans shall be provided and reviewed in accordance with the requirements in Article XIV of this Ordinance.

Small Engine Repair Shop - Small engine repair means an establishment that is involved with the maintenance and repair of low-power internal combustion engines (gasoline/petrol) or electric engines. A small engine is the general term for a wide range of small-displacement, low-powered internal combustion engines used to power lawn mowers, generators, concrete mixers and many other machines that require independent power sources. These engines often have simple designs, for example an air-cooled single-cylinder petrol engine with a pull-cord starter, capacitor discharge ignition and a gravity-fed carburetor. Engines of similar design and displacement are also used in smaller vehicles such as motorcycles, motor scooters, all-terrain vehicles, and go-karts.

Solar Energy System - Means a renewable energy project that either (a) generates electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy.

(1) **Non-Utility Scale Installation -** Also referred to as Accessory Solar Energy Systems. An accessory use is defined as a secondary activity incidental to the primary use of the property. Non-utility solar installations are designed for a home, business, or agricultural use where the primary use of the property is either household living, a commercial activity, or an agricultural activity; and the energy produced by the solar installation provides electricity directly to the building or buildings on site for the principal use of the property. Non-utility solar installations have a rated capacity of anything under 25 kilowatts and are designed to meet the specific energy needs of the principal use. Non-utility scale solar installations may be rooftop installations, or freestanding installations that are either ground- or pole-mounted. Non-utility scale solar installations must meet at least one of the following criteria: has a disturbance zone equal to or less than two acres; is mounted on or over a building, parking lot, or other previously-disturbed area; or utilizes integrated PV only.

(2) **Utility Scale Installation -** Considered a public utility and developed as a primary land use. Utility scale solar installations are typically freestanding, and the principal economic function of the land hosting a utility scale solar installation is producing solar power for off-site consumption. Utility scale solar installations have a minimum rated capacity of 25 kilowatts, but are usually multiple megawatts, and may cover tens to thousands of acres of land. These installations primarily supply power for offsite consumption through the electrical grid. Also referred to as a “solar farm”.

Special Use Permit - A use which, because of its unique characteristics, requires special consideration in each case by the Planning Board to assure that the proposed use is in harmony with the purpose and intent of the zoning district in which it is proposed; is subject to and will meet certain prescribed criteria and standards along with any others required by the Planning Board; and will not adversely affect the neighborhood if such requirements are met.

Stable Private – Facilities for the keeping of horses for personal use and not a horse boarding facility and/or riding arena for commercial purposes.

State Environmental Quality Review (SEQR) - The process that reviewing boards must conduct to determine whether proposed projects may have a significant adverse effect on the environment

and, if they do, to study these impacts and identify alternatives and mitigate conditions that protect the environment to the maximum extent possible.

(1) **Environmental Assessment Form (EAF)** - A form completed by an applicant to assist an agency in determining environmental significance of a proposed action. A properly completed EAF must contain enough information to describe the proposed action, its location, purpose, and potential impacts on the environment.

(2) **Environmental Impact Statement (EIS)** - A written draft or final document prepared in accordance with the SEQRA. An EIS provides a means for agencies, project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives, and mitigation strategies.

Steep Slopes - Natural ground slopes exceeding 15%.

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 is no floor above it, then the space between any floor and the ceiling next above it.

Street - A public way which affords principal means of access to abutting properties.

Street Line - The dividing line between the street and the lot; usually it shall be the same as the legal right-of-way.

Street Walls - Walls constructed of stone, wrought iron, brick, wood or a combination of materials to establish a clear edge to the street where the buildings do not define outdoor space and to separate the street from the private realm (parking lots, trash disposal bins, gardens, and equipment).

Structure - Materials assembled, constructed or erected at a fixed location including a building, the use of which requires location on the ground or attachment to something having location on the ground.

(1) **Accessory Structure** - A subordinate structure detached from but located on the same lot as a principal structure. The use of an accessory structure must be identical and accessory to the use of the principal stricture. Accessory structures include but are not limited to garages, sheds, decks, fences, swimming pools, etc.

(2) **Height of Structure** - The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck of mansard roofs and to the mean height between the eaves and ridge for gable, hip and gambrel roofs.

(3) **Principal Structure** - A structure, the use or occupancy of which constitutes the main or principal use of the lot on which said structure is located.

Subdivision - The legal division of any parcel of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease, or building development, with or without new roads. The term "subdivision" shall include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the Office of the Cayuga County Clerk.

Temporary Outdoor Sale - Any sale made by a person, firm, or corporation engaging in the temporary business of selling goods, wares, or merchandise.

Topsoil - The surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation.

Trailer - A vehicle without motor power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

Transportation Facility, Public - Without limitation, a combination of real and personal property, structures, improvements, buildings, equipment, vehicle parking, or other facilities, and rights-of-way, or any combination thereof, used or useful for the purposes of moving or assisting in the movement of people or goods which may include accessways, bicycle facilities, multi-use paths, pedestrian connections, or streets. This term does not include electricity, sewage, or water delivery systems.

Unnecessary Hardship - A restriction on a property so unreasonable that it results in an arbitrary and capricious interference with basic property rights. Hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user, and the property is rendered unusable without the granting of a variance. For a use variance application, in accordance with NYS Town Law §267-b, 2, (b), the applicant must prove to the Zoning Board of Appeals that an unnecessary hardship exists for each of the four (4) criteria listed in said law and provided in Article XVII, Section 17.03 of this Ordinance.

Use - Any activity, occupation, business or operation carried on or intended to be carried on, in a building or other structure or on a tract of land.

(1) **Accessory Use** - A use that is incidental to and customarily found in connection with the principal use. An accessory use must be conducted on the same zoning lot as the principal use to which it is related.

(2) **Principal Use** - The main or primary purpose for which a structure or lot is designed, arranged, or intended or for which it may be used, occupied, or maintained under this zoning Ordinance.

(3) **Temporary Use** - A use established for a fixed period of time, in no case for more than 12 months, with the intent to discontinue such use upon the expiration of such time that does not involve the construction or alteration of any permanent structure. Such use(s) shall also comply with the requirements and development standards that otherwise apply to the property.

Variance, Area - In accordance with NYS Town Law §267, 1, (b) an "Area variance shall mean the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations".

Variance, Use - In accordance with NYS Town Law §267, 1, (a) "Use variance shall mean the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations".

Warehousing, Wholesale Distribution - A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive. Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material. This definition excludes public self-storage facilities.

Wind Energy Facility - An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures & facilities. For the purpose of this Ordinance, the term does not apply to roof-mounted or building integrated roof mounting systems.

Wireless Telecommunication Facility - Any commercial equipment used in connection with the provision of two-way wireless communication services, including cellular telephone services, personal communication services, and private radio communication services, regulated by the Federal Communication Commission in accordance with the Telecommunications Act of 1996, as the same may be amended from time to time, and other Federal law. A Telecommunication Facility shall include Telecommunication Towers (including, but not limited to, monopoles, guyed wire towers or lattice towers), Antenna(e), Telecommunication Accessory Facilities and Alternate Tower Structures.

Wholesale - A commercial activity characterized by the bulk storage, distribution and/or sale of merchandise to other retail, manufacturing, construction contracting, institutional or wholesale establishments. This use may include provision for related administrative offices, product showrooms, truck storage and parking areas. It excludes facilities for the storage and distribution of petroleum, natural gas or hazardous chemicals.

ARTICLE III
Establishment of Districts

Section 3.01 - Districts

A. For the purpose of promoting the public health, safety, and general welfare of the Town of Scipio, the Town is hereby divided into the following Zoning Districts:

(1) Agricultural/Residential District (ARD). The purpose of this district is to allow for continued agricultural and residential uses at medium to low density, managed community growth in compact development patterns including clustered residential or agricultural business uses, with conservation of open space and farmland resources.

(2) Hamlet District (HD). The purpose of this district is to sustain and encourage the traditional mix of residential uses and community facilities in the historic settlements of Scipio Center, Sherwood and Scipioville while preserving the existing rural character of these areas. The designation seeks to allow adaptive reuse and conversion of older homes while employing “good neighbor” performance standards and site design standards that promote attractive new development, as well as compatible modifications to existing structures. The intent of this district is to encourage a diverse mix of complimentary uses in the Hamlets, and to protect the vernacular character and scale of buildings and their unique settings, thereby preserving tangible linkages to the Town's historic, architectural and cultural heritage. While currently reliant on on-site septic systems and water wells, if public water or sewer, or alternative wastewater approaches such as non-contiguous or clustered systems are approved by all regulating authorities, they are encouraged within the district to facilitate a compact and walkable growth pattern for desired existing and planned future small-scale, locally-oriented, commercial uses mixed with compatible residential uses.

(3) Waterfront District (WD). The purpose of this district is to allow for residential development along the Owasco Lake shore while also protecting the water quality of the lake from nonpoint and point source pollution that can occur when runoff from land flows into the lake, carrying sediment and other pollutants that adversely affect water quality, to minimize excessive and incompatible development in fragile lakefront areas, to protect the natural and aesthetic beauty of the lakeshore in the Town of Scipio for all of the citizens of the community to enjoy, and to enhance the experience provided to those living near, and those who use the resource provided by Owasco Lake.

Section 3.02 - Zoning Map

A. The zoning districts listed in Section 3.01 are bounded as shown on a map entitled "Town of Scipio Zoning Map" certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Ordinance. (Appendix I.)

Section 3.03 - Interpretation of District Boundaries

A. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines or highway lines shall be construed to be such boundaries.

(2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

(3) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as shall be determined by the use of the scale shown on the Zoning Map, or as indicated by a label drawn on the Zoning Map.

(4) In case of further uncertainty as to the true location of a zoning district boundary line in a particular instance, the Zoning Board of Appeals shall determine the location of such boundary.

ARTICLE IV
Use Regulations

Section 4.01 - Applicability

A. Except as provided by law or in this Ordinance, in each district, no building, structure, or land shall be used or occupied except for the purposes permitted in Section 4.05, Use Table for the zoning districts so indicated.

Section 4.02 - Uses Subject to Other Regulations

A. All uses shall be subject, in addition to the use regulations, to additional regulations as specified in other Articles of this ordinance including but not limited to requirements for setbacks, lot size, lot width, building area, and off-street parking and loading areas.

Section 4.03 - Permitted Uses

A. The following describes the categories of uses as outlined in Section 4.05, Use Table:

(1) Uses permitted by right with a building permit as required. (Denoted by “P”)

(2) Uses permitted by right, but subject to Special Conditions, as defined in Section 4.06. Review by the Code Enforcement Officer is required before a permit will be issued. (Denoted by “SC”)

(3) Uses permitted upon issuance of a Special Use Permit subject to review and approval by the Planning Board and subject to the requirements of Article V. (Denoted by “SP”).

(4) Uses that require Site Plan Review subject to the requirement of Article XIV as part of the approval process are denoted by “*”.

(5) A use that is not permitted in a particular zoning district is denoted by "N".

Section 4.04 - Prohibited Uses

A. Any uses not expressly stated as permitted by right, permitted subject to special conditions, or permitted upon issuance of a special use permit in Section 4.05, Use Table are prohibited in the Town of Scipio. Specifically, the following uses shall be prohibited in all zoning districts:

(1) Municipal, private and construction and demolition landfills as defined in 6 NYCRR Part 360-2 and 6 NYCRR Part 360-7.

(2) Land application of septage, sludge, or human excreta, including land application facilities as defined in 6 NYCRR Part 360-4.

(3) Disposal, by burial, of any hazardous waste, as defined in 6 NYCRR Part 371.

(4) Large quantity generators of hazardous waste.

(5) Bulk Storage of Petroleum/Gas.

(6) On-site dry cleaning.

(7) Junkyards, automobile cemeteries and junked car lots.

(8) Heavy industrial uses.

Section 4.05 - Use Table

Use Table				
Key: **P** = Permitted by Right **SC** = Special Conditions **SP** = Special Permit **N** = Not Permitted				
Use Category	**Zoning District**			**Section Reference**
	ARD	**HD**	**WD**	
Accessory Dwelling Unit	SP*	SP*	SP*	5.07, A(1)
Accessory Structure	P	P	P*	
Accessory Use	P	P	P*	
Adult Oriented Business	SP*	N	N	5.07, A(2)
Agriculture	P	P	P*	
Agricultural Sales & Service	P*	N	N	
Agri-Tourism	SC	SC	SC	4.06, A(1)
Animal Care Facility, Kennel or Shelter	SP*	N	SP*	5.07, A(3)
Artist Studio/Artisan Workshop	P*	P*	P*	
Bed & Breakfast	SC	SC	SC	4.06, A(2)
Benevolent Society Clubs/ Lodges	P*	P*	P*	
Camp	SC	SC	SC	4.06, A(3)
Cemetery	P*	N	N	
Craft Beverage Industry	P*	P*	P*	
Construction Service	SP*	N	N	5.04
Cultural Establishments	P*	P*	SP*	5.04
Daycare Facility	SP*	SP*	SP*	5.07, A(4)
Drinking Establishment	SP*	SP*	SP*	5.04
Educational Facility	SP*	SP*	SP*	5.04
Electric Vehicle Charging Station	SC	SC	SC	4.06, A(4)
Elderly Congregate Housing	SP*	SP*	SP*	5.07, A(5)
Emergency Service Facility	SP*	SP*	SP*	5.04
Extractive Industry/Mining	SP*	N	N	5.07, A(6)
Farm Stand	SC	SC	SC	4.06, A(5)
Farm Worker Housing	SC	SC	SC	4.06, A(6)
Farmers' Market	SP*	SP*	SP*	5.04
Funeral Home	P*	P*	N	
Gasoline Service Station	SP*	SP*	N	5.07, A(7)
Golf Course / Country Club	SP*	N	N	5.04
Greenhouse/Nursery- Commercial	P*	N	N	
Health Care Facility	SP*	SP*	SP*	5.04
Home Occupation	SC	SC	SC	4.06, A(7)
Home Occupation -Large	SP	SP	SP*	5.07, A(8)
Hotel or Motel	SP*	SP*	SP*	5.04

* Uses that require Site Plan Review subject to Article XIV as part of the approval process.

Use Table (Continued)

Key: **P** = Permitted by Right **SC** = Special Conditions **SP** = Special Permit **N** = Not Permitted

Use Category	Zoning District			Section Reference
	ARD	HD	WD	
Indoor Recreation	SP*	SP*	SP*	5.04
Laundromat	P*	P*	N	
Light Industrial	SP*	N	N	5.07, A(9)
Marina	N	N	SP*	5.04
Mobile Home Park	SP*	N	N	5.07, A(10)
Motor Vehicle or Small Engine Repair Shop	SP*	SP*	N	5.07, A(11)
Multi-Family Dwelling	SP*	SP*	SP*	5.07, A(12)
Municipal or Public Facility	SP*	P	SP*	5.04
Office, Professional	SP*	SP*	N	5.07, A(16)
Outdoor Recreation	SP*	SP*	SP*	5.07, A(13)
Outdoor Storage	SP*	SP*	N	5.07, A(14)
Personal Service Use	SP*	SP*	SP*	5.07, A(16)
Physical Fitness Center	P*	P*	SP*	
Public Utility, Essential Services	SP*	SP*	SP*	5.04
Recreational Camp	P*	N	SP*	5.04
Recreational Vehicle Park/Campground	SP*	N	SP*	5.07, A(15)
Religious Institution	SP*	P	SP*	5.04
Restaurant	P*	P*	SP*	
Retail Business Establishment	SP*	SP*	SP*	5.07, A(16)
Single-family Dwelling	P	P	P*	
Short-Term Rental	P	P	P*	
Solar Energy System, Non-Utility Scale	SC	SC	SC	4.06, A(8)
Solar Energy System, Utility Scale	SP*	N	N	5.07, A(17)
Stable, Private	P	N	P*	
Storage or Disposal of Fertilizers, Pesticides/Herbicides	SP	SP	SP*	5.07, A(18)
Temporary Outdoor Sale	SC	SC	SC	4.06, A(9)
Temporary Use	SC	SC	SC	4.06, A(10)
Transportation Facility, Public	SP*	SP*	SP*	5.04
Two-family Dwelling	P	P	P*	
Warehousing, Wholesale Distribution	SP*	N	N	5.07, A(19)
Wind Energy Facility	SP*	N	N	5.07, A(20)
Wireless Telecommunication Facility	SP*	SP*	N	5.07, A(21)
Commercial Cultivation or Processing of Cannabis and Cannabis Products	SP*	N	N	5.07, A(22)

* Uses that require Site Plan Review subject to Article XIV as part of the approval process.

Section 4.06 - Uses Subject to Special Conditions

A. No Zoning Permit or Building Permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Section 4.05, Use Table as having Special Conditions applicable (SC), until the Code Enforcement Officer is satisfied that the applicable regulations set forth below have been complied with as well as any other relevant requirements of this Ordinance. The Code Enforcement Officer may refer an application for a use subject to special conditions to the Planning Board for Site Plan Review if he/she deems it is necessary based on the circumstances of the proposed development.

(1) Agri-Tourism.

a. Agri-Tourism activities shall be subordinate to and operated by an existing farm operation that owns farmland in the Town of Scipio. See the definition of "Agri-Tourism" in Article II, Section 2.01 for examples of typical permitted Agri-Tourism activities.

b. All buildings and structures used for Agri-Tourism activities must meet the setback requirements for principal structures for the zoning district which the use is located.

c. All activities, display, or sales areas must meet the requirements for traffic visibility across corners and maintain safe sight triangle distances at road intersections in accordance with Article VI, Section 6.01,K.

d. All parking must be located on site. No parking for patrons, visitors, or employees will be permitted on the side or shoulder of any public street.

(2) Bed & Breakfast. In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility shall be limited by the following criteria:

a. A Bed and Breakfast shall only be permitted in a private single-family or two-family dwelling.

b. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated. No accessory buildings shall be used for lodging.

c. The owner/operator of the Bed and Breakfast shall live full-time on the premises.

d. No public restaurant shall be permitted on premises.

e. A Bed and Breakfast shall have at least one (1) but not more than five (5) guest rooms.

f. The maximum length of stay for any guest is 14 consecutive calendar days.

(3) Camps.

a. The number of tents, trailers, houseboats, recreational vehicles, or other portable shelters in a camp shall not exceed the number of single-family dwellings which could be erected on such premises.

b. Camp structures shall be set back at least 250 feet from property lines, unless the property line is the shoreline of Owasco Lake, in which case the setback requirements of the Waterfront District shall apply.

c. With a Temporary Permit, issued by the Code Enforcement Officer, a recreational vehicle may be occupied for a period of up to six (6) months per calendar year. Recreational Vehicles shall not be rented for on premise habitation.

d. Applicant must provide:

1. Garbage removal plan;
2. Waste water removal plan;
3. Sewage removal plan;

e. Permit must be prominently displayed in window, visible from the road.

f. Location of occupied recreational vehicle on lot must meet all setback requirements

g. No decks, porches, roofs, or sheds shall be affixed to any recreational vehicle.

h. An unoccupied recreational vehicle shall be stored no closer than twenty (20) feet to any rear or side lot line and no closer than twenty (20) feet to the road right-of-way. The recreational vehicle shall not obscure the view by neighbors or oncoming traffic. When so stored, no connections shall be permitted except electrical.

(4) Electric Vehicle Charging Station.

a. Public Use, Level 2 or 3 station.

1. The dimensional requirements for electric vehicle parking spaces shall be the same as those for traditional vehicle parking spaces as provided in Article XIII. The installation of electric vehicle supply and charging equipment shall not occupy any portion of the required area for parking the vehicle.
2. Installation of electric vehicle supply and charging equipment shall meet the standards in the National Electric Code Article 625.
3. Charging station outlets and connectors shall be no less than 36 inches and no higher than 48 inches from the surface where mounted.
4. Adequate electric vehicle charging station protection, such as concrete-filled steel bollards, shall be installed. Curbing may be used in lieu of bollards, if the charging station is setback a minimum of 24 inches from the face of the curb.
5. Adequate site lighting should be provided unless charging is for daytime purposes only.
6. If time limits or vehicle removal provisions are to be applied, regulatory signage including parking restrictions, hours and days of operation, towing, and contact information shall be installed immediately adjacent to, and visible from, the electric vehicle charging station.
7. When electric vehicle supply and charging equipment is placed in a sidewalk or adjacent to a walkway, it shall not interfere with the minimum pedestrian clearance widths as defined in Chapter 11 of the New York State Uniform Fire Prevention and Building Code: Accessibility. Cords, cables, and connector equipment shall not extend across the path of travel within a sidewalk or walkway.

b. Private Use, any level station.

1. Electric vehicle charging stations that are designed for private use shall be located in a manner that will not allow public access to the charging station; however, all requirements in subsection (a) items 1 through 2 and 7 above shall be met.

(5) Farm Stand. A farm stand shall be permitted as a seasonal accessory use related to an agricultural activity occurring on either a farm or a non-farm parcel, subject to the following regulations:

a. The farm stand shall be portable and capable of being dismantled or removed from the sales site.

b. The floor area devoted to the sales of home-made handcrafts items shall not exceed 50 percent of the total sales area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a farm stand.

c. The farm stand will be setback a minimum of twenty (20) feet from any street line and must meet the requirements for traffic visibility across corners and maintain safe sight triangle distances at road intersections in accordance with Article VI, Section 6.01.

d. A vehicle not exceeding ten thousand (10,000) pounds gross weight may be considered a permitted farm stand. However, a vehicle, or any part thereof, customarily known as a tractor-trailer or any containerized storage unit shall not be permitted.

e. Non-Farm Parcels: The total floor area of the stand shall not exceed one hundred fifty (150) square feet. The farm stand shall be solely for the seasonal display and sale of agricultural and value added products grown or produced on the premises.

f. Farm Parcels: The total floor area of the stand shall not exceed four hundred (400) square feet. Farms may seek relief from this requirement through an area variance. The applicant must demonstrate a need for an area variance for additional space based upon the needs of existing farm operations (see Article XVII, Section 17.03).

(6) Farm Worker Housing shall meet the following standards:

a. Farm Worker Housing shall be located on the same farm operation where other farm structures are located.

b. Farm Worker Housing shall meet the same setback requirements as the principal structure for the lot. See Section 6.01 for dimensional standards.

c. Structures shall have a minimum of 30 feet of separation from one another

d. Provisions shall be made for adequate water and sewage disposal facilities, in accordance with local, county, and state laws.

e. The Town may require a notarized statement from the property owner to certify that the occupants in the Farm Worker Housing are employed on the farm.

(7) Home Occupation.

a. A home occupation may be conducted only by residents of the dwelling unit plus no more than two (2) nonresident assistants or employees at any one time. A home occupation may be conducted within a dwelling unit and/or within accessory structures. An area no larger than 30% of the floor space of the primary dwelling unit may be occupied by the home occupation, up to a maximum of 1,000 sq. ft.

b. A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes. It shall be conducted in a manner which does not give the outward appearance of a business, does not infringe on the right of neighboring

residents to enjoy the peaceful occupancy of their dwelling units, and does not alter the character of the neighborhood.

c. Signs used in conjunction with a home occupation shall not be animated or illuminated and shall not exceed 3 sq. ft.

d. Parking shall be adequate for nonresident employees and customers or clients. No business vehicle larger than 12,000 pounds gross vehicle weight may be parked regularly in a location visible from a public road or neighboring properties.

e. Automobile and truck traffic generated shall not be greater than the volume of traffic customarily associated with a residential use, unless the residence is located on New York State Routes 38, 34, or 34B.

f. There shall be no exterior storage of materials, equipment, vehicles, or other supplies used in conjunction with a home occupation, unless screened from the road and from other properties with a fence or vegetation subject to approval by the Code Enforcement Officer.

g. No offensive appearance, noise, vibration, smoke, electrical interference, dust, odors, or heat shall occur. The use of substances in a manner which may endanger public health or safety or which pollute the air or water shall be prohibited.

h. More than one home occupation may be conducted on a lot, provided that the cumulative impact of all home occupations satisfies these criteria and standards.

(8) Solar Energy System, Non-Utility Scale.

a. All Non-Utility Scale Solar Energy Systems shall meet the requirements of Article X.

(9) Temporary Outdoor Sale.

a. Such uses as defined in Section 2.02 shall be permitted with the issuance of a Temporary Permit by the Code Enforcement Officer.

(10) Temporary Use.

a. Such uses as defined in Section 2.02 shall be permitted with the issuance of a Temporary Permit by the Code Enforcement Officer.

Section 4.07 - Additional Regulation in the Hamlet District

A. Hamlet Uses. Uses in the Hamlet District are intended to provide for a range of complementary uses and shall consist of Residential and Commercial/Mixed-Uses. These uses are intended to provide for the diversity necessary for traditional village life while maximizing the interactions among related uses and minimizing the adverse impacts of different uses upon each other.

B. Building and Housing Types. Within the Hamlet District up to 10% of all new dwelling units may be designed as semi-detached dwellings, and a further 5% may be designed as three-or four-family dwellings. Within the Hamlet District all new principal buildings shall be designed and constructed to be compatible with the massing, size, scale, and architectural characteristics of surrounding existing historical structures.

C. When different housing types are proposed in the Hamlet District, they shall be integrated and compatible with the massing, size, scale, architectural and location characteristics of the

existing streetscape as single-family dwellings and nonresidential buildings, and not isolated from each other in separate areas.

(1) Waiver of Housing Type Percentages. The Planning Board, upon request by the applicant, may modify housing type percentages within the spirit of the Conservation Regulations, when the applicant demonstrates that such waivers shall not substantially diminish the traditional character of the proposed development.

D. Locational Considerations for Hamlet Uses. Commercial/Mixed-Uses in the Hamlet District shall be located so they are easily accessible by pedestrians from as much of the residential areas as possible (preferably within 1500 feet of the intersection of roads in the Hamlet). Nonresidential uses that are intended to serve an area beyond the Hamlet District shall be located to permit vehicular access from outside the Hamlet District without passing through residential streets. This part of the Hamlet District may be located close to state highways.

E. Integrating uses. To meet the retail and service needs of a traditional village center and its vicinity within one- and two-story buildings, and contain other compatible uses such as civic and institutional uses of community-wide importance, such uses shall be located either at the approximate center of one of the aforementioned Hamlets, or at the edge, near an existing Major or Minor Collector Road (including all state highways). If a Commercial/Mixed-Use is located along such a thoroughfare, parking areas shall be screened from view.

F. Community Wastewater Systems. In developments to be served by community wastewater disposal systems, the selection of wastewater treatment technique shall be based upon the allowable systems of all applicable regulating agencies. Private wastewater facilities are subject to maintenance agreements and documentation, as approved by the Town.

Section 4.08 - Additional Regulations in the Waterfront District

A. Lakeshore setback zone. No structure shall be built or expanded within 50 feet of the mean high-water mark, except the following, subject to the restrictions and conditions in Section 7.03 and Section 7.04 of this Ordinance:

(1) Pump houses that do not exceed 50 sq. ft. in floor area;

(2) Gazebos, patios and decks on foundations other than posts or piers, which shall be considered structures for the purpose of calculating open space percentage;

(3) Impermeable stairways, seawalls, retaining walls and walkways, which shall be considered structures for the purpose of calculating open space percentage;

(4) Fences;

(5) Storage buildings not exceeding 160 sq. ft. in floor area;

(6) Permanent docks and seasonal docks;

(7) Children's playground equipment not to exceed 100 sq. ft. in overall play area; and

(8) Flagpoles.

B. Additional restrictions and conditions on exceptions in Subsection A(1) through (8) above:

(1) Minimum open space percentage. Open space within the WD shall be no less than 85% for lots of 1 acre or more; 80% for lots of one-half (0.5) acre up to 1 acre; 70% for lots of one-quarter (0.25) acre up to one-half (0.5) acre; and 60% for lots under one-quarter (0.25) acre.

(2) Height. No structure located within 50 feet of the mean high-water mark, shall exceed 20 feet in height.

C. Lake rights. No encumbrance, by easement, or right-of-way for ingress and egress, to the lakeshore is permitted in the lakeshore setback zone except for public or private utility.

D. Property rights protection. Nothing in this Article shall authorize the Town to require that land in the Waterfront District (WD) be dedicated to public use, except as may ordinarily occur in connection with laying out street rights-of-way, sidewalks, utility easements, and drainage ways.

Section 4.09 - Siting of Dock Structures

A. Definitions. For the purposes of this Section the following definitions apply:

Dock Accessory Structure - Either: an enclosed storage structure, the purpose of which is the storage of related boating accessories and shall have no utility service except electricity; or a seasonal open-sided structure placed in the water with an attached mechanical device to raise or lift a boat out of the water for waterside storage (typically called a boat hoist structure).

Boat Hoist - Any mechanical device the purpose of which is to remove the boat from the water for waterside storage and shall not have a roof.

Dock - Any permanent or seasonal structure, fixed platform built on floats, columns, open timber, piles, or similar open-work supports, or, cantilevered structures that are designed to provide permanent or seasonal access from the shoreline to Owasco Lake.

Mean High-Water Mark - The location where the mean high-water level intersects the adjoining parcel.

Mean High-Water Level - The approximate average high water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS). According to the New York State Department of Environmental Conservation, Division of Environmental Permits, the Mean High-Water Level for Owasco Lake is 713.90 feet above mean sea level.

Permanent - The type of construction for any dock or structure that is anchored to the bed of the lake and is not designed to be removed each season.

Seasonal - The type of construction for any dock or structure that is designed to be removed on an annual basis.

Shoreline - The boundary of lands adjoining the lake, and is the line marked by the Mean High-Water Mark.

Structure - Anything constructed, erected, anchored, suspended, placed in, on or above, or, any object constructed, erected, anchored, suspended, or placed on the waterside of the shoreline.

Waterside - The lake side of the shoreline.

B. Compliance with State and Federal Laws and Regulations.

(1) It is the responsibility of the parcel owner to obtain any and all state and federal permits that may be required for the installation of docks and/or dock accessory structures.

C. Dock Regulations.

(1) Allocation of Docks. The number of docks that may be constructed for individual private residential or commercial properties, excluding marinas, shall be based upon lineal footage of shoreline, as set forth in the Dock Allocation Table below.

Dock Allocation Table	
Lineal Feet of Shoreline Category	**Number of Docks**
A. up to 125.00ft	1
B. 125.01ft to 200.00ft	2
C. 200.01ft +	2 +1 additional dock for every 100 feet of shoreline in excess of 200.01’

(2) Dock Accessory Structures. Only one dock accessory structure is permitted per dock.

(3) Design Standards.

a. For parcels with twenty-five (25) feet or less of shoreline docks and any dock accessory structure that is attached to or placed adjacent to such dock, or a vessel docked or moored thereto, shall be centered as a unit between side lot lines and these structures shall also be placed in such a manner as to not interfere with neighboring property owner’s navigational rights.

b. For parcels with more than twenty-five (25) feet of shoreline, docks and any dock accessory structure that is attached to or placed adjacent to such dock, or a vessel docked or moored thereto, shall be located such that no part of the aforementioned structures are less than ten (10) feet from side lot lines extended into the lake on either side of the subject property perpendicular to the shoreline.

c. For parcels where two or more docks are permitted, the docks shall be separated by at least ten (10) feet.

d. All docks and dock accessory structures shall be constructed to withstand the forces of flowing water, wave washes and ice.

e. Each dock shall not exceed a total of six-hundred (600) square feet, including walkways and appendages.

(4) To maintain a set of standards for the regulation of docks the power to grant variances by the Zoning Board of Appeals is limited to area variances from setbacks.

a. Setbacks from lot lines and/or dock configuration may be varied for the following purposes only:

1. To provide safe navigational access; or
2. To minimize adverse environmental impacts on Owasco Lake and its watershed.

b. Under no circumstances shall the following allocations or any use(s) established under this local law be varied:

1. Increasing the number of slips;
2. The number of docks;
3. The square footage of the dock(s)

ARTICLE V
Special Use Permits

Section 5.01 - Purpose and Intent

A. The purpose of this Article is to set forth supplemental regulations, procedures, and conditions which shall apply to specially permitted land use activities in the Town of Scipio. Special uses are those uses that will have a special impact or unique form which requires a case-by-case review to determine the uses compatibility with the surrounding properties and to mitigate adverse impacts to the harmony of the neighborhood and the environment. In reaching a determination on a Special Use Permit application, the Planning Board shall take into consideration such concerns as the specific location, design, configuration, and impact to others, together with the criteria set forth below.

Section 5.02 - Applicability

A. No Zoning Permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Section 5.05 Use Table as requiring a Special Use Permit (SP) until the Planning Board has approved the Special Use Permit application. The Planning Board shall approve applications for Special Use Permits only when satisfied that all applicable requirements, as set forth in this Section, have been complied with, in addition to all other requirements of this Ordinance. All fees as established by the Town Board by resolution in the Town of Scipio Fee Schedule shall be paid.

Section 5.03 - Procedure for Obtaining a Special Use Permit

A. The Planning Board shall hear and decide upon any application for a Special Use Permit as listed in Section 5.05 Use Table. Applicants shall have the burden of proof in establishing his/her right to a Special Use Permit.

B. As part of a Special Use Permit application, Site Plan Review in accordance with the requirements listed in Article XIV is required. The following additional materials must also be provided by the applicant:

   (1) A Special Use Permit Application with all information required therein.

   (2) A narrative statement with any supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Ordinance.

   (3) All completed forms and supplemental information as required by Article 8 of the New York State Environmental Conservation Law, known as the State Environmental Quality Review Act, and regulations at NYCRR Part 617 adopted thereunder (collectively, “SEQRA”).

C. Public Hearing and Planning Board Action on Special Use Permits.

   (1) Within sixty-two (62) calendar days of the receipt of a complete application for Special Use Permit, the Planning Board shall conduct a public hearing.

   (2) The Town shall publish a public hearing notice in the Town’s official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing.

(3) The Planning Board shall send by certified mail a copy of the public notice to all owners of parcels that are immediately adjacent to and extending 500 feet therefrom, or of that directly opposite thereto, extending 500 feet from the street frontage of the parcel(s) of land included in the application for the Special Use Permit at least ten (10) business days prior to the date of such public hearing.

(4) The Planning Board shall make a decision on the application within sixty-two (62) calendar days after such hearing and file said decision within five (5) business days after the day such decision was rendered with the Town Clerk, and mail such decision to the applicant with a copy to the Code Enforcement Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board.

D. Referral to the County Planning Board must be made at least ten (10) business days before the required public hearing by the Planning Board under provisions of Section 239-l, m & n of the New York State General Municipal Law.

Section 5.04 - General Requirements and Standards

A. The Planning Board shall grant a Special Use Permit only if the proposed use will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. A proposed use:

(1) Is consistent with an orderly and appropriate development of the neighborhood and surrounding area and follows the Comprehensive Plan for the Town of Scipio;

(2) Is not unreasonably detrimental to the existing structures or uses in the neighborhood by reason of noise or vibration, odor or other form of air pollution, fire or explosive hazard, glare or any other substance, condition, of element, or size of operation;

(3) Is, as to general character, height and use of structure, the provisions of surrounding open space and treatment of grounds and as to its effect on street capacity and use, sufficient to safeguard public health, comfort and convenience and to preserve the general character of the neighborhood in which such structure is to be placed or such use is to be conducted;

(4) Is, where appropriate, an adequate transition between adjacent uses or districts;

(5) Will be carried out in a manner compatible with its environmental setting and with due consideration to the protection of natural resources;

(6) Will not cause undue traffic congestion or create a traffic hazard; and

(7) Will be in conformance with all applicable requirements of this Ordinance.

B. In granting a Special Use Permit, the Planning Board may impose conditions regarding layout, circulation, and performance it deems necessary to ensure that any proposed development will secure substantially the objectives of these Regulations; and to safeguard the public health, safety and welfare in granting the permit. These conditions may include but are not limited to the following:

(1) Increasing the required lot size or yard dimensions.

(2) Limiting the height, size, or location of buildings.

(3) Controlling the location and number of vehicle access points.

(4) Increasing the number of required off-street parking spaces.

(5) Limiting the number, size, location, and lighting of signs.

(6) Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

(7) Designating areas for open space.

Section 5.05 - Amendments to Special Use Permits

A. The terms and conditions of any special permit may be amended in the same manner as required for the issuance of a special use permit, following the criteria and procedures in this Article.

Section 5.06 - Expiration and Revocation of Special Use Permits

A. Expiration of Permits.

(1) An applicant granted a Special Use Permit shall be given six months in which to begin to put into effect the use permitted by the granted Special Use Permit. The Planning Board may increase this period from six months to a year at its discretion upon request from the permit holder.

(2) A Special Use Permit shall expire if the special permit use or uses cease for more than 12 consecutive months.

B. Revocation of Special Use Permit: The Planning Board may revoke a Special Use Permit upon reasonable cause should the permittee violate the conditions of the Special Use Permit and fails to terminate such violation within 30 calendar days of receiving a notice of violation; engages in any activity not authorized by the Special Use Permit; or fails to comply with any other provision of this Ordinance. Before a permit may be revoked, a public hearing shall be held by the Planning Board. The Town shall publish a public hearing notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing. The permit holder shall be notified of the hearing by certified mail at least ten (10) business days prior to the hearing. At the hearing, the Planning Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the Special Use Permit. If the Planning Board decides to revoke a Special Use Permit, the reasons for such revocation shall be stated in the public hearing minutes. The permit holder shall be immediately notified of the revocation by certified mail.

Section 5.07 - Requirements for Defined Special Uses

A. In addition to the procedures, requirements, and standards listed elsewhere in this Article, the following uses have specific criteria that must be met by the applicant for a Special Use Permit.

(1) Accessory Dwelling Units shall meet the following standards:

a. Accessory dwelling units shall be subordinate in area to the principal dwelling unit. The accessory dwelling unit shall not exceed a maximum of fifteen hundred (1,500) square feet.

b. A maximum of one accessory dwelling unit shall be allowed on any one lot.

c. No accessory dwelling unit shall contain more than two (2) bedrooms.

d. Accessory dwelling units shall utilize common water and septic facilities with the primary dwelling unit, unless otherwise approved by the Cayuga County Health Department.

e. All accessory dwelling units shall comply in all other respects with the provisions of local, state, and federal laws, ordinances, rules, and regulations, specifically including the New York State Uniform Fire Prevention and Building Code.

(2) Adult Oriented Business.

a. Purpose/Findings.

1. The Town Board recognizes that buildings and establishments operated as adult oriented businesses may have objectionable characteristics which require special supervision from public safety agencies in order to promote the health, safety, and general welfare of the residents of the Town of Scipio.

2. The Town Board finds the objectionable characteristics of adult oriented businesses and the adverse effects of such uses increase when such uses are spread throughout the community.

3. The Town Board finds that, based upon common knowledge, experience, and studies conducted by other municipalities (including but not limited to Syracuse, New York; Kansas City, Missouri; Bergen, New York; Scotia, New York; Dryden, New York; and Ellicottville, New York), that the adult oriented businesses sought to be regulated herein have been associated with criminal and other socially undesirable behavior, such as disorderly conduct, prostitution, pornography, drug trafficking and substance abuse, which have the resulting effects of depressing property values in the surrounding neighborhood and increasing the burden upon law enforcement personnel and municipal expenditures.

4. The location of adult oriented businesses in regard to areas where youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town.

5. It is not the intent of this Section to suppress any free speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult entertainment and sexually orientated businesses and which is necessary to protect the health, safety, and welfare of the citizens of the Town of Scipio, and surrounding villages and towns.

6. Special regulation of adult oriented businesses is necessary to ensure that deleterious secondary effects will not contribute to the blighting or downgrading of surrounding neighborhoods or land uses.

7. The Town Board desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizens of the Town; protect such citizens from increased crime; preserve the quality of life of citizens and businesses in the Town; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

b. Specific Criteria. No person shall construct, establish, operate, maintain, or be issued a certificate of occupancy for any adult oriented business within the Town unless such use meets the following standards:

1. No more than one (1) adult oriented business shall be allowed or permitted in any one (1) lot. No mixed uses involving an adult oriented business shall be allowed.
2. No adult oriented businesses shall be allowed or permitted on a lot that is closer than five-hundred (500) feet to:
   (A) A lot which has another adult oriented business.
   (B) Any property that is used, in whole or part, for residential purposes.
   (C) Any church or other regular place of worship, community center, funeral home, library, school, nursery school, daycare facility, hospital, public park, playground, recreational area, field or cemetery.
   (D) Any structure used by the public for public gatherings.
   (E) Any motels or hotels.
3. Where there is a conflict between the regulations as provided in this Section and any other law, rule or regulation of the Town including this Ordinance, the most restrictive law, rule, or regulation shall apply.
4. All distances set forth herein shall be measured from lot line to lot line. Any relief from the distance buffer referenced under this section shall require the issuance of a use variance from the Zoning Board of Appeals.
5. No adult oriented business shall be conducted in any manner that permits the observation of any material depicting or relating to specified anatomical areas or specified sexual activities from any public or private way, parking area or adjacent properties. This provision shall apply to any display, signage, show window, or opening.

(3) Animal Care Facility, Kennel or Shelter. In addition to the requirements set by New York State, establishments which harbor or board animals with access to outdoors shall meet the following standards:

a. All buildings shall meet the minimum dimensional standards for agricultural structures found in Section 6.01, Dimensional Requirements Table.

b. In order to reduce noise, the design of the structure shall deny dogs a view of the road.

(4) Daycare Facility. In addition to the requirements set by New York State, daycare facilities shall meet the following standards:

a. Any facility accommodating more than 10 children or adults shall have a minimum lot area of 1 acre.

b. Outdoor play areas shall be sufficiently screened and sound insulated as to protect the neighborhood from inappropriate noise and other disturbance.

(5) Elderly Congregate Housing. All structures proposed in the Hamlet District shall comply with the requirements of Section 4.07.

(6) Extractive Industry/Mining. All extraction or mining activities undertaken in the Town of Scipio shall be in compliance with the following regulations which shall govern the location of all mining and excavation activity.

a. All extractive industry or mining uses shall have a minimum lot size of twenty (20) acres.

b. No extractive industry or mining use shall emit dust, noise, or vibration beyond the geographical limits of the use.

c. The exterior bounds of the property shall be posted, and fences at least six (6) feet in height shall be maintained, with suitable locking gates, across each roadway or other means of vehicular access to the property.

d. The applicant shall give assurance of proper construction and maintenance practices and financial responsibility to protect citizens and properties from injury or damage from fire or other safety air, ground or water pollution, soil erosion or sedimentation, trespass and use of town highways.

e. For extractive industries or mines subject to New York State Department of Environmental Conservation (DEC) permitting and regulation, as set forth in the New York Environmental Conservation Law §23-2711 (excavation of more than one thousand (1,000) tons or seven hundred and fifty (750) cubic yards, whichever is less, of minerals from the earth within twelve (12) successive calendar months; or over one hundred (100) cubic yards of minerals from or adjacent to any body of water) the following requirements apply:

1. Local Town roads that are used to ingress and egress from the site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.

2. The applicant shall be required to furnish a performance bond in an amount determined by the Town Engineer, approved by the Planning Board and the Town Board; and to be held by the Town Clerk to be sufficient to guarantee the restoration of the Town road to its original condition.

3. The Planning Board may set conditions or restrictions regarding access at their discretion based on actual on-site conditions of roadway.

4. The application shall contain the following information for the Planning Board to review and consider:

(A) a map, at a scale of one inch equals no more than one hundred (100) feet, showing all land within two hundred (200) feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners. Such map shall also show the present topography at five-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy and source.

(B) There shall be a one hundred (100) foot buffer area from the area of operation and adjoining streets or property lines.

(C) Appropriate barriers that may be needed to restrict access to the site.

(D) Hours of operation shall not exceed 6am to 7pm EST Monday thru Saturday.

(E) Measures that will be implemented to control fugitive dust from migrating off-site.

(F) Measures to mitigate any other impact that may arise as a result of the extractive or mining operation.

(G) Copies of all documentation between the applicant and NYS DEC, specifically including but not limited to: the application, plan, reclamation plan, reclamation bond(s), environmental impact statement(s), engineering reports, and renewal application(s).

(H) A Stormwater Pollution Prevention Plan (SWPPP) in compliance with the New York State Department of Environmental Conservation (NYS DEC) State Pollutant Discharge Elimination System (SPEDES) general permit requirements and procedures.

(I) Any other information deemed relevant in the consideration process by the Planning Board.

5. At all times, the applicant shall maintain a valid, in force NYS DEC Permit. Any expirations, renewals, modifications, or changes to the NYS DEC Permit are subject to further review and renewal of the Special Exception permit by the Planning Board.

6. At all times, the applicant shall be required to operate in compliance with the NYS DEC Permit.

7. At all times, the applicant shall be required to possess and maintain a valid, in force reclamation bond as required by NYS DEC.

8. The Code Enforcement Officer shall have the right to inspect all or any part of the extractive industry or mining operation.

f. For extractive industry or mining operations not subject to New York State Department of Environmental Conservation (NYS DEC) permitting and regulation, the following requirements apply:

1. Local Town roads that are used to ingress and egress from the mine site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.

2. The applicant shall be required to furnish a performance bond in an amount determined by the Town Engineer, approved by the Planning Board and the Town Board; and to be held by the Town Clerk to be sufficient to guarantee the restoration of the Town road to its original condition.

3. The Planning Board may set conditions and restrictions regarding access at their discretion based on actual on-site conditions of roadway.

4. The application shall contain the following information for the Planning Board to review and consider:

(A) a map, at a scale of one inch equals no more than one hundred (100) feet, showing all land within two hundred (200) feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners. Such map shall also show the present topography at five-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy and source.

(B) There shall be a one hundred (100) foot buffer area from the area of operation and adjoining streets or property lines.

(C) Appropriate barriers that may be needed to restrict access to the site.

(D) Hours of operation shall not exceed 6am to 7pm EST Monday thru Saturday.

(E) Measures that will be implemented to control fugitive dust from migrating off-site.

(F) Measures to mitigate any other impact that may arise as a result of the extractive or mining operation.

(G) A plan setting forth in reasonable detail the proposed site, length of operation and type and quantity of materials to be removed.

(H) A reclamation plan to provide for restoration of the proposed site.

(I) A reclamation bond or other suitable financial security in an amount determined suitable in the discretion of the Town Board to ensure compliance with the reclamation plan.

(J) A Stormwater Pollution Prevention Plan (SWPPP) in compliance with the New York State Department of Environmental Conservation (NYS DEC) State Pollutant Discharge Elimination System (SPEDES) general permit requirements and procedures.

(K) Any other information deemed relevant in the consideration process by the Planning Board.

5. The Code Enforcement Officer shall have the right to inspect all or any part of the extractive industry or mining operation.

(7) Gasoline Service Stations.

a. Gasoline service station operators shall provide the Town with copies of all applicable permits provided by state and/or federal regulators and copies of all annual, incident, and remediation-related reports.

b. Side and rear yard setbacks shall be not less than 10 feet in width.

c. Screening and/or landscaping shall be provided along all lot lines abutting a side or rear lot line of any residentially zoned or developed property in a manner which largely obscures the gasoline service station and accessory parking areas from all points located on such residential property when viewed from the ground level.

d. No repairs, other than minor motor vehicle repairs, shall be performed on the premises, and all such repairs shall be performed only within the principal building on the premises as an incidental use. The number of service spaces permitted shall be limited to a maximum of four.

e. No building, structure or area permitted as a gasoline service station shall be used for major motor vehicle repairs unless such use and operation is expressly authorized by special permit.

f. The entire parking and service area shall be paved. Side and rear yards shall be landscaped and separated from paved areas by a curb, low wall or other barrier.

g. No open-air outdoor storage of materials, merchandise and equipment shall be permitted during nonbusiness hours. Storage of materials, merchandise and equipment during nonbusiness hours shall take place within the principal building or within closed, secure containers, such as outdoor storage cabinets. Refuse and trash may be stored outdoors at all times only if placed in enclosed containers located in an area screened from view at all points on any public or private property or street when viewed from ground level.

h. No more than five (5) motor vehicles, including partially dismantled or wrecked vehicles, shall be stored at one time in any open area at a gasoline service station, provided that the outdoor storage of a specific motor vehicle shall not exceed 30 days.

(8) Home Occupations- Large.

a. A home occupation occupying an area greater than that permitted in Section 4.06, A(4) or employing more than two (2) nonresident employees may be allowed by special permit, provided that it satisfies all criteria for the granting of special permits as well as the criteria and standards in Section 4.06, A(4). Such criteria shall become standard conditions of the special permit. In no case shall the area occupied by a home occupation allowed by special permit exceed the lesser of 40% of the floor space of the primary dwelling unit or 2,000 sq. ft.

b. A special permit granted for a home occupation(s) shall include a condition requiring the operator to obtain an annual operating permit from the Code Enforcement Official beginning in the second year of operation, at a cost to be set by the Town Board and as may be changed from time to time by resolution. Such operating permit shall be granted after the Code Enforcement Official inspects the premises and finds the home occupation(s) to be in compliance with all conditions of the special permit.

(9) Light Industrial Facilities shall meet the following standards:

a. The minimum land area shall consist of two (2) contiguous acres.

b. A minimum frontage of three hundred (300) feet shall be required.

c. Maximum building height. No part of any building shall be erected to a height greater than forty (40) feet, measured from natural grade at the building site.

d. There shall be a buffer strip along the side and rear property lines. Such buffer strips shall be at least ten (10) feet in depth and may consist of interlocking trees and foliage with or without a fence in a manner acceptable to the Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the property owner.

e. No structures or area for the storage of materials or equipment shall be located closer to the road than the front setback for the principal structure, not closer than twenty (20) feet from any side or rear property line.

f. No structures or area for the storage of materials or equipment shall be located closer than one hundred (100) feet from a perennial or intermittent stream, regulated wetland, or floodplain.

g. Suitable landscaping, including at least lawns and plantings, shall be installed and maintained in accordance with Section 6.03 and shall be subject to the approval by the Planning Board.

h. Parking. All facilities must provide for on-site parking facilities. No on-street parking will be permitted. All parking lots must feature landscaped islands and, if adjacent to the public right-of-way, landscaped and grassy areas at least ten (10) feet in depth measured from the edge of the right-of-way.

i. All applicants shall submit plans to the Planning Board including at least the following information.

1. The area dimensions and location of the industry.
2. The number, location, and dimensions of all structures.
3. The location and methods of containment of all outdoor hazardous material storage.
4. Specifications of the water supply, sewage, and refuse disposal facilities, and proof of approval of said facilities from the Cayuga County Health Department.
5. Photometric lighting plan. No light spillage permitted offsite.
6. Any additional information requested by the Planning Board.

(10) Mobile Home Parks.

a. Mobile home parks existing as of the date of this Ordinance may be continued as provided in Article XIII, and new mobile homes may be installed pursuant to plans approved before the enactment of this Ordinance. The expansion of an existing mobile home park shall be allowed by special permit.

b. New mobile home parks may be permitted after the effective date of this Ordinance provided that they obtain a special permit and fully comply with the following:

1. The number of permitted homes in any mobile home park shall be no more than three (3) dwelling units per acre.
2. The minimum open space shall be 33% of the total acreage of all parcels used for the mobile home park.
3. The mobile home park shall provide playground and recreational facilities for the use of residents.
4. The maximum number of mobile homes in any mobile home park shall be 60.
5. The minimum parcel size shall be 10 acres.
6. All mobile homes shall be screened from view from public roads and other publicly accessible land.
7. All mobile homes shall be set back at least 100 feet from property lines.

c. All new mobile home parks and expansions of existing mobile home parks shall be required to comply with all applicable state and federal regulations and all applicable special permit and site plan review standards and criteria in this Ordinance.

(11) Motor Vehicle or Small Engine Repair Shops shall meet the following standards:

a. Motor Vehicle or Small Engine Repair Shops shall not be used for the storage, sale, rental, or display of automobiles, trucks, trailers, mobile homes, boats, snowmobiles or other vehicles, unless as part of the Special Use Permit application for an Motor Vehicle Repair Shop such use is approved by the Planning Board.

b. Any such use shall be buffered from adjacent uses by no less than ten (10) feet. The buffer area shall be in designed and installed in order to prevent the unwanted transmission of headlight glare across the property line.

c. The entire site area that is traveled by motor vehicles shall be hard surfaced (e.g. asphalt, concrete, or any other surface that does not release dust or debris).

d. Perimeter landscaping along the street frontage(s) shall not be less than ten (10) feet in width.

e. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially developed property to block any view of operations from all points on such residential property when viewed from ground level.

f. All maintenance, service, and repairs of motor vehicles shall be performed fully within an enclosed structure. No motor vehicle parts, partially dismantled motor vehicles, or unlicensed motor vehicles shall be stored outside of an enclosed structure for more than forty-eight (48) hours.

g. A spill prevention plan shall be provided to the Town by the applicant.

(12) Multi-Family Dwelling. Development applications for newly constructed multi-family dwelling units shall meet the following:

a. All dwelling units and structures shall comply with the standards set forth in the NYS Uniform Fire Prevention and Building Code. Said standards shall take precedence to this Zoning Code should there be a conflict.

b. There may not be less than two and not more than eight units in a single- or two-family attached dwelling group.

c. No driveway or parking lot should be closer than twenty five (25) feet to the front of any building or ten (10) feet to the side or rear of any building.

d. In the case of an enclosed garage or carport provided as a portion to the main structure, distance requirements for driveways providing access to these accommodations shall not apply.

e. Buildings shall not have large or long continuous wall or roof planes. Varied roof heights, projecting bays, gables, recesses, porches, and other architectural design elements shall be used to visually divide larger buildings. To prevent an out-of-scale, monolithic appearance buildings shall be visually divided into smaller sections no longer than fifty (50) feet in length by gaps, recesses, or other architectural devices in such a way that adjacent buildings and facades define a continuous street wall and pedestrian-friendly streetscape.

f. Accessory structures, such as clubhouses, pools, pool buildings, storage buildings, and trash enclosures, shall be located in a manner that does not disturb or encroach upon the streetscape (pedestrian walkways, roadways, etc.) or adjacent residential neighborhoods.

g. Parking areas may be located in any setback other than the front setback, but no closer than twenty (20) feet from any property line and shall comply with all other regulations of the district in which the use is located.

h. In the Hamlet District, multi-family dwellings shall be sited to front directly onto streets (rather than parking areas), and all structures shall comply with the requirements of Section 4.07.

(13) Outdoor Recreation uses shall meet the following standards:

a. No building or structure used in conjunction with any outdoor recreation use (other than utility lines) shall be located within one hundred (100) feet of any property line.

b. Unenclosed uses shall not be located closer than one hundred and fifty (150) feet from any property line, except when greater distances are otherwise required due to the unique characteristic of the use, facility, proximity of homes, topography, etc. Such unenclosed use shall be appropriately screened to ensure minimum impact upon adjacent properties.

c. Illuminated signs and other lights shall be directed away or shielded from adjoining properties.

d. No public address system is permitted to be used before 9:00 a.m. and after 10:00 p.m.

e. Sanitation facilities shall be provided as required by any town, county, state or other agency.

f. Interior roads shall be easily traversable and have a well-drained surface with provisions for dust control.

g. The Planning Board may require the applicant to conduct various studies, including but not limited to noise, traffic, drainage or other. Such cost to conduct and review said studies would be borne by the applicant.

h. The applicant shall be required to provide for mitigation devices, such as but not limited to berms, fencing, landscaping, screening, water systems for dust suppression, traffic control, etc., for the control of noise, dust, fumes or other impacts that might occur as a result of the recreational activity.

(14) Outdoor Storage. The following requirements shall apply to all non-residential uses:

a. Outdoor storage shall not be allowed in the front setback;

b. Outdoor storage shall not occupy more than fifteen percent (15%) of the entire lot area;

c. All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way, or adjacent residential districts or uses;

d. Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public access ways; and

e. All screening shall be maintained in such a manner as to present a neat and orderly appearance at all times.

(15) Recreational Vehicle Parks or Campgrounds shall meet the following standards:

a. Campgrounds shall comply with New York State laws governing health. In particular, a safe supply of water and adequate disposal of human wastes and garbage shall be provided and approved by the Cayuga County Health Department.

b. No part of any camp site shall be closer than one hundred fifty (150) feet to any lot line.

c. Such use shall have a minimum of twenty (20) acres.

d. Such uses shall not produce noise levels incompatible with the neighborhood community in which they are to be located.

e. Suitable landscaping shall be provided along all property lines and shall be subject to the approval of the Town Planning Board.

f. Suitable off-street parking, in accordance with this Ordinance and any special considerations as stipulated by the Town Planning Board, shall be provided.

g. Activities shall not be carried on, or building located, within fifty (50) feet of any property line, except for vehicle ingress and egress to the site.

h. Adequate provision shall be made for refuse disposal, sanitary facilities and operation, water supply and sewage facilities, and shall be subject to approval by the Cayuga County or other Health Department having jurisdiction.

i. Any customary commercial activity or use, such as the sale of food and drink, shall be clearly accessory to the principal use, both in the amount of area utilized and the intent of the use.

(16) Retail Business Establishment, Professional Office or Personal Service Uses.

a. In the Agricultural/Residential District the maximum floor area for the use shall not exceed 10,000 sq. ft. in a single-story building.

b. In the Hamlet District, the maximum floor area for the use shall not exceed 1,000 sq. ft. in a single-story building. In buildings with two or more stories, the maximum floor area for the use shall not exceed 1,500 sq. ft.

(17) Solar Energy System, Utility Scale.

a. All Utility Scale Solar Energy Systems shall meet the requirements of Article X.

(18) Storage or Disposal of Fertilizers, Pesticides/Herbicides.

a. A special permit shall be required for storage of more than 500 pounds except where such storage or disposal is conducted in connection with a farm operation.

(19) Warehousing, Wholesale Distribution shall meet the following standards:

a. The minimum land area shall consist of two (2) contiguous acres.

b. A minimum frontage of three hundred (300) feet shall be required.

c. Maximum building height. No part of any building shall be erected to a height greater than forty (40) feet, measured from natural grade at the building site.

d. There shall be a buffer strip along the side and rear property lines. Such buffer strips shall be at least ten (10) feet in depth and may consist of interlocking trees and foliage with or without a fence in a manner acceptable to the Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the property owner.

e. No structures or area for the storage of materials or equipment shall be located closer to the road than the front setback for the principal structure, nor closer than twenty (20) feet from any side or rear property line.

f. No structures or area for the storage of materials or equipment shall be located closer than one hundred (100) feet from a perennial or intermittent stream, regulated wetland, or floodplain.

g. Suitable landscaping, including at least lawns and paintings shall be installed and maintained in accordance with Section 6.03 and shall be subject to approval by the Planning Board.

h. Parking. All facilities must provide for on-site parking facilities. No on-street parking will be permitted. All parking lots must feature landscaped islands and, if adjacent to the public right-of-way, landscaped and grassy areas at least ten (10) feet in depth measured from the edge of the right-of-way.

i. All applicants shall submit plans to the Planning Board including at least the following information:

1. The area dimensions and location of the industry.

2. The number, location, and dimensions of all structures.

3. The location and methods of containment of all outdoor hazardous material storage.

4. Specifications of the water supply, sewage, and refuse disposal facilities, and proof of approval of said facilities from the Cayuga County Health Department.

5. Photometric lighting plan. No light spillage permitted offsite.

6. Any additional information requested by the Planning Board.

(20) Wind Energy Systems.

a. All Wind Energy Systems shall meet the requirements of Article XI.

(21) Wireless Telecommunication Facility.

a. All Wireless Telecommunications Facilities shall meet the requirements of Article XII.

(22) Commercial Cultivation or Processing of Cannabis and Cannabis Products. No person shall construct, establish, operate, maintain, or be issued a certificate of occupancy for any Commercial Cultivation or Processing of Cannabis and Cannabis Products Business within the Town unless such use meets the following standards:

a. License Required: No person may operate a Commercial Cultivation or Processing of Cannabis and Cannabis Products Business without a valid license issued by New York State.

1. There shall be an annual fee for Commercial Cultivation or Processing of Cannabis and Cannabis Products Businesses as established by the Town Board by resolution in the Town of Scipio Fee Schedule.

2. Home Occupations: Commercial Cultivation or Processing of Cannabis and Cannabis Products Business shall not be allowed as a home occupation. Cannabis

and Cannabis Products may not be sold from any residential dwelling unit nor shall cannabis be grown in a residence with the intent to sell.

b. At a minimum, Commercial Cultivation or Processing of Cannabis and Cannabis Products Business shall meet the following requirements:

   1. All structures shall be located at least 200 feet from all property lines where the adjacent property is used, in whole or part, for residential purposes.

   2. All distances set forth herein shall be measured from lot line to lot line. Any relief from the distance buffer referenced under this section shall require the issuance of a variance from the Zoning Board of Appeals.

c. Disposal of Cannabis: Cannabis waste shall be stored, secured, and managed in accordance with applicable state laws.

d. Signage: All signs shall comply with the sign provisions set forth in Article IX. In addition, no signage associated with a Commercial Cultivation or Processing of Cannabis and Cannabis Products Business shall use the word “marijuana”, “cannabis”, or any other word or phrase commonly understood to refer to marijuana, nor shall any images of the marijuana plant be used in signage.

e. Ventilation: All licensed Commercial Cultivation or Processing of Cannabis and Cannabis Products Business facilities shall be equipped with a proper ventilation system that filters out the odor of cannabis so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of any and all buildings used for the business.

f. Hazardous Chemicals: Storage and disposal of fertilizers, pesticides, herbicides, and any other hazardous chemicals associated with the cultivation or processing of cannabis shall comply with all local, state, and federal laws. An application for approval of any Commercial Cultivation or Processing of Cannabis and Cannabis Products Business shall include a floor plan showing the location of the storage of such chemicals and shall be subject to review and approval.

b. Where there is a conflict between the regulations as provided in this Section and any other law, rule or regulation of the Town including this Ordinance, the most restrictive law, rule, or regulation shall apply.

ARTICLE VI
Regulations Applicable to All Zoning Districts

Section 6.01 - District Regulations and Dimensional Requirements

A. Purpose. The Town of Scipio wishes to preserve its open space, provide opportunities for housing and develop according to the traditional character found in the Town, using flexible regulations for density and lot dimensions

B. District Regulations.

(1) The regulations for each district pertaining to minimum lot size, minimum lot width, minimum front setback, minimum side setback, minimum rear setback, maximum building coverage, and maximum building height shall be as specified in this Section, subject to the further provisions of this Ordinance.

C. Table of Dimensional Requirements.

Dimensional Requirements Table

District/Use	Minimum Lot Size	Minimum Lot Width (ft.)	Minimum Setbacks			Maximum Lot Coverage	Maximum Building Height (ft.)
			Front (ft.)	Side (ft.)	Rear (ft.)		
Agricultural / Residential District (ARD)							
Agricultural Structure as the principal structure	2 acres	100 ft	20 ft	20 ft	30 ft	20%	n/a
Single- or Two Family Dwelling as principal structure	1 acre	100 ft	20 ft	20 ft	30 ft	20%	35 ft.
Other Principal Structures	1 acre	100 ft	50 ft	20 ft	30 ft	20%	35 ft.
Hamlet District (HD)							
Single-Family Dwelling	3/4 acre	80 ft	20 ft	5 ft	40 ft	20%	35 ft.
Two-Family Dwelling	3/4 acre	80 ft	20 ft	5 ft	30 ft	20%	35 ft.
Multi-Family Dwelling	3/4 acre	80 ft	20 ft	5 ft	30 ft	25%	35 ft.
Other Principal Structures	1 acre	80 ft	50 ft	20 ft	30 ft	20%	35 ft.
Waterfront District (WD)							
Single-Family Dwelling	3/4 acre	80 ft	50 ft	5 ft	20 ft	*	35 ft.
Two-Family Dwelling	3/4 acre	80 ft	50 ft	5 ft	20 ft	*	35 ft.
Other Principal Structures	1 acre	80 ft	50 ft	20 ft	20 ft	*	35 ft.
All Districts							
Accessory Structures	n/a	n/a	**	10 ft	10 ft	***	20 ft.

* See Section 4.08, B(1)
** See Section 6.02, A(2)
***Accessory structures count towards the total maximum lot coverage for the lot they are located on.

D. Lot Area or Setbacks Required.

(1) The lot or setback areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Ordinance (e.g. such as required parking area). No lot shall be so altered that the area of the lot or the dimensions of setbacks or other open spaces are smaller than herein prescribed.

(2) In the Agricultural/Residential District and the Hamlet District the front setback shall be measured from the centerline of the road to the closest point of the structure.

(3) In the Waterfront District the front setback shall be measured from the lake's mean high-water mark to the closest point of the structure. In the same district, rear setbacks shall be measured from the centerline of a public or private road to the closest point of the structure.

(4) Side and rear setbacks shall be measured from a point perpendicular to the structure from the closest portion of the property line as shown on a stamped survey.

(5) Setbacks from power lines. No permanent structure shall be erected within 100 feet of the outside conductor of a power line of 115 kilovolts or higher.

E. Principal Buildings on a Lot.

(1) Only one (1) principal building shall be permitted on any lot, except for Manufactured Homes located in an approved Manufactured Home Park by Special Use Permit.

F. Exceptions to Minimum Lot Sizes and Lot Widths.

(1) The provisions of this Article shall not prevent the construction of a single family dwelling, provided the dimensional requirements are observed on any lot which was lawful when created, provided the dimensional requirements then specified are observed, and which prior to the effective date of this Ordinance was in separate ownership duly recorded by plan or deed.

(2) Exemption of lots shown on approved subdivision plats shall be made in accordance with the provision of the New York State Town Law Article 16, §265-a.

G. Exceptions to Maximum Building Height.

(1) District height limitations shall not apply to:

a. Churches, schools, hospitals, water supply towers and other public and quasi-public buildings, provided that for each foot by which the height permitted in the district is exceeded, the side, front and rear yards required in the district shall be each increased an additional foot.

b. Farm structures, church spires, belfries, cupolas, domes, radio towers, monuments, television antennas, observation towers, flagpoles, ventilators, skylights, water tanks and necessary appurtenances usually carried above roof levels. Such features however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.

H. Projections into Required Setbacks.

(1) Projections into required setbacks shall be permitted as follows, except that no such projection shall be located closer than ten (10) feet to any side or rear lot line or twenty (20) feet to any front lot line.

a. Fire escapes, awnings or movable canopies, steps, or ramps may project into the required front, side, or rear setback not more than a total of six (6) feet.

b. Cornices, eaves or other similar architectural features not required for structural support may project into the required front, side, or rear setback not more than a total of three (3) feet.

c. Porches may project into the required front or rear setbacks up to ten (10) feet.

d. Patios may be located in the required side or rear setbacks not closer than ten (10) feet from any adjacent property line.

I. Unique Lots and Building Locations.

(1) Side Setback of a Corner Lot. The side setback of a corner lot which abuts a street, shall be equal to the required front setback for that street.

(2) Flag Lots. The building line on a flag lot shall be located where the lot equals the minimum width.

J. Regulations for Residential Structures.

(1) Minimum Habitable Floor Area. Every dwelling unit shall have a minimum habitable floor area of three hundred twenty (320) square feet. Habitable floor area shall not include area contained in cellars, attics, or garages.

K. Traffic Visibility Across Corners

(1) On any corner lot, no wall, fence, or other structure shall be erected or altered, and no hedge, tree, shrub, or other plant except agricultural crops shall be maintained which may cause danger to traffic on public streets by obscuring the view. Visual obstructions shall be limited to a height of not more than three (3) feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on each such street line fifty (50) feet from the intersection of said lines. See Figure 2.

(2) Where a private access way intersects a public street, visual obstructions shall be limited to a height of not more than three (3) feet above street level within the triangular area bounded by the street line, the edge of the private access way, and a straight line drawn between points on both the street line and the edge of the access way ten (10) feet from the intersection of said lines. See Figure 3.

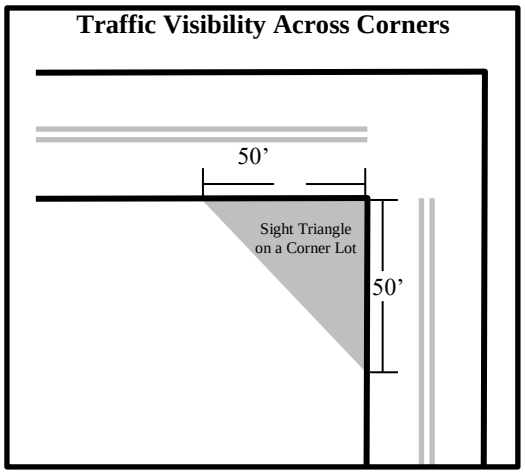


Figure 2: Sight Triangle on a Corner Lot

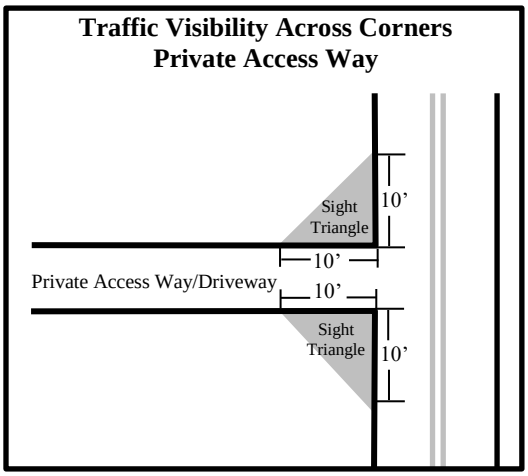


Figure 3: Sight Triangle at a Driveway

Section 6.02 - Accessory Structures and Uses

A. Accessory Structures.

(1) Accessory structures attached to the principal building, except for fences (see subsection 3, below) shall comply in all respects with the requirements of this Ordinance applicable to the principal building.

(2) Accessory structures that are not attached to a principal structure may be erected in accordance with the following restrictions:

a. Accessory structures are not permitted in front setbacks with the exception of signs, off-street parking facilities, and farm stands.

b. Accessory structures shall meet the following setbacks:

1. A minimum of ten (10) feet from a side lot line. Corner lots shall maintain safe sight triangles as required in Section 6.01, K of this Article.

2. A minimum of ten (10) feet from the rear lot line.

3. A minimum of ten (10) feet from the principal structure.

c. The height of an unattached accessory structure shall not exceed twenty (20) feet from the peak of the structure to the highest point on the ground on the side nearest the street.

d. An unattached accessory structure shall not be a building, structure, or other assemblage of materials designed for, or customarily used as, a principal structure allowed under this Ordinance.

e. No accessory structures or uses shall have flashing lights or lights which cause glare onto adjoining properties or the public roadway.

(3) Fences.

a. No fence exceeding seven (7) feet in height shall be permitted anywhere within the Town, except that a fence up to twelve (12) feet in height may enclose a tennis court, provided that it complies with applicable setback requirements

b. No fence shall be constructed in a road or street right-of-way. No fence, in any case, shall impair visibility for traffic and pedestrian safety. All fences are subject to the Traffic Visibility requirements found in Section 6.01, K of this Article.

c. Fences shall be set back a minimum of one foot from the respective property line, with the exterior (good) side of the fence facing out, and with the wiring, structural elements or other components of the fencing not designated for presentation to the public facing in.

d. Agricultural fences. Agricultural fences shall be exempt from the requirements of this Section, listed in sub-sections a and b above.

(4) Berms and Walls. Berms that are properly vegetated and landscaped and under four (4) feet in height and street walls shall be permitted regardless of the setback requirements of this Ordinance, subject to the following conditions:

a. Berms and street walls shall be set back a minimum of one foot from the respective property line. Any wiring or structural elements or other components of a wall shall face in.

b. No berm or wall shall be constructed in a road or street right-of-way nor impair visibility for traffic and pedestrian safety. This provision shall not apply to approved agricultural uses, however no berm shall impair visibility for traffic and pedestrian safety.

c. All berms and walls must be approved by the Codes Enforcement Officer upon receipt of an application and the application fee as may be established by resolution of the Town Board. The Codes Enforcement Officer may require a topographic survey and/or a review by an Engineer at the applicant's expense.

d. Agriculture related berms and walls are exempt from this subsection, provided that all berms or walls do not impair traffic or pedestrian safety. All berms and walls are subject to the Traffic Visibility requirements found in Section 6.01, K of this Article.

e. Street walls shall be between 20 and 40 inches in height and are permitted along the frontage and common lot lines. All street walls shall be as carefully designed as the building facade, with the finished side out (*i.e.* the "better" side facing the street).

(5) Home Gardening, Nurseries, and Greenhouses. Home gardening, and accessory structures used for nurseries or as greenhouses, are permitted in residential areas.

(6) Lampposts. Lampposts shall not exceed twenty-five (25) feet in height and shall comply with the provisions in Section 7.02, I of this Ordinance.

(7) Swimming Pools. A single private outdoor swimming pool per dwelling unit is permitted as an Accessory Use provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests, subject to the following provisions:

a. The edge of the swimming pool is not located closer than ten (10) feet to any property line.

b. Pools must meet the requirements of the New York State Uniform Fire Prevention and Building Code.

B. Accessory Uses. Accessory uses are those customarily incidental and subordinate to the use of the principal building, and no permit shall be required unless specifically required elsewhere in this Ordinance.

(1) Ponds. The land owner may be required to obtain a permit from one or more state or federal agencies such as the New York State Department of Environmental Conservation.

(2) Underground Storage Tanks. Underground storage tanks used for fuel, chemicals, or other substances other than drinking water or septic systems, whether for personal or commercial use, shall adhere to the permitting requirements from NYS DEC or any other involved state or federal agency. A copy of the permits acquired by the landowner for such underground storage tanks shall be provided to the Code Enforcement Officer. Failure to provide proper documentation to the Code Enforcement Officer shall constitute a violation under this Ordinance.

(3) Van bodies, semi-trailers used for over-the-road purposes, and school buses may be used as storage structures for commercial or agricultural use only.

(4) Hazardous Substances.

a. Storage of chloride salts is prohibited except in structures designed to minimize contact with precipitation and constructed on low-permeability pads designed to control seepage and runoff.

b. Storage of coal and/or cinders is prohibited except in structures designed to minimize contact with precipitation and constructed on low-permeability pads designed to control seepage and runoff.

c. Generators of hazardous waste shall provide the Town with copies of all applicable permits provided by state and federal regulators and copies of all annual, incident, and remediation-related reports.

Section 6.03 - Existing Oil or Gas Drilling Leases and Wells.

A. Any leases of property for the purpose of allowing oil, gas or hydrocarbon resource extraction, or any oil, gas or hydrocarbon resource extraction operations that are being presently conducted on land in the Town as of the effective date of this Ordinance, shall be subject to the following:

(1) Existing leases:

a. Where a lease which allows oil, gas or hydrocarbon resource extraction has been executed and where no substantive oil or gas extraction activity has substantively commenced, this Ordinance shall continue to prohibit oil or gas drilling related land uses. The existence of a lease under the circumstances described in this paragraph shall convey no vested right upon either party to the lease.

(2) Existing oil or gas extraction operations.

a. Where a lease which allows oil, gas, or hydrocarbon resource extraction has been executed, and where substantive oil, gas or hydrocarbon resource extraction using hydraulic fracturing has occurred as of the effective date of this Ordinance, and that extraction is being conducted pursuant to valid permits issued by the New York State Department of Environmental Conservation and all other necessary permits validly issued under the authority of other regulating agencies, the associated oil or gas drilling land uses shall be considered a valid nonconforming use and shall be allowed to continue.

b. Upon the depletion of any oil or gas well allowed to remain in operation pursuant to this provision, or upon termination, for a period of more than one (1) year, of oil or gas extraction at a well site allowed to remain in operation pursuant to this provision, the valid nonconforming use status of any oil or gas drilling related land uses at that well site shall terminate and the use may not be renewed.

c. No oil or gas drilling related land use allowed to remain in operation pursuant to this provision shall be permitted to expand after the effective date of this Ordinance.

ARTICLE VII
Natural Resource Protection

Section 7.01 - General Planning Considerations.

A. In considering an application for any form of development, the reviewing board or official shall take into consideration the importance of protecting the Town's stream corridors and Owasco and Cayuga Lakes as water resources, wildlife and plant habitat, and scenic area and may require the applicant to locate structures and take other necessary measures to protect these resources.

Section 7.02 - Environmental Performance Standards.

A. Compliance with performance standards. No use requiring site plan approval or a special use permit shall hereafter be established, altered, moved or expanded unless it complies with the performance standards set forth in this section. Continued conformance with such standards, once applicable, shall be a requirement for the continuance of any certificate of occupancy.

B. Purpose of performance standards. Consistent with the general purposes of this Ordinance, performance standards shall set specific controls on potentially objectionable external aspects of all uses in order to:

   (1) Reduce to a reasonable minimum the dissemination of smoke, gas, dust, odor or other atmospheric pollutants outside the building in which the use is conducted.

   (2) Control noise and light perceptible beyond the boundaries of the site of the use.

   (3) Limit the discharge of treated wastes and prohibit the discharge of untreated wastes into any watercourse.

   (4) Limit the dissemination of vibration, heat or electromagnetic interference beyond the immediate site on which the use is located.

   (5) Limit physical hazard by reason of fire, explosion, radiation or any similar cause.

   (6) Regulate and control the generation and flow of vehicular traffic in order to prevent hazardous conditions, traffic congestion and excessive noise in the streets.

C. Smoke, dust and other atmospheric pollutants.

   (1) General control. The emission of smoke and other particulate matter shall not be permitted in violation of applicable regulations of the New York State Department of Environmental Conservation (DEC), including but not limited to 6 NYCRR Part 201. Pollutants that are not regulated by the DEC shall not be emitted if they pose a substantial risk to public health, safety, or welfare.

   (2) Maximum permitted emission of dust.

      a. The emission of dust related to combustion for indirect heating from any source shall not exceed 0.30 pounds of dust per thousand pounds of flue gas adjusted to fifty-percent excess air for combustion.

      b. There shall be no measurable emission of dust or other particulate matter not related to combustion for indirect heating.

      c. Properties shall be suitably improved and maintained with appropriate landscaping, paving, or other materials to minimize windblown dust and other particulate matter.

D. Odor. With the exception of those agricultural and farming operations that are subject to the applicable provisions of Article 25-AAA of the New York Agriculture and Markets Law, no land use shall be permitted which emits any discernible obnoxious odor outside the lot on which the use is conducted.

E. Toxic or noxious matter. No use shall be permitted which will cause the release of toxic or noxious fumes or other matter outside the building in which the use is conducted.

F. Radiation. The handling, storage or disposal of radioactive materials or waste by-products shall be conducted strictly in accordance with applicable federal and state standards.

G. Electromagnetic interference. No operation shall be permitted which produces any perceptible electromagnetic interference with normal radio or television reception in any area, unless federal or state regulation requires such operation to be permitted.

H. Fire and explosion hazard. All activities involving the use or storage of flammable or explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion.

I. Exterior illumination and glare. All exterior lighting, including security lighting, in connection with all buildings, signs or other uses shall be shielded and directed downward and away from adjoining streets and properties. The Planning Board may require special efforts to reduce the impacts of exterior lighting, such as limiting hours of lighting, planting screening vegetation, or installing light shields to alleviate the impact of objectionable or offensive light and glare on neighboring residential properties and public thoroughfares.

J. Liquid and solid wastes. The discharge of any or all wastes shall be permitted only if in complete accordance with all standards, laws and regulations of the Cayuga County Health Department, New York State Department of Environmental Conservation or any other regulatory agency having jurisdiction. Facilities for the storage of solid waste shall be so located and designed as to be screened from the street or from any adjoining property and so as to discourage the breeding of rodents or insects.

K. Traffic. For the purpose of preventing congestion in the streets, promoting the safe and efficient use of public transportation, protecting air quality, promoting fuel conservation, and otherwise protecting the public health, safety and welfare, the following specific traffic standards are hereby established to serve as a guide for Town officials and agencies in the review of applications for development approvals:

(1) The applicant of any development shall provide the Planning Board with information pertaining to potential traffic generation. If the Planning Board determines that it is necessary, the Planning Board may require the submission of a traffic impact study (TIS) prepared by a qualified traffic engineer.

a. The TIS shall evaluate potential impacts to roadway and intersection operating conditions at locations and peak hours to be determined by the reviewing agency.

b. The latest available version of the Highway Capacity Manual and/or software based on the Highway Capacity Manual shall be used to conduct the TIS.

c. The TIS shall be based on traffic volume data not more than three (3) years old.

d. Level of Service (LOS), measured on a scale of A to F (free flow – breakdown flow) will be used to in determining significant adverse traffic impacts requiring project mitigation, and shall be defined as any of the following occurring within the first year of operation of full build-out of the proposed project or, in the case of phased

construction, during the first year of operation of each phase for which approval is sought:

1. Any reduction in Level Of Service (LOS) to less than LOS D (approaching unstable flow) at a street intersection that operates at LOS D or better without the proposed project.
2. Any increase in delay times for intersections operating at LOS E (unstable flow) or below.
3. Introduction of new traffic volumes that will cause the overall volume of the roadway to exceed the design capacity of the mainline (non-intersection) highway sections within the TIS study area.

e. If the outcomes listed in Subsection K (1)(d) above would occur in any case due to other planned projects or background growth in the area that would affect that intersection or roadway segment, then the proposed project may be approved, provided that adequate mitigation plans are made to ensure safe and efficient operating conditions at the affected intersection(s).

(2) Any development application for which a TIS is not submitted shall provide sufficient information to ensure safe entering and exiting conditions (*e.g.* sight distance, driveway width and grade) at all proposed ingress and egress points.

(3) In projecting future levels of service and the capacity of mainline highway sections, accepted traffic engineering procedures, as determined satisfactory by the Planning Board, shall be utilized, using the following requirements as a guide:

a. Base-year traffic conditions, including peak-hour traffic volumes and turning movements, must be documented either through direct field surveys or from other available current data sources.

b. Projected volumes must include estimated traffic generation from the proposed development during peak hours of on-site traffic activity as well as peak hours of street system activity.

c. Daily trip generation estimates must be provided. Information published by the Institute of Transportation Engineers (ITE) will generally be relied upon as a basis for estimating trip generation, although the Planning Board may allow or require a departure from the use of specific ITE averages where the Board determines that such departure is warranted by unique characteristics which may be present in the proposed project.

d. Allowance shall also be made for traffic which is expected to be generated by other projects already approved or under construction within the Town or within neighboring communities, as well as an additional allowance for general regional traffic volume changes.

e. Estimated traffic generation must be distributed throughout the access network in accordance with clearly stated distribution assumptions determined acceptable by the Planning Board.

f. The capacity analysis of the intersections or mainline highway section roadway system shall be calculated both with and without site-generated traffic. In analyzing such capacity, the applicant shall use methods generally recognized by national authorities, such as the Transportation Research Board of the National Academy of

Sciences, and/or methods accepted by the New York State Department of Transportation. Traffic capacity estimates may take into account improvements planned by the applicant or by others, provided that, in either case, a specific commitment to construct such improvements has been made.

L. Review procedures. As a part of site plan review of an application for the establishment of a use which, in the Planning Board's judgment, could have potentially objectionable external aspects and therefore be subject to these performance standards, the Planning Board may require the Applicant, at his or her own expense, to provide such evidence as it deems necessary to determine whether the proposed use will comply with these standards.

Section 7.03 - Erosion and Sediment Control.

A. In order to ensure that land situated within the Town of Scipio is developed with a minimum amount of soil erosion and sedimentation, for any site plan, special permit, or subdivision application, the Planning Board shall require that an Applicant submit a plan demonstrating compliance with the following control practices:

(1) The Applicant shall provide effective sediment control measures for planning and construction of proposed developments. The following principles shall be applied as deemed appropriate:

a. The smallest practical area of soil shall be exposed (vegetation removed) at any one time during the development.

b. When soil is exposed (vegetation removed) during development, the exposure shall be kept to the shortest practical period of time.

c. Temporary vegetation and other protective measures shall be used to protect critical areas exposed during development.

d. Sediment basins or debris basins (silting basins or silt traps) shall be installed and maintained to remove sediment from runoff waters on lands undergoing development.

e. Provision shall be made to effectively accommodate the increased runoff caused by changing soils and surface conditions during and after development by conveyance through filtration beds.

f. Permanent final vegetation and structures shall be installed as soon as practical in the development process.

g. The development plan shall use best practices to ensure that topography and exposure of soils minimize erosion potential.

h. Wherever feasible, natural vegetation shall be retained and protected.

(2) A permit, to be issued by the CEO, is required to grade and/or shape the topography in accordance with Subsection 6 below.

(3) Design standards. Design standards and specifications for erosion and sedimentation control shall be as specified in the Empire State Chapter Soil and Water Conservation Society, New York Guidelines for Urban Erosion and Sediment Control.

(4) All erosion and sedimentation control measures shall be installed prior to beginning any other land disturbances. Such devices shall not be removed until the disturbed land areas are permanently stabilized.

(5) All erosion and sediment control measures shall be periodically inspected by the CEO and shall be maintained by the Applicant or his successors in conformance with an approved schedule, so as to ensure effective operating conditions until such time as they are removed.

(6) Erosion and sediment control measures shall comply with all applicable regulations and permit requirements of the New York State Department of Environmental Conservation. For any construction activity covering more than one acre, the applicant shall file with the DEC, with a copy to the CEO, a notice of intent form 60 days prior to commencing excavation or grading in order to comply with the State Pollution Discharge Elimination System (SPDES) General Permit (GP) No. 02-01.

Section 7.04 - Steep Slope Regulations.

A. The Town finds that the alteration of steep slope areas poses potential risks of erosion, sedimentation, landslides, and the degradation of scenic views. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding 15%. Where a soil erosion and stormwater control plan is required by Section 7.03 such plan shall provide the information needed to comply with this Ordinance.

(1) For any subdivision, special permit, site plan, building permit, zoning permit, or variance that involves the disturbance of slopes greater than 15%, conditions shall be attached to ensure that:

a. Adequate erosion control and drainage measures will be in place so that erosion and sedimentation does not occur during or after construction.

b. Cutting of trees, shrubs, and other natural vegetation will be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.

c. Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding, or avalanches.

d. Proper engineering review of plans and construction activities will be conducted by the Town to ensure compliance with this section, paid for by escrow deposits paid by the Applicant.

e. No certificate of occupancy will be granted until all erosion control and drainage measures required pursuant to this section have been satisfactorily completed.

(2) No disturbance, including cutting of vegetation or construction of driveways, shall be permitted on any slope of 25% or greater, except in any of the following circumstances:

a. As may be needed for stream bank stabilization, foot trails and utility lines.

b. In conjunction with timber harvesting operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.

c. In conjunction with activities of a farm operation protected by an exemption under Section 7.05 below.

d. Where an applicant can demonstrate that there is no feasible alternative and that the impacts of any land disturbance will be fully mitigated by the best available engineering, erosion control, and visual impact mitigation practices.

(3) Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as the reviewing board or official shall reasonably require or the applicant shall offer.

(4) For purposes of determining the location of steep slope areas, only contiguous slopes containing at least 3,000 sq. ft. shall be considered.

(5) No driveway, vehicular access lane, or private road may be constructed that exceeds a 15% slope for more than 5% of its total length.

Section 7.05 - Protection of Agriculture

A. Wherever agricultural uses and other uses unrelated to the agricultural operations abut, the Applicant for the nonagricultural use shall provide buffers to reduce the exposure of these abutting uses to odors, noise, and other potential activities that some might find objectionable associated with the agricultural operation. Such buffers may consist of vegetative screening, woodlands, vegetated berms, fences, or natural topographic features, at the discretion of the reviewing board.

ARTICLE VIII
Off-Street Parking and Loading Requirements

Section 8.01 - Off-Street Parking

A. Purpose. The Town finds that large and highly visible parking areas represent one of the most objectionable aspects of commercial development. Such parking lots damage the historic layout and architectural fabric of Hamlet areas, harm the natural environment and visual character of the community, interfere with pedestrian safety and accessibility, and reduce the quality of life in developed areas. However, the Town also recognizes that inadequate parking can diminish quality of life by creating traffic congestion, safety hazards, and inconvenience. The Town therefore seeks to balance the need for adequate parking with the need to minimize harm resulting from the provision of parking and to avoid the negative impacts of excessive parking lot construction.

B. Minimum parking required for residential uses.

(1) For single-family or two-family dwelling: two (2) spaces per dwelling unit.

(2) For multifamily dwelling: 1½ spaces per dwelling unit.

(3) These requirements may be reduced for dwelling units with less than 1,000 sq. ft. of floor space, elder congregate housing, mixed-use development, or other appropriate circumstances if the Planning Board determines that such reductions are warranted.

C. Parking requirements for nonresidential uses. The number and layout of parking spaces for nonresidential uses shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic, and scenic resources. Since nonresidential uses vary widely in their need for off-street parking; parking requirements shall be based on the specific operational characteristics of the proposed uses. The provisional parking standards in Subsection C(2) below shall be applied and may be varied by the Planning Board according to the criteria in Subsection C(3) below.

(1) General Requirements

a. Roads, driveways, sidewalks, off-street parking, and loading space shall facilitate safe pedestrian movement.

b. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of connected parking lots, service roads, alleys, footpaths, bike paths, and new public streets to connect adjoining properties shall be required where appropriate.

c. Access from and egress to public highways shall be approved by the appropriate highway department, including Town, county, and state.

d. All buildings shall be accessible by emergency vehicles.

e. Parking spaces shall have wheel stops or curbs to prevent injury to trees and shrubs planted in landscaped islands.

f. Bicycle parking spaces and racks shall be provided in an area that does not conflict with vehicular traffic. Designated van/carpool parking, and other facilities for alternatives to single-occupancy vehicle use, shall be provided wherever possible.

g. In developments where a link to schools, churches, shopping areas, trails, greenbelts and other public facilities is feasible or where a trail connection is recommended in the Comprehensive Plan or Town Map of Potential Conservation Lands, a trail corridor shall be reserved on the approved site plan for this purpose.

(2) Provisional parking standards.

a. Retail or service business uses: four (4) spaces per 1,000 sq. ft. of enclosed floor space, excluding space used for storage.

b. Industrial/warehouse uses: two (2) spaces per 1,000 sq. ft. of enclosed floor space or one space per employee.

c. Office uses: three (3) spaces per 1,000 sq. ft. of floor space.

d. Lodging facility: one space for each bedroom plus one space for each nonresident employee and one space for every 200 sq. ft. of floor space for meetings and functions.

e. Restaurants, theaters, and other places of public assembly: one space for every three (3) seats.

f. Uses not listed above: as appropriate to the circumstances.

(3) Criteria for applying provisional standards. In applying or modifying the provisional parking standards for any proposed use, the Planning Board shall consider:

a. The maximum number of vehicles that would actually be parked at the use at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak demand. The likelihood of people walking, bicycling, or carpooling to the proposed use shall be taken into consideration.

b. The size of the structure(s) and the site.

c. The environmental, scenic, or historic sensitivity of the site (including applicable limitations on impervious surfaces). In cases where sufficient area for parking cannot be created on the site without disturbance to these resource values, the Planning Board may require a reduction in the size of the structure so that the available parking will be sufficient.

d. The availability of safely usable on-street parking.

e. The availability of off-site off-street parking within 400 feet that is open to the public, owned or controlled by the applicant, or available on a shared-use basis, provided that the applicant dedicates such off-site land for public parking or demonstrates a legal right to shared use.

f. The requirements for parking for the disabled as prescribed by the Americans with Disabilities Act.

(4) Set-aside for future parking. The Planning Board may, as a condition of reducing the provisional parking standards, require an applicant to set aside land to meet potential future parking needs. Such land may remain in its natural state or be attractively landscaped but may not be used in a manner that would prevent it from being developed for parking in the future.

(5) Parking spaces may be made available as an accessory use for nonresidential uses on residential lots in the Hamlet District by special permit. Such spaces shall be screened from adjoining properties and roads and shall not exceed five (5) spaces per lot.

D. Design, layout, and construction of parking areas for nonresidential and multifamily residential uses.

(1) Location and screening.

a. All off-street parking shall be located behind or to the side of the principal building, except as provided in Subsection D(1)b and c below. The Planning Board may modify or waive this requirement where unusual lot configurations such as corner lots or through lots make compliance with this requirement impractical or impossible, or where the predominant character of surrounding development is such that compliance with this requirement would serve no useful purpose, provided that the applicant minimizes the visual impacts of such parking areas. Parking spaces located in a side yard shall, if possible, be screened from public view. Adjoining parking areas shall be connected directly to one another or to a service road or alley wherever feasible to reduce turning movements onto roads.

b. Within any district, parking may be located anywhere on the site if in agreement with other applicable regulations, and it is screened from public roads and adjoining properties or if it is part of a commercial development which is not visible from any public road, public recreation area, public building, or residential property.

(2) Construction of parking areas. Parking areas shall be surfaced with a suitable durable surface appropriate for the use of the land, with adequate drainage. Surfacing, grading, and drainage shall facilitate groundwater recharge by minimizing impervious pavement and runoff. Overflow or peak period parking surfaces shall be permeable. Oil traps may be required for larger paved parking lots.

(3) Landscaping. Parking areas shall be designed and landscaped to avoid long, uninterrupted rows of vehicles by breaking them into separate parking lots divided by tree lines, alleys, pedestrian areas, or buildings. Parking lots containing more than 40 spaces shall be divided into smaller areas by landscaped islands at least 15 feet wide located no more than 120 feet apart. All islands shall be planted with three-inch minimum caliper shade trees at a density of at least one tree for every 20 linear feet of island. Parking lots containing less than 40 spaces shall provide at least one three-inch minimum caliper shade tree per eight spaces.

(4) Lighting. Lighting within parking lots shall be on low poles of 12 feet to 15 feet maximum height, with color-corrected lamps and cutoff luminaires designed to minimize glare and light pollution. Design of poles and luminaries shall be compatible with the style of the architecture and adjoining streetscape treatment. Sidewalks leading from parking lots shall be lit with bollard lighting and indirect illumination of buildings and vegetation.

(5) Nonconforming parking lots shall be brought into conformity with this Subsection D to the extent practical whenever a site plan or special permit application is filed for an expansion or change of the use.

Section 8.02 - Off-Street Loading

A. General requirement. Loading docks and service access areas shall be located in a manner that minimizes visual intrusion on public spaces and ensures pedestrian and automobile safety by separating truck traffic and loading operations from pedestrian and automobile circulation. Where appropriate, loading docks shall be screened by walls extending from a building face or placed within arcades or other architectural features designed to blend them with the architecture of the building. Adjacent buildings shall be sited to allow shared access to loading docks through the use of common loading zones or service alleys.

B. Exception for Hamlet District. The need to maintain the traditional layout and historic character of the Town's Hamlets may preclude the establishment of modern loading facilities in some older buildings in the Hamlet District. In such situations, the requirements of Subsection A above shall not apply, and on-street loading shall be permitted.

ARTICLE IX
Signs

Section 9.01 - Purpose

A. The purpose of this section is to control the location, size, quantity, character, and lighting of signs in order to maintain the attractive appearance of the Town and avoid conditions of clutter and unsightliness. Through these regulations the Town seeks to:

(1) Protect public health and safety by ensuring that signs do not create dangerous conditions, obstruct vision necessary for traffic safety, or confuse, distract, or mislead motorists, bicyclists, or pedestrians; and

(2) Promote the general welfare by creating a more attractive visual environment that preserves the Town's historic and rural character, protects property values, encourages economic growth, enables businesses and other establishments to identify themselves, and minimizes negative impacts of signs on adjoining properties.

Section 9.02 - Exempt Signs

A. The following types of signs may be erected and maintained without zoning permits, board review, or fees, provided that these signs comply with the general regulations in Section 9.04 and with all other requirements of this Ordinance. As used in this Section, the term "residential uses" shall include mixed-use lots on which at least 50% of the floor space is residential.

(1) Permanent signs.

a. Signs not exceeding 1 sq. ft. in area and bearing only property numbers, postal route box numbers, or names of occupants of premises.

b. One sign, not exceeding 32 sq. ft. in area, designating a farm.

c. Flags and insignia of any government, except when displayed in connection with commercial promotion.

d. Noncommercial information signs. Signs providing noncommercial information to the public, including community service information signs, public utility information signs, safety signs, danger signs, no trespassing signs, signs indicating scenic or historic points of interest, traffic control signs, directional parking signs, and all signs erected by a public officer in the performance of a public duty.

e. One on-premises sign, either freestanding or attached, in connection with any residential building, for permitted home occupations, not exceeding 3 sq. ft. and set back at least 10 feet from the traveled way or at the right-of-way, whichever is greater. Such signs shall state name and occupation only and shall not be illuminated.

(2) Temporary signs.

a. Temporary non-illuminated "For Sale" or "For Rent" real estate signs and signs of similar nature, concerning the premises upon which the sign is located. For residential uses, one sign per lot, not exceeding 6 sq. ft. per side. For nonresidential uses, one sign per lot, not exceeding 12 sq. ft., set back at least 15 feet from all property lines. All such signs shall be removed within three (3) days after closing of the sale, lease, or rental of the premises.

b. Temporary non-illuminated window signs and posters. (Such signs are normally used to advertise specific products or sales and are removed or replaced on a regular basis.)

c. Two temporary signs for a roadside stand selling agricultural produce grown on the premises in season, provided that such signs do not exceed 32 sq. ft. each, are set back at least five (5) feet from the public right-of-way, and are removed at the end of the selling season.

d. On-premises signs for garage sales and auctions, not exceeding 4 sq. ft., for a period not exceeding seven (7) days.

e. Posters, banners, and signs, not exceeding 6 sq. ft. on residential uses or 16 sq. ft. on nonresidential uses, for a period not exceeding 60 days.

f. One sign, not exceeding 6 sq. ft. on residential uses or 16 sq. ft. on nonresidential uses, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation, or repair is in progress, limited to the duration of the construction period.

g. Signs, portable or otherwise, advertising special events for nonprofit organizations, such as firemen's field days, church bazaars, bake sales, etc. Such signs shall not exceed 24 sq. ft. in area and shall not be displayed for more than 30 days.

h. Signs marking areas of highway or utility construction, repair, or maintenance.

Section 9.03 - Prohibited Signs

A. No off-premises commercial signs shall be allowed, except that signs not exceeding 4 sq. ft. directing the public to specific establishments may be allowed with site plan approval by the Planning Board.

B. No exterior sign shall be illuminated internally, and no sign shall contain flashing, intermittent, rotating, or moving lights, except that one neon sign not exceeding 3 sq. ft. may be allowed inside the window of a business establishment.

C. Portable signs that are mounted on wheels, including motor vehicles or trailers parked in one location for more than 30 days in any calendar year and functioning primarily as signs, shall be prohibited.

D. No permanent sign or any part thereof shall contain or consist of any moving, rotating, or revolving device.

Section 9.04 - General Sign Regulations

A. All signs that are not prohibited by Section 9.03 above are regulated by this section. Signs that are not exempt under Section 9.02 shall require building permits. However, if signs are proposed in connection with any special permit or site plan application, such signs shall be reviewed and approved under applicable criteria for the principal uses and shall not require a separate building permit if constructed pursuant to an approved plan.

(1) Permit applications. Applications for new signs or proposed changes in existing signs shall include a scaled drawing showing the type of lettering, sign dimensions, colors, materials, and method of illumination, if any, and a plan showing the location of the sign on the building or property. A building permit shall be required for any change in the size, shape, lighting, materials, or location of an existing sign. No building permit shall be required if only the words or images on the sign are changed.

(2) Location and maintenance.

a. Signs shall be erected, constructed, and maintained in a manner that does not obstruct traffic movement or visibility or cause any hazard to public safety.

b. No signs shall be placed, painted, or drawn on utility poles, bridges, culverts, or other road or utility structures or signposts, or on trees, rocks, or other natural features, except that signs not exceeding one square foot posting property boundaries may be placed on trees. No signs shall be placed on municipally owned property without permission of the Town Board.

c. All signs shall be kept in good repair. Painted surfaces shall be kept neatly painted at all times.

(3) Sign area and height.

a. Freestanding signs. Individual freestanding signs shall not exceed 16 sq. ft. in area nor 10 feet in height. Freestanding signs that are grouped together on one sign structure shall not exceed a cumulative total of 50 sq. ft. per structure, and the individual components of such groupings shall be large enough to be read safely by passing motorists traveling at the speed limit.

b. Projecting signs. Projecting signs shall not exceed 12 sq. ft. in area and shall not project more than four feet from the side of the building. The bottom of such signs shall be no lower than 10 feet and no higher than 15 feet above the finished grade.

c. Wall-mounted signs. Wall-mounted signs shall not exceed 32 sq. ft., extend more than one foot from the surface of the wall, cover more than 10% of the front surface of a building, cover a window, obscure architectural detailing, interrupt a roofline, or be placed on the roof of a structure.

d. Awning signs. The valance portion of an awning may be used as a sign, with a maximum of 12 sq. ft. of sign area. The bottom of the awning shall be at least eight feet above the finished grade.

e. Sign area bonuses. To encourage design excellence, the maximum sizes for individual signs specified above may be increased if the criteria below are satisfied. Sign bonuses shall not apply to exempt signs or to freestanding signs that exceed 6 feet in height. Although a separate increase is granted for compliance with each of the criteria and the total is cumulative, each percentage increase is based on the original sign size limitation. Maximum sign sizes shall be allowed to increase as follows:

1. Fifteen percent when the sign is made of wood.

2. Fifteen percent if the sign is designed to contain only the identification of the establishment without advertising any products sold on the premises.

3. Twenty percent if the sign is the only sign identifying the establishment or its principal product.

4. Twenty percent if the sign is not designed or used with illumination.

f. Maximum cumulative sign area per lot. The maximum amount of total sign area per lot shall be 1 sq. ft. of total sign area for every 2 linear feet of lot frontage on a public street.

g. Maximum area per sign. Notwithstanding any provision of this section to the contrary, no sign or grouping of signs shall be greater than 100 sq. ft. in size.

(4) Illumination. No illuminated sign or lighting device shall be placed or directed so that its light is directed or beamed:

a. Toward a residence;

b. Upon a public street, highway, sidewalk, or adjacent premises in a manner that causes glare or reflection sufficient to constitute a nuisance or a traffic hazard; or

c. Upward toward the sky.

(5) Nonconforming signs. Signs that do not conform with this Article and that were legally in existence prior to the adoption of this section shall be permitted to continue for an amortization period that terminates in five (5) years at which time they must either be replaced by conforming signs that have valid permits or be removed. Such signs may be altered only if the alterations increase their conformity with this section. This five (5) year amortization period may be extended by a temporary variance granted by the Zoning Board of Appeals, provided that the applicant demonstrates that the five (5) year amortization period is confiscatory as applied to the specific sign. The period of the variance shall be the minimum reasonably necessary to avoid confiscation. Signs that were not in compliance with the sign regulations of the Town of Scipio existing prior to the enactment of this Ordinance shall not be considered protected nonconforming structures and shall be treated as violations.

Section 9.05 - Removal of Signs

A. The Code Enforcement Official shall notify in writing the owner of any sign which no longer serves the purpose for which it was erected, or which poses a safety hazard to the public or is otherwise in violation of this section. The Code Enforcement Official shall order such owner to remove or correct the unsatisfactory condition of such sign within twenty (20) days from the date of such notice.

B. Upon failure to comply with such notice within the prescribed time, the Code Enforcement Official is hereby authorized to secure, repair, remove, or cause the removal of such sign. All costs of securing, repairing, or removing such sign, including related legal fees and expenses, shall be assessed against the land on which the sign is located and shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy.

C. Where it reasonably appears that there is imminent danger to life, safety, or health or imminent damage to property unless a sign is immediately repaired, secured, or demolished and removed, the Town Board may, by resolution, authorize the Code Enforcement Official to immediately cause the repair, securing, or demolition of such unsafe sign. The expense of such remedial actions shall be a charge against the land on which the sign is located and shall be assessed, levied, and collected as provided in Subsection B above.

ARTICLE X
Solar Energy Systems

Section 10.01 - Applicability and Purpose

A. The provisions of this Article apply to Non-Utility Scale Solar Energy System installations which are permitted subject to the conditions herein in; and to Utility Scale Solar Energy System installations. The Code Enforcement Officer shall review and approve of all Non-Utility Scale Energy System installations.

B. The purpose of this Article is to provide for the siting, development, and decommissioning of solar energy projects in the Town of Scipio, subject to reasonable conditions that promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources.

Section 10.02 - Definitions

A. As used in this Article, the following terms shall have the meanings indicated:

Array - Any number of electrically connected photovoltaic modules providing a single electrical output.

Collective Solar - Solar installations owned collectively through subdivision homeowner associations, "adopt-a-solar-panel" programs, or other similar arrangements.

Free-Standing/Ground-Mounted - A solar energy system that is installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of these regulations.

Qualified Installer - A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition.

Rooftop Or Building-Mounted - A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Solar Energy System - Means a renewable energy project that either (a) generates electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site, or (b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce electrical or mechanical power by means of any combination of collecting, transferring, or converting solar-generated energy.

(1) **Non-Utility Scale Solar Energy System -** Also referred to as Accessory Solar Energy Systems. An accessory use is defined as a secondary activity incidental to the primary use of the property. Non-utility solar energy systems are designed for a home, business, or agricultural use where the primary use of the property is either household living, a commercial activity, or an agricultural activity; and the energy produced by the solar system provides electricity directly to the building or buildings on site for the principal use of the property. Non-utility solar energy systems have a rated capacity of anything under 25 kilowatts and are designed to meet the specific energy needs of the principal use. Non-utility scale solar energy systems may be rooftop installations, or freestanding

installations that are either ground- or pole-mounted. Non-utility scale solar energy systems must meet at least one of the following criteria: (1) Has a disturbance zone equal to or less than two acres; (2) Is mounted on or over a building, parking lot, or other previously-disturbed area; (3) or Utilizes integrated PV only.

(2) **Utility Scale Solar Energy System -** Considered a public utility and developed as a primary land use. Utility scale solar energy systems are typically freestanding, and the principal economic function of the land hosting a utility scale solar energy system is producing solar power for off-site consumption. Utility scale solar energy systems have a minimum rated capacity of 25 kilowatts, but are usually multiple megawatts, and may cover anywhere from tens to thousands of acres of land. These installations primarily supply power for offsite consumption through the electrical grid. Also referred to as a "solar farm".

Section 10.03 - Non-Utility Scale Solar Energy System Requirements

A. Non-Utility scale roof-top and building-mounted solar collectors are permitted in all Zoning Districts in the Town in accordance with the provisions herein. Building permits shall be required for installation of roof-top and building-mounted solar collectors.

B. Non-Utility scale ground-mounted and freestanding solar collectors are permitted as accessory structures in all Zoning Districts in the Town, subject to the following requirements:

(1) The location of the solar collectors meets all applicable setback requirements of the zone in which they are located; and are located in the side or rear yard.

(2) The height of the solar collectors and any mounts shall not exceed the height restrictions of the zone when oriented at maximum tilt.

(3) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any roads and inhabited buildings on adjacent properties.

a. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of all proposed solar collectors.

b. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town.

c. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Cayuga County and other applicable laws and regulations.

d. If a solar collector ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than ninety (90) calendar days after the end of the twelve-month period.

Section 10.04 - Utility Scale Solar Energy System Requirements

A. In addition to the procedures and requirements of Site Plan Review as detailed in Article XIV, Utility Scale Solar Energy Systems are subject to the following provisions:

(1) Roof-top and building-mounted solar collectors. Building permits shall be required for installation of roof-top and building-mounted solar collectors.

(2) Ground-mounted and freestanding solar collectors. Ground-mounted and freestanding solar collectors are subject to the following requirements:

a. Design Standards.

1. Setback. The minimum setback from all property lines shall be of eighty five (85) feet. However, Utility Scale Solar Energy Systems shall not be located on active farmland and shall be located towards the edge of fields and tillage acreage to the fullest extent practical. Prime Agricultural Soils and Soils of Statewide Significance shall also be avoided.

2. Height. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed fifteen (15) feet in height above the ground.

3. Screening. Based on site-specific conditions, including topography adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving and/or enhancing natural vegetation, and providing landscape screening to abutting properties and roads, but should not result in shading solar power facilities.

4. Glare. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings and adjacent properties and roads.

5. Fencing, All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six (6) foot high fence with a self-locking gate and provided with landscape screening. Barbed wire shall not be utilized.

6. Signage. A sign not to exceed eight (8) square feet shall be displayed on or near the main access point and shall list the facility name, owner, and twenty-four-hour emergency contact phone number.

7. New York State Department of Agriculture and Markets (NYSDAM) Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands. For all utility-scale ground-mounted solar projects proposed on agricultural land in the Town of Scipio, the developer or project company shall adhere to and incorporate at a minimum the standards and requirements in NYSDAM's guidelines for mitigating construction impacts on agricultural land during the following stages of a solar energy project: Construction, Post-Construction Restoration, Monitoring and Remediation, and Decommissioning. These guidelines apply to project areas subject to ground disturbance within agricultural lands. In areas of particularly sensitive or highly productive soils the Planning Board may impose construction requirements which are stricter than those in the NYSDAM guidelines. A copy of NYSDAM's guidelines, dated October 18, 2019

or as revised can be found online and is also on file with the Planning Board and Code Enforcement Officer.

b. In addition to the procedures and requirements of Site Plan Review as detailed in Article XIV, the following information is required to be submitted as part of the site plan application:

1. Utility notification. Submission of documentation from the utility company that operates the electrical grid where the installation is to be located acknowledging the solar power facility will be connected to the grid. Off-grid facilities shall be exempt from this requirement.

2. Safety. The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the appropriate Fire Chief.

3. Decommissioning Plan.

(A) In the event the solar power facility is not completed and functioning within eighteen (18) months of the issuance of the initial building permit, the Town may notify the operator and/or owner to complete construction and installation of the facility within one hundred and eighty (180) calendar days of the date of notification. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan.

(B) If a solar power facility ceases to perform its originally intended function for more than twelve (12) consecutive months, the owner and/or operator shall implement the decommissioning plan, to include, but not limited to:

i. Removal of aboveground and below-ground equipment, structures, and foundations.

ii. Restoration of the surface grade and soil after removal of equipment to its original state before installation including topsoil quality.

iii. Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.

iv. A timeframe for the completion of site restoration work.

v. For all utility-scale ground-mounted solar projects proposed on agricultural land in the Town of Scipio, the developer or project company shall adhere to and incorporate at a minimum the standards and requirements in NYSDAM's guidelines for post-construction restoration requirements, monitoring and remediation, and decommissioning.

(C) If the owner and/or operator fail to fully implement the decommissioning plan within one hundred and eighty (180) calendar days, then in addition to other remedies provided by this section or chapter, by New York Town Law §268, or by law or equity, the Town may utilize the following procedure to remove a solar power facility and/or implement a decommissioning plan:

i. The Code Enforcement Officer may order removal of such solar power facility and/or implementation of the decommissioning plan by written notice to the owner or person, company, or other entity having control

of the facility, or to the owner of the lot on which such facility is located. The notice shall set forth a deadline by which such removal and/or plan implementation must be completed. Said notice shall further advise that, should the violator fail to so act within the established deadline, the removal and/or plan implementation may be performed by a designated governmental agency or a contractor, with the expense thereof to be charged to the violator and/or to become a lien against the premises.

ii. If the solar power facility is not removed and/or the actions in the decommissioning plan are not completed within the period set forth in the Town's notice or Town Board's decision after any appeal thereof pursuant to Subsection 10.04, A, 2, b, 3, (C), (iv) below, the Town may enter the premises to remove the facility, cause the removal to be performed, and/or implement the decommissioning plan. The Town's entry onto such premises shall be pursuant to an agreement between the Town and landowner. If no agreement exists or can be obtained in a timely manner, the Town may seek a warrant from a court of competent jurisdiction for access to the premises and/or may seek a court order requiring or authorizing all actions reasonably necessary to remove the facility and/or implement the decommissioning plan, with the costs of such actions the sole responsibility of the violator.

iii. The Town shall present the landowner with a bill for all costs and expenses incurred by the Town in connection with the solar power facility removal and/or decommissioning plan implementation. If the landowner shall fail to pay such costs and expenses with in fifteen (15) calendar days after the demand for same, or within thirty (30) calendar days of the final decision on any administrative or judicial contest the landowner may pursue, then such unpaid costs, expenses, and interest (at the statutory interest rate for money judgments in New York State courts) incurred from the date of the system removal and/or completion of the decommissioning plan shall constitute a lien upon the land on which such removal was undertaken. A legal action or proceeding may be brought to collect such costs, expenses, interest, and recoverable attorney’s fees, or to foreclose such lien. As an alternative to the maintenance of any such action, the Town may file a certificate with the Cayuga County Department of Assessment stating the costs and expenses incurred and interest accruing as aforesaid, together with a statement identifying the property and landowner. The Cayuga County Department of Assessment shall, in the preparation of the next assessment roll, assess such unpaid costs, expenses, and interest upon such property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by the law for collection and enforcement of real property taxes in the Town of Scipio. The assessment of such costs, expenses, and interest shall be effective even if the property would otherwise be exempt from real estate taxation.

iv. Appeals of notices and Town bills. Any person receiving notice a to remove a solar power facility and/or implement a decommissioning plan, or a bill for Town costs and expenses, may appeal to the Town Board by, within fifteen (15) calendar days of receipt of such notice or bill, delivering to the Town Clerk at the Town offices an appeal requesting a reconsideration and administrative hearing before the Town Board. Such appeal shall state the basis for the request for reconsideration and shall be accompanied by any supporting materials. Failure to serve such an appeal within fifteen (15) calendar days shall be deemed a waiver of any claim or defense that the notice or bill is not justified, and the violator shall comply with the requirements of the notice or pay the bill. If the appeal is timely filed, the Town Board shall, within forty-two (42) calendar days of the filing, hold a hearing and, based upon any relevant materials presented by the Town and the appellant, shall issue a resolution deciding the appeal within thirty (30) calendar days after the hearing. Such resolution shall be filed with the Town Clerk, who shall arrange for delivery of a copy of the decision to the appellant within five (5) business days after such filing, at the address for such person designated in the appeal or at such other addresses as the appellant may thereafter designate in writing to the Town Clerk. The Town Board's decision after the hearing shall constitute a final agency action.

ARTICLE XI
Wind Energy Systems

Section 11.01 - Purpose

A. The purpose of this Article is to provide for the regulation of the construction and operation of Wind Energy Facilities in the Town of Scipio subject to reasonable conditions that will protect the environment, public health, safety, and welfare.

Section 11.02 - Definitions

A. As used in this Article, the following terms shall have the meanings indicated:

Applicant - Person or entity filing an application under this Article.

Distributed Wind Energy - electrical power generation that occurs close to where the power is consumed, independent of the type of power-generating technology.

Environmental Assessment - A detailed examination of the applicant's proposal and its local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.

Facility Operator - The entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.

Facility Owner - The entity or entities having controlling or majority equity interest in the Wind Energy Facility, including their respective successors and assigns.

Non-Participating Landowner - Any landowner not under agreement with the Facility Owner or Operator.

Occupied Building - A residence, school, hospital, church, public library or other buildings used for public gathering that is occupied or in use when the permit application is submitted.

Participating Landowner - A landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Wind Energy Facility.

Public Road - A full passage right-of-way.

Shadow Flicker - The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

Wind Energy Facility - An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures & facilities. For the purpose of this Ordinance, the term does not apply to roof-mounted or building integrated roof mounting systems.

Wind Energy Facility, Small - A single distributed wind energy system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 20 kW or less.

Wind Energy Facility, Community - A distributed wind energy conversion system that benefits the Scipio Community, consisting of one (1) or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 20 kW but not greater than 20MW.

Wind Power - The conversion of wind energy into another form of energy.

Wind Turbine or Windmill - A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires and pad transformer.

Wind Turbine Height - The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Section 11.03 - Special Permit and Site Plan Review Requirement

A. Wind Energy Facilities defined as "Community" or the addition of a Wind Turbine to an existing Wind Energy Facility defined as "Community" shall not be constructed unless site plan review has been performed in conjunction with a special permit that has been issued to the Facility Owner or Operator approving construction of the Facility under this Article. Special permit application of the expansion shall be based on the total rated capacity, including the existing facility but excluding like-kind replacements.

B. Any physical modification to an existing and permitted Wind Energy Facility that materially alters the size and/or type of Wind Turbines or other equipment shall require a permit modification under this Article. Like-kind replacements shall not require a modification of the special permit.

Section 11.04 - Wind Energy Facility Use Regulation

A. "Small Wind Energy Facilities" are permitted by right in all districts.

B. "Community Wind Energy Facilities" are permitted by special permit, subject to site plan review, in the Agricultural/Residential District only.

Section 11.05 - Special Permit Application

A. In addition to the requirements set forth in Article V, a special permit application for a Wind Energy Facility shall contain the following:

(1) A narrative describing the proposed Wind Energy Facility, including an overview of the project;

(2) The proposed total rated capacity of the Wind Energy Facility;

(3) The proposed number, representative types and height or range of heights of wind turbines to be constructed; including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;

(4) Identification and location of the properties on which the proposed Wind Energy Facility will be located;

(5) A site plan showing the planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks;

(6) Certification of compliance with applicable local, state and Federal regulations, such as FAA and FCC regulations;

(7) An Environmental Assessment as required by law for Community Wind Energy Facilities;

(8) Other relevant information as may be reasonably requested by the Town of Scipio to ensure compliance with the requirements of this Article;

(9) Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored; and

(10) Documentation of agreement between Participating Landowner(s) and the Facility Owner/Operator of the Wind Energy Facility.

B. Throughout the permit process, the Applicant shall promptly notify the Town of Scipio of any proposed changes to the information contained in the application that would alter the impact of the project.

C. Changes to the approved application that do not materially alter the initial site plan may be adopted administratively.

Section 11.06 - Setbacks

Wind Energy Facility Setbacks				
Wind Energy Facility Type	Minimum Setback Requirements			
	Occupied Buildings on Participating Landowner Property	Occupied Buildings on Non-Participating Landowner Property	Property Lines on Non-Participating Landowner Property	Public Roads
Small System	0.0	2.0	1.1	1.5
Community System	1.1	3.0	1.5	1.5

A. The setback is calculated by multiplying the required setback number by the Wind Turbine Height and measured from the center of the wind turbine base to the property line, Public Road, or nearest point on the foundation of an Occupied Building.

(1) Setbacks provisions may be waived if the following conditions are met:

a. Property owners may waive the setback requirements for Property Lines and/or Occupied Buildings on the Participating Landowner property and/or Non-Participating Landowner property by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.

b. The written waiver shall notify applicable property owner(s) of the setback required by this Article, describe how the Wind Energy Facility is not in compliance, and state that consent is granted for the Wind Energy Facility to waive the setback as required by this Article.

c. Any such waiver shall be signed by the applicant, the Participating Land Owner(s) and/or Non-Participating Landowner(s), and recorded in the Cayuga County Clerk's Office.

Section 11.07 - Installation and Design

A. The installation and design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.

B. All structural, electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes.

C. Any on-site collector system shall, to the maximum extent possible, be placed underground.

D. The visual appearance of Wind Energy Facilities shall at a minimum:

(1) Be a non-obtrusive color such as white, off-white or gray;

(2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and,

(3) Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, Facility Owner and Operator.

E. Active Farmland Protection. For all Community Wind Energy Facility projects proposed on agricultural land in the Town of Scipio, the developer or project company shall adhere to and incorporate at a minimum the standards and requirements in NYSDAM's guidelines for mitigating construction impacts on agricultural land during the following stages of a Community Wind Energy Facility project: Construction, Restoration, Monitoring and Remediation. These guidelines apply to project areas subject to ground disturbance within agricultural lands. In areas of particularly sensitive or highly productive soils the Planning Board may impose construction requirements which are stricter than those in the NYSDAM guidelines. A copy of New York State Department of Agriculture and Markets (NYSDAM) Guidelines for Agricultural Mitigation for Wind Power Projects, dated April 19, 2018 or as revised can be found online and is also on file with the Planning Board and Code Enforcement Officer.

Section 11.08 - Decommissioning

A. The Wind Energy Facility Owner shall have six (6) months to complete decommissioning of the Facility if no electricity is generated for a continuous period of twelve (12) months.

B. Decommissioning shall include removal of wind turbines, cabling, electrical components, any other associated facilities down to 36 inches below grade with the exception of buildings, roads, footings and pads that the landowner makes written request to retain.

C. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

D. For all Community Wind Energy Facility projects proposed on agricultural land in the Town of Scipio, the developer or project company shall adhere to and incorporate at a minimum the standards and requirements in NYSDAM's Guidelines for Agricultural Mitigation for Wind Power Projects for construction, restoration, monitoring and remediation.

ARTICLE XII
Wireless Telecommunication Facilities

Section 12.01 - Purpose

A. The purpose of this Article is to provide and promote the health, safety, and general welfare of the residents of the Town of Scipio; to regulate and control land used and to provide standards for the safe provisions of telecommunications consistent with applicable Federal and State regulations; to minimize the total number of telecommunication towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunication towers by requiring standards for visual impact assessment and appropriate landscaping.

Section 12.02 - Definitions

A. As used in this Article, the following terms shall have the meanings indicated:

Alternate Tower Structure - Man-made trees, clock towers, bell steeples, light poles, bam silos, and/or similar alternative design mounting structures that serve the purpose to camouflage or conceal the presence of antenna(e) or towers.

Antenna - A system of electrical conductors that transmit or receive radio frequency waves, including, but not limited to, radioavigation, radio, television, and microwave communications having a frequency range generally from 10 hertz to 300,000 megahertz,

FAA - Federal Aviation Administration.

FCC - Federal Communication Commission.

Telecommunication Accessory Facility - Any accessory facility that serves the principle use located on the same lot as the principle use and clearly incidental or subordinate to, and customary in connection with the area, extent and purpose of the principle use, including, but not limited to, transmission equipment and supporting mast, wires, switching stations, storage and equipment buildings, or other structures.

Telecommunication Facility - Any commercial equipment used in connection with the provision of two-way wireless communication services, including cellular telephone services, personal communication services, and private radio communication services, regulated by the Federal Communication Commission in accordance with the Telecommunications Act of 1996, as the same may be amended from time to time, and other Federal law. A Telecommunication Facility shall include Telecommunication Towers (including, but not limited to, monopoles, guyed wire towers or lattice towers), Antenna(e), Telecommunication Accessory Facilities and Alternate Tower Structures.

Telecommunication Tower - Any structure on which transmitting and/or receiving Antenna(e) are located.

Section 12.03 - Zoning Requirements

A. Special Permit In all Zoning Districts within the Town of Scipio Telecommunication Facilities shall be erected only upon issuance of a Special Permit as approved by the Planning Board pursuant to the standards and criteria hereinafter set forth.

B. Exceptions Application for a Special Permit shall not be required under the following limited circumstances:

(1) A new, previously nonexisting non-commercial use which is accessory to a lawfully existing residential use.

(2) An approved special conditioned use lawful at the time it was established and in existence prior to the effective date of this Article.

C. Notwithstanding anything to the contrary contained herein, any modification, reconstruction, alteration, extension, or enlargement of any of the aforementioned specific uses shall be permitted only upon the same lot as in existence as of the effective date of this Article and upon issuance of a Special Permit in accordance with the standards, criteria, and regulations set forth herein.

Section 12.04 - Application and Special Approval Requirement

A. General. No Telecommunication Facility shall hereafter be established, erected, moved, modified, altered, reconstructed, extended, or enlarged unless and/or until a written application for a Telecommunication Facility Building Permit shall have been made to the Town of Scipio Code Enforcement Officer; the application and/or other fees as may be required have been paid; and the application has been approved by the Planning Board and a Special Permit has been issued to the applicant.

B. Procedure

(1) An application for a Telecommunication Facility Building Permit in the form approved for such purposes may be obtained from the Code Enforcement Officer or the Town Clerk at the Scipio Town Hall located at 3705 NYS Route 34, PO Box 71, Scipio Center, New York 13147.

(2) The application for a Special Permit for telecommunication facilities shall include, without altering any other application requirements set forth in this Article or elsewhere in the Zoning Ordinance, the following:

a. A site plan in accordance with the provisions and requirements of this Article which shall include, without limitation:

1. The exact location including geographic coordinates of the proposed telecommunication facility including any towers, guy wires and anchors, if applicable;

2. The maximum height of the proposed facility, including all appurtenances;

3. A detail of tower type, if any, including engineering drawings from the tower manufacturer (monopole, guyed wire, freestanding, lattice or other);

4. The location, type and intensity of any lighting on the tower;

5. Property boundaries and names of all adjacent landowners;

6. Proof of the landowner's consent to the erection of the facility and agreement to abide by the provisions of this law if the applicant is not the landowner;

7. The location of all other structures on the property and all structures on any adjacent property within 100 feet of the property lines, together with the distance of these structures from any proposed tower;

8. The location, nature and extent of any proposed fencing, landscaping, and/or screening;

9. The location and nature of any proposed utility easements and access roads or drives; and
10. A description and details concerning all electronic security measures.

b. Compliance with the State Environmental Quality Review Act (SEQR).

c. Proof of written notice of the application to all property owners within 1,000 feet of the fall zone.

d. An affirmative statement, sworn to under the penalties of perjury, that the applicant will negotiate in good faith with any subsequent applicant seeking to co-locate a telecommunication facility on the initial applicant's structure. This agreement shall commit the initial applicant and landowner and their respective successors in interest to:

1. Respond in a timely, comprehensive manner to a request for information from a potential shared-use applicant;
2. Negotiate in good faith for shared use by third parties;
3. Allow shared use if an applicant agrees in writing to pay reasonable charges for same; and
4. Make no more than a reasonable charge for shared use, based upon generally accepted accounting principles. The charge may include, but is not limited to, a pro-rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance, financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference or causing uses on the site to emit electromagnetic radiation in excess of levels permitted by the FCC.

e. An agreement for removal of the facility above-referred to as required pursuant and in accordance with Section 12.12 herein.

f. A list of the names, addresses, and telephone numbers of all users located, or proposed to be co-located on the facility.

g. Copies of all documents submitted to the FCC or any other governmental agency having jurisdiction thereof

h. Documents authorizing the FCC to release information to the Town of Scipio for confirmation of the continuing use of the facility by the owner and co-located users and, the owner's, and other user's authority to use and maintain the facility.

i. Site plans for all telecommunication facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards, including, but not limited to, the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).

j. The Planning Board may require additional information, such as line-of-site drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate tower designs to more clearly identify adverse impacts for the purpose of their mitigation as herein set forth below.

(3) The application and related documents shall be filed with the Code Enforcement Officer at the Town of Scipio Town Hall.

(4) Within five (5) days of the filing of the application and materials with the Code Enforcement Officer and payment of the required application fee, the Code Enforcement Officer shall refer the same to the Town Planning Board.

(5) The Town of Scipio, at the expense of the applicant, may employ its own consulting assistants to examine the application and related documentation and make recommendations as to whether the criteria for granting the Special Permit have been met, including whether the applicant's conclusions regarding need, location, safety analysis, visual analysis, and structural inspection, are valid and supported by generally accepted and reliable engineering and technical data and standards.

(6) The Town Planning Board shall review and take action upon the application in accordance with the procedures in Article V.

C. Deposit and Payment of Fees

(1) At the time of filing of the application with the Code Enforcement Officer, the applicant shall pay to the Code Enforcement Officer an application fee as established by the Town Board by resolution in the Town of Scipio Fee Schedule.

(2) Upon due notice to the applicant by the Town Planning Board, the applicant shall be required to deposit with the Town Planning Board, in advance, in addition to the application fee above-referred to, a sum of money as established by the Town Board by resolution in the Town of Scipio Fee Schedule, which sum shall be used to pay costs and expenses incurred by the Town for such engineering, scientific or technical consulting (consulting assistants) services as in its sole judgment and discretion the Town Planning Board may deem appropriate to assist in the review and examination of the application and related documentation. It shall be the sole responsibility of the applicant to deliver to, and deposit with, the Town Planning Board the sum required prior to the Town Planning Board’s review of the application. Upon the receipt of such sums, the Planning Board shall deliver same to the Town Supervisor to be held as hereinafter provided.

(3) Upon receipt of such sums as may be required for deposit in sub-paragraph (2) above, the Town Supervisor shall cause such monies to be placed in a separate non-interest bearing account in the name of the Town and shall keep a separate record of all such monies so deposited and the name of the applicant for which such sums were deposited.

(4) Upon the receipt and approval by the Town Board of itemized vouchers from an engineer and/or scientific or technical consultant for services rendered on behalf of the Town pertaining to the application review and examination, the Town Supervisor shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant at the same time such vouchers are submitted to the Town.

(5) The Town Board shall review and audit all such vouchers and shall approve payment of only such engineering and consulting fees as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration, and examination of the application. For purposes of the aforegoing:

a. A fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or consultants to the Town for services performed in connection with the review, examination or approval of a similar project; and

b. A fee or part thereof is necessarily incurred if it was charged by the engineer or consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, protect public or private property from damage, assure the proper and timely construction of a Telecommunication Facility, protect the legal interests of the Town and avoidance of claims and liability, and such other interests as the Town Board may deem relevant.

(6) Notwithstanding anything to the contrary contained in this local law, an applicant shall not be required to pay for any part of engineering and/or consulting service fees incurred by the Town performed in connection with matters including but not limited to those resulting from complaints by third parties, as to which the Town Board determines the applicant had no responsibility or was beyond the reasonable control of the applicant.

(7) Any excess monies held on deposit by the Town after payment of all vouchers submitted shall be returned to the applicant within ten (10) days after the next regularly scheduled meeting of the Town Board at which such vouchers shall have been approved for payment.

Section 12.05 - General Criteria

A. In addition to any other general requirements and standards applicable to all Special Permits as set forth in Article V, no Special Permit or renewal thereof or modification of an existing special conditioned approval relating to a Telecommunication Facility shall be granted by Planning Board unless it shall find that such Telecommunication Facility:

(1) Is necessary to meet current or reasonable expected demands for services; and

(2) Conforms with all Federal and State laws and all applicable rules or regulations promulgated by the FCC, FAA, or any other Federal agencies having jurisdiction thereof; and

(3) Is considered a public utility in the State of New York; and

(4) Is sited, designed and constructed in a manner which minimizes visual impact to the extent practical and minimizes adverse impacts upon migratory birds and other wildlife; and

(5) Complies with all other requirements of this law, unless expressly superseded herein; and

(6) Is the most appropriate site among those available within the technically feasible area for the location of a Telecommunication Facility; and

(7) When including the construction of a tower, such tower is designed to accommodate future shared use by at least two (2) other telecommunication service providers. Any subsequent location of telecommunication equipment by other service providers on specifically designed for shared use facilities shall not require a new or modified Special Permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

B. Any Special Permit issued on site plan approval hereunder shall be valid only for the dimensions and number of structures for the Telecommunication Facility contained in the original application as so approved. Any subsequent changes or modification shall require a new application for same following the procedures set forth in this Article.

C. Every facility shall be inspected at least every fifth year for structural integrity by a N.Y.S. licensed engineer. A copy of the inspection report shall be submitted to the Code Enforcement

Officer. Any unsafe condition revealed by such report shall be corrected within ten (10) days of notification of the same to the record landowner on which the facility is constructed. The time period for correction may, upon application of the landowner or owner of the facility, be extended by the Town Planning Board; if it is impracticable to complete the correction within said ten (10) days and if there is no imminent danger to life, limb, or other person's property. If the unsafe condition is not corrected within the applicable time period, or if the required inspection is not provided to the Town, the Special Permit for construction or maintenance of the facility may, after a hearing by the Planning Board on at least ten (10) days prior notice to the owner of record given by certified mail, return receipt requested, or other equally effective manner of providing notice, be revoked by such Planning Board. Revocation may occur only if the Planning Board finds either:

(1) That the required inspection has not been provided or

(2) That there is an unsafe condition which poses a risk of bodily injury or significant property damage.

Upon such revocation, the facility shall be removed or dismantled to the point of removing all unsafe conditions.

D. Granting of the Special Permit does not relieve the applicant of the responsibility of obtaining any other permission, consent, approval, or variance from any other Federal, State, County or local government which may be required.

E. Wherever the criteria or regulations set forth in this Article conflict any other standards required in any other Article of the Zoning Ordinance, any other statute or local law, ordinance or regulation of the Town of Scipio, the more restrictive shall apply; except for Telecommunication Tower height restrictions which are governed by these special use standards.

Section 12.06 - Co-location and Shared Use

A. Preference. The shared use of existing Telecommunication Facilities or other Alternative Tower Structures shall be preferred to the construction of new facilities. Any Special Permit application, renewal or modification thereof, shall include proof that reasonable efforts have been made to co-locate within an existing Telecommunication Facility or upon an existing Alternative Tower Structure. The application shall include an adequate inventory report specifying existing Telecommunication Facilities within a reasonable distance of the proposed site. The inventory report shall contain an evaluation outlining opportunities for shared use of existing facilities and other Alternative Tower Structures as an alternative to the proposed location.

B. Demonstration. The applicant must demonstrate that the proposed Telecommunication Facility cannot be accommodated on an existing Telecommunication Facility site within the inventory due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing and approved Telecommunication Facility or other Alternative Tower Structure taking into consideration the existing use, and reasonably anticipated future use, for those facilities or structure;

(2) The planned equipment would cause radio frequency interference with other existing or planned equipment which cannot reasonably be prevented;

(3) Existing or approved Telecommunication Facilities or other Alternative Tower Structures do not have space and cannot be modified to provide space on which the proposed equipment can be placed so that it can function effectively and reasonably;

(4) Other technical reasons make it impractical to place the equipment proposed by the applicant on the existing facilities or structures; or

(5) The owner of the existing Telecommunication Facility or other Alternative Tower Structure has refused to allow such co-location. Written requests for, and refusals to allow, such co-location shall be provided.

Section 12.07 - Dimensional Requirements

A. Fall Zones. A fall zone around any Telecommunication Tower constructed as part of a Telecommunication Facility must have a radius at least equal to the height of the Telecommunication Tower and any attached Antenna(e). The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not, except as set forth below, contain any structure other than those associated with the Telecommunication Facility. If the facility is attached to an existing structure, relief may be granted by a new variance by the Zoning Board of Appeals, on a case by case basis, if it is determined by such Board that such variance is appropriate after submission of competent evidence. The Board may impose any conditions reasonably necessary to protect the public or other property from potential injury.

B. Setbacks and Lot Size. All Telecommunication Facilities shall comply with the setback, frontage, minimum lot size, and fall zone requirements of this Article. To the extent there is a conflict with other dimensional requirements within the Zoning Ordinance, the more restrictive provision shall govern. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. All lots leased or owned for the purpose of construction and/or maintenance of a Telecommunication Tower as part of a Telecommunication Facility shall conform, at a minimum, to the lot size requirements of the size of lot necessary to encompass the entire fall zone, whichever requirement results in a larger lot. Notwithstanding any other provision to the contrary of any other Article of this Zoning Ordinance, the front, side, and rear yard requirements in which a Telecommunication Facility is erected shall apply, not only to a Telecommunication Tower, but also to all tower parts including guy wires and anchors, and to any Telecommunication Accessory Facilities.

Section 12.08 - Lighting and Marking

A. Telecommunication Towers shall not be artificially lighted and marked except to assure human safety within the requirements of the FAA. Notwithstanding the aforegoing, an applicant may be required to install additional lighting and marking, even if not required by the FAA, if in the judgment of the Planning Board such a requirement would be of direct benefit to public safety and would not unduly adversely effect residents of any surrounding property.

Section 12.09 - Appearance and Buffering

A. Signs Prohibited. The use of any part or portion of a Telecommunication Facility for signs, promotional, or advertising purposes, including, but not limited to, company name, phone numbers, banners, streamers, and balloons is prohibited.

B. Visibility. The Telecommunication Facility shall have the least practical visual effect on the environment as determined by the Town Planning Board. Any Telecommunication Tower that is not subject to FAA marking standard requirement shall otherwise:

(1) have a galvanized finish or be painted gray above the surrounding tree line and gray or green below the tree line as deemed appropriate by the Planning Board; or

(2) be disguised or camouflaged to blend in with the natural surroundings to the extent that such alteration does not impair the ability of the facility to perform its designed function.

Telecommunication Towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and marking requirements.

C. Accessory Facilities. Telecommunication Accessory Facilities shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.

D. Equipment/Vehicles. Equipment or vehicles not used in direct support of renovations or repairs to any Telecommunication Facility shall not be stored or parked on the facility site.

E. Screening. Deciduous or evergreen tree planting shall be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public or private property, including streets, the following vegetative screening shall be required.

F. Vegetation. For all towers, at least one row of native evergreen shrubs or trees forming a continuous hedge at least ten (10) feet in height at the time of planting shall be planted to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of the berm.

G. Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four feet from the ground) shall take place prior to approval of the Special Permit use. Clearcutting of all trees in a single contiguous area exceeding 10,000 square feet shall be prohibited.

Section 12.10 - Access and Parking

A. Access Ways. Access ways shall make maximum use of existing public or private roads to the extent practicable. New access ways or roads constructed solely for Telecommunication Facilities shall be constructed consistent with standards for private roads and shall at all times minimize ground disturbances and vegetation cutting to within the top of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road construction standards may be waived in meeting the objective of this Section.

B. Parking Areas. Parking areas shall be sufficient to accommodate the usual number of service vehicles expected on the premises at any one time and to assure adequate emergency and service access. Space off of public highways shall be provided (not necessarily in parking areas) to accommodate the greatest number of service vehicles expected on the premises at any one time.

C. Driveways. Driveways on parking areas shall provide adequate interior turn around such that service vehicles will not have to back out onto a public thoroughfare.

Section 12.11 - Security

A. Fencing. Towers, anchor points of guyed wire towers, and accessory structures shall each be surrounded by fencing at least eight (8) feet in height, the top foot of which may, at the discretion of the Planning Board in deference of the character of the neighborhood, be comprised of chain link fence to discourage unauthorized access to the site. Planning Board may waive the requirement of fencing if, in its discretion, it determines that other forms of security are adequate; or that, by reason of location or occupancy, security will not be significantly compromised by the omission of fencing.

B. Lighting. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.

C. Climbing Pegs. There shall be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.

D. Gates. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

E. Alarms. There shall be a security alarm system which is linked to either a local caretaker approved by the Town Planning Board reviewing the application or a local police agency.

Section 12.12 - Discontinuance of Use and Removal

A. Agreement to Remove. At the time of submission of the application for a Special Permit for a Telecommunication Facility, the applicant shall submit an agreement to remove, within 90 days, all antennae, driveways, structures, buildings, equipment sheds, lighting utilities, fencing, gates, accessory equipment or structures, as well as any towers dedicated solely for use within a Telecommunication Facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than six (6) consecutive months. Upon removal of said facility, the site shall be substantially restored to its former condition, including, but not limited to, the seeding of exposed soils. Any extension of the time within which removal shall be effectuated shall be upon application to the Planning Board.

B. Financial Security. The Planning Board, as a condition to the grant and issuance of a Special Permit, shall require the applicant to post and provide a bond or other financial security for the removal of the Telecommunication Facility and property restoration, with the Town of Scipio named as the assignee, in an amount equal to at least one and one-half (1 1/2) times the cost of installation of the Telecommunication Tower and Accessory Structures.

C. Bond Adjustment. At times of modification or renewal of the Special Permit, the Planning Board may adjust the required amount of the financial security or bond to adequately cover increases in the cost of removal of the Telecommunication Facility and property restoration.

Section 12.13 - Nature of Special Permits

A. Term of Permit. Upon the approval of the application by the Planning Board, a Special Permit shall be issued to the applicant allowing for construction and maintenance of the Telecommunication Facility for a term of five (5) years.

B. No Assignment or Transfer. The Special Permit shall not be assignable or transferable. In the event that an applicant has received a Special Permit and wants to transfer its

Telecommunication Facility to another person or entity, the new person or entity must make application for a Special Permit pursuant to this local law.

C. Renewals. A Special Permit shall be renewed as set forth in Section 12.14 below. Each renewal permit shall allow for the use and maintenance of the Telecommunication Facility for a term of five (5) years.

D. Transfer of Ownership. In the event of a transfer of ownership of the Telecommunication Facility, the proposed new owner may apply for a Special Permit following the "renewal" provisions set forth in Section 12.14 below.

Section 12.14 - Renewals

A. Application. Any person or entity who owns or operates a Telecommunication Facility pursuant to a Special Permit issued under this Article may make application for renewal of that Special Permit by application to the Planning Board.

B. Time of Application. An application for renewal of a Special Permit shall be made no more than twelve (12) months, but not less than six (6) months prior to the expiration of the existing Special Permit

C. Approval Requirements. An application for renewal of a Special Permit shall not be approved unless the Planning Board shall find that the general criteria requirements set forth in Sections 12.05 through 12.12 of this Article have been met, or are continuing to be met, by the Telecommunication Facility.

D. Engineer's Report. In addition, the application for renewal of a Special Permit must include a copy of the engineer's structural integrity report required pursuant to Section 12.05(C).

E. Expedited Application. An application for renewal of a Special Permit may be made upon the applicant's original application for approval, with notations as to which aspects of those application materials remain unchanged, and which aspects of those application materials have changed. All changes in the application for renewal information shall be highlighted and detailed by the applicant.

F. Renewal Fee. The application for renewal of a Special Permit shall be accompanied by a filing/licensing fee as established by the Town Board by resolution in the Town of Scipio Fee Schedule.

Section 12.15 - Penalties

A. Violation of the provisions herein constitute an unclassified misdemeanor. Penalties for violations of this Article shall be issued in accordance with Article XVI, Section 16.08 of this Ordinance.

ARTICLE XIII
Nonconformities

Section 13.01 - Continuation

A. The lawful use of any structure or land existing at the effective time of this Ordinance may be continued although such use does not conform with the provisions of this Ordinance except as otherwise provided in this Article.

Section 13.02 - Alteration or Extension

A. A use of land or structure which does not conform to the regulations of this Ordinance shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:

   (1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became non-conforming.

   (2) Any increase in volume, area, or extent of the non-conforming use shall not exceed an aggregate of more than fifty (50) percent of the area allocated to a non-conforming use during the life of the non-conformity.

   (3) Any increase in volume, area, or extent of the non-conforming use shall be in accordance with the other provisions of this Ordinance.

   (4) For the purposes if this Section “volume” does not mean volume of business but rather an increase of cubic volume within a structure or on a parcel of land.

B. A structure which does not conform to the regulations of this Ordinance shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:

   (1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the structure became non-conforming.

   (2) Any increase in volume or area of the non-conforming structure shall not exceed an aggregate of more than fifty (50) percent of the volume or area of the structure from the date it became non-conforming.

   (3) Any increase in volume or area of the non-conforming use shall be in accordance with the other provisions of this Ordinance.

   (4) For the purposes if this Section “volume” means cubic volume within a structure.

C. A conforming use or structure shall not be altered or extended so that it becomes a non-conforming use or structure.

Section 13.03 - Restoration

A. No structure damaged by fire or other causes to the extent of more than seventy-five (75) percent of its fair market value shall be repaired, reconstructed or used except in conformity with the regulations of this Ordinance. Structure with damage to the extent of seventy-five (75) percent or less of the fair market value may be reconstructed, repaired or used for the same non-conforming use subject to the following provisions:

   (1) The reconstructed structure shall not exceed the height, area or volume of the damaged structure except as provided by Section 13.02 above.

(2) Reconstruction shall begin within one year from the date of the damage and shall be carried on without interruption. Site clearing shall be completed within 60 calendar days from the date of damage.

Section 13.04 - Abandonment

A. Whenever a non-conforming use has been discontinued for a period of eighteen (18) consecutive months, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

Section 13.05 - Changes

A. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to another non-conforming use only under the following conditions:

(1) Such change shall be permitted only by Special Use Permit, under the provisions of Article V.

(2) The applicant shall show that the non-conforming use cannot reasonably be changed to a permitted use in the district where such non-conforming use is located. The burden of proof is on the owner of the use or applicant for the Special Use Permit being sought.

(3) The applicant shall show that the proposed change will be less objectionable in external effects than the existing non-conforming use with respect to:

a. Traffic generation and congestion including truck, passenger car, and pedestrian traffic; noise, smoke, dust, noxious matter, heat, glare, vibration; storage and waste disposal; and appearance.

Section 13.06 - Displacement

A. No non-conforming use shall be extended to displace a conforming use.

Section 13.07 - Zoning District Changes

A. Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses or structures existing or created therein.

Section 13.08 - Zoning Permit Required

A. Zoning permits shall be issued by the Code Enforcement Officer for all lawful non-conforming uses existing at the effective date of this Ordinance. The zoning permit shall include a statement that the use is non-conforming and shall list the specific conditions under which said use may continue. It shall be signed by both the Code Enforcement Officer and the Owner. The burden of seeking out and securing a Zoning Permit for a non-conforming use is that of the property owner and not the Code Enforcement Officer.

ARTICLE XIV
Site Plan Review

Section 14.01 - Applicability

A. Prior to the issuance of a building or zoning permit for any use noted in Section 4.05, Use Table as requiring site plan review, the Planning Board shall require the preparation and submittal of a site plan for its review and approval in accordance with the standards and procedures set forth in this Ordinance.

(1) Major Site Plan Projects - Any proposed development of land over one (1) acre, or with any new road, or building of 5,000 square feet or more.

(2) Minor Site Plan Projects - Any proposed development of land less than one (1) acre, without any new roads, and where all existing and proposed structures combined total less than 5,000 square feet.

a. Any activity for which a building permit is required, or which involves the disturbance of 500 sq. ft. or more of land within 300 feet of the mean high-water mark or a watercourse, shall be required to obtain a minor site plan approval.

b. Any activity which involves the disturbance of 3,000 sq. ft. or more of land within the Waterfront District shall be required to obtain a minor site plan approval.

c. Agricultural structures with a footprint of over 10,000 sq. ft. shall require minor site plan approval.

d. Agricultural structures with a footprint of 10,000 sq. ft. or less are exempt from site plan approval requirements.

Section 14.02 - Sketch Plan Conference

A. Sketch Plan Conference Required. All applicants for Site Plan Review, whether for a minor or major site plans, shall meet with the Code Enforcement Officer and the Planning Board at a regular Planning Board meeting to conduct a Sketch Plan Review, the purpose of which is to review the basic site design concept, determine the information to be required on the preliminary site plan, and to classify it as a major or minor project. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Comprehensive Plan, the requirements in the Zoning Ordinance, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detail plans are made.

B. Required Data. Information to be included on the sketch plan is as follows:

(1) An area map showing the parcel under consideration for Site Plan Review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof, or at the discretion of the Planning Board.

(2) A map of site topography at no more than five-foot contour intervals, or at the discretion of the Planning Board, shall be provided. If general site grades exceed 5% or if portions of the site have susceptibility to erosion, flooding, or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.

(3) General identification of all existing natural features and utilities on the site and in the area.

(4) The location of all existing and proposed structures on the site and designated uses for each.

(5) Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site.

Section 14.03 - Preliminary Site Plan Application

A. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Code Enforcement Officer and the Planning Board at a regular Planning Board meeting for the sketch plan conference. All site plan information and building designs shall be prepared by a licensed New York State architect, engineer, surveyor, or landscape architect.

B. Major Site Plan Project Preliminary site plan checklist. It is important for the Planning Board to have appropriate information tailored to the plan for site development. To accomplish this, a preliminary sketch plan review is conducted to determine those items from the comprehensive list below which will be required for site plan approval. Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist available from the Code Enforcement Officer. The preliminary site plan shall be prepared by a licensed professional engineer, architect, and/or landscape architect may include:

(1) A vicinity map drawn at the scale of 2,000 feet to the inch or larger that shows the relationship of the proposal to existing community facilities which affect or serve it, such as roads, shopping areas, schools, etc. The map shall also show all properties, subdivisions, streets, and easements within 500 feet of the property. Such a sketch may be superimposed on a United States Geological Survey or New York State Department of Transportation map of the area.

(2) An existing conditions map or maps, showing existing buildings, roads, utilities, and other man-made features, as well as topography and all existing natural land features that may influence the design of the proposed use such as rock outcrops, single trees eight or more inches in diameter at four (4) feet above ground level, located within any area where clearing will occur, forest cover, soils (including prime and statewide important agricultural soils), and ponds, lakes, wetlands and watercourses, aquifers, floodplains, and drainage retention areas. Such map or maps shall also show mapped ecological and natural resource information.

(3) Name of the project, boundaries, date, North arrow, and scale of the plan. Name and address of the owner of record, developer, and seal of the engineer, architect, and/or landscape architect. If the applicant is not the record owner, a letter of authorization shall be required from the owner.

(4) The location and use of all existing and proposed structures within the property, including all dimensions of height and floor area, all exterior entrances, and all anticipated future additions and alterations.

(5) The location of all present and proposed public and private ways, off-street parking areas, driveways, outdoor storage areas, sidewalks, ramps, curbs, paths, landscaping, walls, and

fences. Location, type, and screening details for all waste disposal containers shall also be shown.

(6) The location, height, intensity, and bulb type (sodium, incandescent, etc.) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.

(7) The location, height, size, materials, and design of all proposed signs.

(8) The location of all present and proposed utility systems, including:

a. Sewage or septic system including Wastewater discharge measures;

b. Water supply system including:

1. the source of water to be used;

2. the quantity of water required;

3. Water use minimization measures to be implemented;

4. Water recycling measures to be implemented;

c. Telephone, cable, and electrical systems; and

d. Storm drainage system, including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.

(9) Erosion and sedimentation control plan required by Article VII, Section 7.03 to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable. Plan shall include grading and/or stormwater control measures to enhance on-site recharge of surface water and identify point source or nonpoint discharges.

(10) Existing and proposed topography at two (2) foot contour intervals, or such other contour interval as the Board shall specify. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one-hundred-year floodplain, the area will be shown and base flood elevations given. Areas shall be indicated within the proposed site and within 50 feet of the proposed site where soil removal or filling is required, showing the approximate volume in cubic yards.

(11) A landscape, planting, and grading plan showing proposed changes to existing features.

(12) Land use district boundaries within 200 feet of the site's perimeter shall be drawn and identified on the site plan, as well as any overlay districts that apply to the property.

(13) Traffic flow patterns within the site, entrances and exits, and loading and unloading areas, as well as curb cuts, or roadway entry point, on the site and within 100 feet of the site. The Planning Board may, at its discretion, require a detailed traffic study for large developments or for those in heavy traffic areas to satisfy the requirements of Article VII, Section 7.02, K.

(14) For new construction or alterations to any structure, a table containing the following information shall be included:

a. Estimated area of structure currently used and intended to be used for particular uses such as retail operation, office, storage, etc.;

b. Estimated maximum number of current and future employees;

c. Maximum seating capacity, where applicable; and

d. Number of parking spaces existing and required for the intended use.

(15) Elevations at a scale of 1/4 inch equals 1 foot for all exterior facades of the proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color of materials to be used.

(16) Where appropriate, the Planning Board may request soil logs, percolation test results, and storm runoff calculations.

(17) Plans for disposal of construction and demolition waste, either on site or at an approved disposal facility.

(18) Where appropriate, a cultural resource survey of resources with historic or archaeological significance.

(19) An Agricultural Data Statement as defined in Section 2.02, if required by §305-a of the New York State Agriculture and Markets Law, any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval that would occur on property within a New York State Certified Agricultural District containing a farm operation or property with boundaries within 500 feet of a farm operation located in an Agricultural District shall include an Agricultural Data Statement.

(20) A complete list of any hazardous substances to be used on site, along with quantity to be used and stored on site and a description of hazardous substance storage or handling facilities and procedures.

(21) Any projects where water consumption exceeds the natural recharge, the applicant shall demonstrate through SEQRA how such impact will be mitigated through, for example, compensatory recharge equal to the identified recharge deficit through a combination of artificial on-site or off-site recharge, or provision of compensatory natural recharge areas elsewhere in the Town.

(22) Other information that may be deemed necessary by the Planning Board.

C. Minor Site Plan Project Preliminary site plan checklist. Minor project site plans shall contain the information required by Section 14.09 and other information listed above for Major Site Plan Projects if the Planning Board deems such information necessary.

D. Required fee.

(1) All required fees, as established by the Town Board by resolution in the Town of Scipio Fee Schedule, shall be paid when the application is made along with any required escrow deposit for review costs, as required by the Planning Board.

E. Waivers. The Planning Board may waive or allow deferred submission of any of the information required in Section 14.03, as it deems appropriate to the application. Such waivers shall be discussed in the course of a pre-application conference. The Planning Board shall issue a written statement of waivers for all major projects. This statement shall be filed in permanent record of the property.

Section 14.04 - Planning Board Review of Preliminary Site Plan for Major Projects

A. Criteria. In reviewing site plans for major projects, the Planning Board shall consider the criteria set forth below.

(1) Layout and design.

a. To the maximum extent practicable, development shall be located to preserve the natural features of the site and to avoid wetland areas, steep slopes, significant wildlife habitats and other areas of environmental sensitivity. The placement and design of buildings and parking facilities shall take advantage of the site's topography, existing vegetation and other pertinent natural features.

b. All structures in the plan shall be integrated with each other and with adjacent structures and shall have convenient access between adjacent uses.

c. Compatibility with traditional structures and the surrounding area in architecture, massing, proportion, placement, and harmony with traditional elements in the architectural fabric of the area is encouraged for structures that are visible from public roads. Such compatibility shall be required for structures located in the Hamlet District. Building components such as windows, rooflines and pitch, doors, eaves and parapets shall be compatible with historic structures in the Town. Vertical, double-hung windows and steeply pitched roofs are encouraged. Designs shall avoid flat roofs, large expanses of undifferentiated facades, and long plain wall sections. Rooftop and ground level mechanical equipment shall be screened from public view using materials harmonious with the building or shall be located where they are not visible from any public ways.

d. Where appropriate, setbacks shall maintain and continue the existing setback pattern of surrounding properties.

e. The Planning Board shall encourage the creation of landscaped parks or squares easily accessible by pedestrians.

f. In the Hamlet District, trademarked architecture which identifies a specific company by building design features shall be prohibited, unless the applicant can demonstrate that the design is compatible with the historic architecture of Scipio.

g. Impacts on historic and cultural resources shall be minimized.

h. When feasible, utility service systems shall be placed underground.

(2) Landscaping.

a. Landscaping shall be an integral part of the entire project area and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.

b. Landscape plantings of shrubs, ground cover and shade trees, as well as perennials and annuals and other materials such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian-scale spaces and to maintain landscape community within the community. All landscaping within the site shall be designed to facilitate conservation of the environment and preservation of community aesthetic character. This shall be accomplished through the use of native plant material and the retention of existing natural vegetation, thereby reducing or eliminating the need for irrigation, pesticides, herbicides and fertilizers.

c. Existing tree stock eight (8) or more inches in diameter at four (4) feet in height from ground level shall be protected and preserved to the maximum extent possible to retain valuable community natural resources and promote energy conservation by maximizing the cooling and shading effects of trees. The preservation of mature

plant species, hedgerows, wetlands and woodlots shall be encouraged and included as a design element in the development of the site.

d. Landscape buffers shall be provided between uses that may be incompatible, such as large-scale commercial uses and residences, or parking areas and residences. Such buffers may include planted trees and shrubs, hedgerows, berms, existing forestland or forest created through natural succession. The width of such buffer areas will depend upon the topography, scale of the uses, and their location on the property.

(3) Miscellaneous standards.

a. Drainage of the site shall recharge groundwater to the extent practical. Surface water flowing off site shall not increase above pre-development conditions and shall not adversely affect drainage on adjacent properties or public roads.

b. Applicable requirements for proper disposal of construction and demolition waste shall be satisfied, and any necessary permits or agreements for off-site disposal shall be obtained.

c. No materials shall be placed below the finished grade of a site other than utilities, and clean fill that is uncontaminated by any solid waste or hazardous materials. Materials that were previously contaminated and have been reconditioned shall not be permitted under this Subsection, except that decontaminated material may be used as a base for road or parking lot construction, provided that such decontaminated material does not pollute groundwater or surface water.

C. Applicant to attend Planning Board meeting.

(1) The applicant and/or their duly authorized representative shall attend the meeting of the Planning Board where the preliminary site plan is reviewed.

D. Consultant review. The Planning Board may consult with the Town Board, Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.

E. Public hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the application for preliminary site plan approval. The Town shall publish a notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing.

F. Application for area variance. Where a proposed site plan contains one (1) or more features which do not comply with the dimensional regulations of this Ordinance, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article 17 without a decision or determination by the Code Enforcement Official. Under no circumstances, may the Zoning Board of Appeals modify stream setbacks.

G. SEQRA compliance. Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State environmental quality review.

Section 14.05 - Planning Board Action on Preliminary Site Plans for Major Projects

A. Within sixty-two (62) calendar days after Public Hearing or within sixty-two (62) calendar days after the complete application was filed if no Public Hearing was held, the Planning Board shall act on the application for preliminary site plan approval. This time may be extended by mutual consent of the applicant and the Planning Board. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, or approved with modifications.

B. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

Section 14.06 - Final Site Plan Approval Procedure for Major Projects

A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.

B. The following additional information shall accompany an application for final site plan approval:

   (1) Record of application for and approval status of all necessary permits from local, state, and county officials.

   (2) An estimated project construction schedule.

   (3) A legal description of all areas proposed for municipal dedication.

   (4) A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created.

C. If no building permit is issued within one calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

Section 14.07 - Referral to County Planning Board

A. Prior to taking action on the final site plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with Section 239-l, m & n of the New York State General Municipal Law.

Section 14.08 - Planning Board Action on Final Site Plan for Major Projects

A. Within sixty-two (62) calendar days of receipt of the application for final site plan approval, the Planning Board shall make its final decision to either approve or disapprove of the final

site plan. This time may be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall submit a written copy of its decision to the Town Clerk, the Code Enforcement Officer, and the applicant within five (5) business days of the Planning Board's decision.

B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and a copy shall be provided to the applicant.

C. Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. These notifications shall comply with the time frames in sub-section A. above.

Section 14.09 - Planning Board Review and Approval of Site Plans for Minor Projects

A. The procedure for minor project site plan review approval by the Planning Board shall be the same as prescribed in Sections 14.04, 14.07 and 14.08 for major projects, except for the following:

(1) For non-agricultural structures, except in the Waterfront District, the Planning Board may request additional information from that listed below, if the Board deems it necessary. Minor project site plan application materials may be prepared by a licensed professional engineer, architect, or landscape architect, but the Planning Board shall not require this unless the services of such professionals are necessary to provide accurate information or are otherwise required by law. A minor project site plan application shall contain the following information:

a. A sketch of the parcel on a location map (*e.g.* a Tax Map) showing boundaries and dimensions of the parcel and identifying contiguous properties within 200 feet of the proposed structure and any known easements or rights-of-way and roadways.

b. Existing features of the site lying within 200 feet of the proposed structure, including land and water areas, water or sewer systems, and the approximate location of all structures within 200 feet of the proposed structures.

c. The proposed location and arrangements of structures and uses on the site, including means of ingress and egress, parking, and circulation of traffic.

d. A sketch of any proposed structures (including signs), showing exterior dimensions and elevations of front, side, and rear views; copies of available blueprints, plans, or drawings.

e. A concise description of the project describing the intended use of proposed structures (including signs) and any changes in the existing topography and natural features.

f. The name and address of the applicant and any professional advisors, and the authorization of the owner if the Applicant is not the owner.

g. If the parcel contains a stream, wetland, or floodplain, a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.

(2) No public hearing shall be required for a minor project site plan. The Planning Board may, in its sole discretion, hold a public hearing following the procedures below. If no

public hearing is held, the Planning Board shall give notice to the County Planning Board and to farm operators in accordance with Sections 14.07 and 14.03, B, 21 respectfully, and shall render a decision within sixty-two (62) days of its receipt of a complete site plan application. In order to approve a minor project site plan, the Planning Board must find that the proposal is generally consistent with the same criteria for Major Projects as listed in Section 14.04, A and will not adversely affect neighboring properties.

a. Public hearing. The Planning Board may conduct a public hearing on the minor project site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) calendar days of the receipt of the application for site plan approval. The Town shall publish a notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing.

Section 14.10 - Implementation, Revision and Enforcement of Approved Site Plans

A. Within six (6) months after receiving approval of a site plan, with or without modifications, the Applicant shall submit multiple copies of the site plan to the Planning Board for stamping and signing. The site plan submitted for stamping shall conform strictly to the site plan approved by the Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:

(1) Record of application for and approval status of all necessary permits from federal, state, and county officials.

(2) Detailed sizing and final material specification of all required improvements.

(3) An estimated project construction schedule. If a performance guarantee pursuant to Subsection B below is to be provided by the Applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included.

(4) Proof of payment of the Planning Board's reasonable review costs.

(5) Upon stamping and signing the site plan, the Planning Board shall forward a copy of the approved site plan to the Code Enforcement Official and the applicant. The Code Enforcement Official may then issue a building permit or certificate of occupancy if the project conforms to all other applicable requirements.

B. Performance guarantee. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed, or a sufficient performance guarantee has been posted for improvements not yet completed. The performance guarantee shall be posted in accordance with the procedures specified in Section 277 of the Town Law relating to subdivisions. The amount and sufficiency of such performance guarantee shall be determined by the Town Board after consultation with the Planning Board, Town Attorney, Code Enforcement Official, other local officials, and its consultants.

C. As-built plans and inspection of improvements. No certificate of occupancy shall be granted until the Applicant has filed a set of as-built plans with the Code Enforcement Official, indicating any deviations from the approved site plan. The Code Enforcement Official shall be responsible for the inspection of site improvements, including coordination with the Town's consultants and other local officials and agencies, as may be appropriate, and shall grant a

certificate of occupancy upon a finding that the project as built complies in all material respects with the site plan.

D. Site plan amendments. An approved site plan may be amended by filing an application with the Planning Board for a site plan amendment.

(1) If the Planning Board finds that such proposed amendment is consistent with the terms of any applicable special permit approval (or if no special permit is required) and does not represent a substantial change from the approved site plan, it shall grant the amendment without a hearing.

(2) If the Planning Board determines that the proposed amendment is consistent with the terms of the applicable special permit approval (or if no special permit is required), but is a substantial change from the approved site plan, it shall follow the procedures for site plan approval public hearings contained in this Article and hold a public hearing if the amendment would be considered to be a major project.

(3) If the Planning Board determines that the proposed amendment is inconsistent with the terms of any special permit approval, it shall consider the application to be one for a special permit amendment and proceed pursuant to Article V.

E. Expiration, revocation, and enforcement.

(1) A site plan approval shall expire if the Applicant fails to commence construction, to obtain the necessary building permits, or to comply with the conditions of the site plan approval within eighteen (18) months of its issuance or if the special permit with which it is associated expires. The Planning Board may grant a one-time six (6) month extension.

(2) A site plan approval may be revoked by the Planning Board if the permittee violates the conditions of the site plan approval or engages in any construction or alteration not authorized by the site plan approval.

(3) Any violation of the conditions of a site plan approval shall be deemed a violation of this Ordinance and shall be subject to enforcement action as provided herein.

Section 14.11 - Reimbursable Costs

A. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site pan approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the Planning Board.

Section 14.12 - Integration of Procedures

A. Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure pursuant to Article V of this Ordinance, or the requirements for the subdivision of land in Article XV of this Ordinance, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this Article with the procedural and submission requirements for such other compliance.

ARTICLE XV
Subdivision Regulations

Section 15.01 - Authority for Plat Approval and Compliance with Policy

A. Approval of Plats. By the authority of the New York State Town Law, Article 16, §276, §277, §278, and §279; and the resolution of the Town Board of the Town of Scipio, the Planning Board is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to approve preliminary plats within the code enforcement of the Town of Scipio.

B. Authority to approve cluster development. The Planning Board of the Town of Scipio is further authorized to approve cluster development simultaneously with the approval of a plat or plats and to modify area requirements specified in the Town of Scipio Zoning Ordinance, in accordance with New York State Town Law, Article 16, §278.

C. Authority to require a reservation land for recreational use. The Planning Board of the Town of Scipio is further authorized simultaneously with the approval of a plat or plats to require the applicant to reserve open space for parks, playgrounds, or other recreational purposes in accordance with the provisions of Section 15.22, K herein.

D. It is the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town of Scipio. This means, among other things that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements.

E. All proposed lots shall be laid out and of such a size so as to be in harmony with the development pattern of neighboring properties, so that the proposed streets shall compose a convenient system conforming to the Official Map of the Town of Scipio. Lot layout shall also be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection, and to provide access of firefighting equipment to buildings. Proper provisions shall also be made for open spaces for parks, playgrounds, or for natural resource protection.

F. In order that land subdivisions may be made in accordance with this policy, these regulations shall be known as the "Town of Scipio Subdivision Regulations." Failure to notify the Code Enforcement Officer of any conveyance by subdivision shall be a violation of this law and will be enforced by both civil action and financial penalties inclusive of injunctive relief to the effect of terminating such conveyances.

Section 15.02 - Applicability and Legal Effects

A. Applicability of These Regulations.

(1) Any division of a lot into two (2) or more lots, whether new streets, public facilities, or municipal utility extensions are involved or not.

(2) Any other land transaction which requires filing of a plat with the Cayuga County Clerk.

(3) Note: Consolidation of lots for tax purposes as initiated by land owners and approved by the Cayuga County Real Property Office shall not be considered a Subdivision but shall be required to be registered with the Code Enforcement Officer.

B. Legal Effect: Land-Use Regulations.

(1) Whenever any subdivision of land is proposed to be made, and before any site modifications are made, and before any permit for the erection of a structure in such proposed subdivision is granted, the applicant or a duly authorized agent must apply for in writing and receive approval of the proposed subdivision in accordance with these regulations.

C. Legal Effect: Filing Plats with County Clerk.

(1) Before any plat or licensed survey map of land in the Town of Scipio is filed with the County Clerk, the plat or licensed survey map must be approved by the Planning Board Chair or the entire Planning Board, as applicable, in accordance with the procedures of this Ordinance and the New York State Town Law, Article 16, §276.

D. Plat Void if Revised After Approval.

(1) No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat or licensed survey map after approval has been given by the Planning Board Chair or the entire Planning Board and endorsed in writing on the plat or licensed survey map, unless the plat or licensed survey map is first resubmitted to the Planning Board and the Board approves any modifications.

(2) In the event that any such Subdivision Plat or licensed survey map is recorded without complying with this requirement, it shall be considered null and void, and the Code Enforcement Officer may institute proceedings to have the plat or licensed survey map stricken from the records of the County Clerk.

Section 15.03 - Types of Subdivisions and Procedures

A. General description. The following is a list of key considerations governing the subdivision of land:

(1) Subdivision. Subdivisions proposed for the Town of Scipio will be considered either as simple, minor, or major subdivisions.

(2) Re-subdivisions. Any change to an existing plat is considered a re-subdivision and thus requires approval of the Town Planning Board in accordance with the procedures of this Article.

(3) Surety. The Town Planning Board may require that appropriate surety be posted to assure the project is constructed as designed or to assure that conditions of approval are met.

(4) Clustering. The Town Planning Board will consider any proposal for a clustered project, but the Planning Board reserves the right to require clustering to protect environmentally sensitive areas or to preserve open space.

(5) SEQR. All proposals require appropriate environmental reviews in accordance with the State Environmental Quality Review procedures.

B. These regulations recognize three (3) types of subdivisions, which are subject to three (3) different review and approval procedures:

(1) Simple Subdivision- Review includes two required submissions by the applicant, review by the Planning Board, and approval by the Planning Board Chair.

(2) Minor Subdivision- Review includes two required submissions by the applicant, may include a public hearing if considered desirable by the Planning Board, and approval by the Planning Board.

(3) Major Subdivision- Review includes three required submissions by the applicant, at least one (1) public hearing by the Planning Board, and approval by the Planning Board.

Section 15.04 - Coordination with County Health Department

A. The provisions of the Cayuga County Sanitary Code are in addition to these Subdivision Regulations.

Section 15.05 - Consultation and Reimbursable Costs

A. The Planning Board may choose at any point in a subdivision review process to request consultants for review, comment, and advice on any aspect of the approval process, subdivision design, engineering specifications, or other pertinent matters.

B. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed subdivision or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary subdivision approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the Planning Board.

Section 15.06 - Plat Review of Uncompleted Subdivisions

A. The Planning Board may, on direction of the Town Board, review, for the purposes of revision or granting an exemption, any plat within the Town municipal boundaries, already on file with the County Clerk as authorized under the New York State Town Law, Article 16, §276.

Section 15.07 - Definitions

A. As used in this Article, the following terms shall have the meanings indicated:

Applicant - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either personally or on behalf of ownership, lessee or building development, and shall include re-subdivision.

Collector Street - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

Date of Submission - The date on which a complete subdivision application is considered submitted to the Planning Board. A subdivision application shall not be considered complete until a negative declaration or a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a plat shall begin upon the filing of such negative declaration or such notice of completion, provided that all other required application documentation and information has been submitted to the Planning Board prior to the filing of such negative declaration or such notice of completion.

Dead-End Street or Cul-de-sac - A street or portion of a street with only one vehicular traffic outlet.

Drainage Right-of-Way - The lands required for the installation of stormwater sewers or drainage ditches or field tiles are required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

Major Street - A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Major Subdivision - Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots or any sized subdivision requiring a new street or extension of municipal facilities.

Minor Street - A street intended to serve primary access to abutting properties.

Minor Subdivision - Any subdivision which contains not more than four (4) lots fronting on an existing street; does not include any new street or road; does not require the extension of municipal facilities; does not adversely affect adjacent properties; and is not in conflict with any provision of the Comprehensive Plan and Official Zoning Map of the Town of Scipio, or these regulations.

Official Map - A map, adopted by a legislative body through a resolution or ordinance, showing existing streets and approved proposed streets, parks, and other public places.

Preliminary Plat - A drawing or drawings, clearly marked 'preliminary plat," showing the significant features of a proposed subdivision, as specified in Section 15.11 of this Article, submitted to the Planning Board for the purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

Re-Subdivision - Revision of all or part of an existing filed plat.

Simple Subdivision - Any Subdivision not classified as Minor or Major where no new lots are created but where lot lines are rearranged.

Street Pavement - The wearing or exposed surface of the roadway used by vehicular traffic.

Street Width - The width of the right-of-way, measured at right angles to the centerline of the street.

Subdivision - The legal division of any tract of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and shall include re-subdivision.

Subdivision Plat or Final Plat - A drawing, in final form, showing a proposed subdivision, containing all information or details required by law and by these regulations to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.

Surveyor - A person licensed as a land surveyor by the State of New York.

Town Engineer - The designated engineer of the Town of Scipio.

Undeveloped Plats - Those plats existing at the time of the enactment of this chapter that have been filed in the office of the County Clerk, where 20% or more of the lots within the plat are unimproved.

Section 15.08 - Subdivision Procedures

A. Classification of Subdivision. The first stage of subdivision is classification. Classification requires that an applicant schedule and attend a pre-application conference with the Code Enforcement Officer and Planning Board at a regular Planning Board meeting. For this conference the applicant shall submit a Sketch Plat of the proposed subdivision to the Code Enforcement Officer that provides sufficient detail to classify the action as to the type of review required.

B. Pre-application conferences. A pre-application conference with the Code Enforcement Officer and the Planning Board at a regular Planning Board meeting is required before any subdivision is reviewed or approved by the Planning Board, or in the case of a Simple Subdivision reviewed by the Planning Board and approved by the Planning Board Chair. Pre-application conferences serve the following functions:

(1) To discuss the preliminary design of the project.

(2) To review application requirements and identify specific information that shall be provided on the preliminary plat.

(3) To set a probable timetable for review.

C. The Sketch Plat initially submitted to the Code Enforcement Officer shall be based on tax map information or on some other similarly accurate base map at a scale of one-inch equals two-hundred feet (1” = 200’). A submitted Sketch Plat shall show the following information:

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

(2) All existing structures, wooded areas, streams, wetlands, flood hazard areas and other significant physical features within the portion to be subdivided and within 200 feet thereof.

(3) If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.

(4) The tax map, block and lot numbers of all lots shown on the plat.

(5) The names of the owner and of all adjoining property owners as disclosed by the current tax roll.

(6) All the utilities available and all streets as they appear on the Official Map.

(7) The proposed pattern of lots (with dimensions), street layout, recreation areas, systems of drainage, sewerage, and water supply within the subdivided area.

(8) All existing restrictions on the use of land, including easements, covenants and zoning district boundary lines.

Section 15.09 - Simple Subdivision Review Procedure

A. Review of a Simple Subdivision Plat is a two-step process consisting of a pre-application conference as required by Section 15.08 hereof and a plat review and approval. After a pre-application conference, the Planning Board Chair shall act, whether during a Planning Board meeting or not, to approve; conditionally approve with modifications; disapprove; or grant final approval. In any event, final approval cannot be granted until four (4) copies of an official survey map prepared by a surveyor licensed by New York State has been presented to the Code Enforcement Officer and Planning Board Chair, and such map indicates that all of the

requirements of the Town of Scipio Zoning Ordinance have been satisfied. Final approval of the Simple Subdivision by the Planning Board Chair shall be indicated by the Chair's signature and date on the final survey map.

Section 15.10 - Minor Subdivision Review Procedure

A. Review of a Minor Subdivision Plat is a two-step process consisting of a pre-application conference as required by Section 15.08 hereof and a plat review and approval. A Minor Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements and shall be conducted by the Planning Board.

(1) Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.

(2) The Planning Board will review the Minor Subdivision Plat taking into account staff reports and the comments of the Town Engineer and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.

B. Submission of Application. Within six (6) months after the pre-application conference and the classification of a Sketch Plat as a Minor Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Minor Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code Enforcement Officer and Planning Board for reclassification. The Minor Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. The application shall also conform to the requirements listed in Section 15.10, C.

(1) Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:

a. A complete application form and at least four (4) copies of the Minor Subdivision Plat.

b. Supplemental information as required including SEQR documents.

c. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.

C. Requirements for Minor Subdivision Plat Review. A Minor Subdivision Plat Application shall include the following information:

(1) A copy of such covenants or deed restrictions that are intended to cover all or part of the tract.

(2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corner of each tract shall also be located on the ground and marked with an approved pin, pipe, or monument and shall be referred to and shown on the plat.

(3) The proposed lot lines with the approximate dimensions and area of each lot.

(4) All on-site sanitation and water supply facilities (if any) shall be designed to meet the specifications of the Cayuga County Health Department; approval shall be stated on the plat and signed by an officer of the Cayuga County Health Department.

(5) The proposed subdivision name (if any), and the names of the Town and County in which it is located.

(6) The date, a true-north arrow, the map scale, and the names, addresses, and phone numbers of all owners of record and the applicant.

(7) The Minor Subdivision Plat shall be a clear, legible reproduction that meets the standards for filing with the Cayuga County Clerk as prescribed by law.

D. Applicant to Attend Planning Board Meeting on Minor Subdivision Plat. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board at which a Subdivision Plat is discussed.

E. Public Hearing on Minor Subdivision Plat. If required by the Planning Board, a public hearing shall be held within 62 calendar days of the date of submission of required materials. The Town shall publish a public hearing notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing. If no public hearing is required, the Planning Board shall have 62 calendar days from the date of submission to make its decision. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage, provided by the Planning Board, and obtained from the Code Enforcement Officer. The applicant shall post this signage at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) business days prior to the public hearing.

F. Action on Minor Subdivision Plat.

(1) The Planning Board shall, within 62 calendar days of the date of the public hearing, act to conditionally approve; conditionally approve with modification; disapprove; or grant final approval to and authorize the signing of the Final Subdivision Plat by the Planning Board Chair. This time may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the plat.

(2) Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon compliance with such conditions and requirements as may be stated in the Board's resolution of conditional approval.

(3) Within five (5) business days of the resolution granting conditional approval, the plat shall be certified by the Chair of the Planning Board as conditionally approved; a copy shall be filed in the Town Clerk's office; and a certified copy shall be mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved plat.

(4) Upon completion of the requirements in the resolution of approval, the plat shall be signed by the Chair of the Planning Board. Conditional approval of the plat shall expire 180 calendar days after the date of the resolution granting such approval. 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. Such extension is not to exceed two additional periods of 90 calendar days each.

Section 15.11 - Major Subdivision Preliminary Plat Review Procedure

A. Review of a Major Subdivision Plat is a three-step process consisting of a pre-application conference as required by Section 15.08 hereof, a preliminary plat review and approval, and a final plat review and approval. A Major Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements and shall be conducted by the Planning Board.

(1) Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.

(2) The Planning Board will review the Major Subdivision Plat taking into account staff reports and the comments of the Town Engineer and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.

B. Submission of Application. Within twelve (12) months after the pre-application conference and the classification of a Sketch Plat as a Major Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Major Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code Enforcement Officer and Planning Board for reclassification. The Major Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. The application shall also conform to the requirements listed in Section 15.11, C.

(1) Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:

a. A complete application form, at least nine (9) copies of the Major Subdivision Plat printed full size, one (1) copy of the Major Subdivision Plat printed on 11” x 17” paper, and a digital copy in .pdf format on a CD or other acceptable device. The applicant may be required to submit additional copies of the application if the Planning Board Chair determines that other officials, agencies, or consultants need to be informed about the project.

b. All copies of the Preliminary Plat shall be clearly marked with the words “Preliminary Subdivision Plat”. The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of the New York State Town Law Article 16, §276 and Section 15.11,C of these regulations, except where a waiver may be specifically authorized by the Planning Board.

c. All documents showing construction details of proposed improvements, any supporting materials or engineering reports and a completed environmental assessment form or, if required, a draft environmental impact statement.

d. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.

(2) The date of submission of the Preliminary Plat shall be considered to be the date on which the Code Enforcement Officer, accepts as complete the Preliminary Plat and all data required by Section 15.11, C hereof. The Code Enforcement Officer shall note the date on the Preliminary Plat.

C. Requirements for Major Subdivision Preliminary Plat Review. Preliminary Plat maps shall include the following information:

(1) The proposed subdivision name; the names of the Town and County in which it is located; the date; a true-north arrow; the map scale; and the names, addresses and phone numbers of all owners of record, the applicant, and the architect, engineer, or surveyor including license number(s) and seal(s).

(2) The names of the owners of record of all adjacent properties.

(3) The zoning district, including exact boundary of districts, where applicable.

(4) All parcels of land proposed to be dedicated to public use and the condition of such dedication.

(5) The locations of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, and wooded areas.

(6) The locations of existing sewers, water mains, culverts, and drains on the property, with pipe sizes, grades, and direction of flow.

(7) Contours with intervals of ten (10) feet or less as required by the Planning Board, including elevations on existing roads, and an approximate grading plan if natural contours are to be changed more than two (2) feet.

(8) The width and location of any streets or public ways or places shown on the Official Map of the Town of Scipio within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.

(9) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in standards established by the Cayuga County Health Department. Show profiles of all proposed water and sewer lines.

(10) All requirements as specified in local laws of the Town of Scipio governing stormwater runoff; a stormwater management plan indicating the approximate location, construction and size of swales; and proposed lines and their profiles. Ramification of connections to existing or alternate means of disposal.

(11) Plans and cross-sections showing the proposed new location and types of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and sub-base; the location of manholes, basins, and underground conduits. New features must comply with the Subdivision Design Standards found in Section 15.22 hereof.

(12) Preliminary designs of any bridges or culverts which may be required.

(13) The proposed lot lines with the approximate dimensions and area of each lot.

(14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width, and which shall provide satisfactory access to an existing public highway or other public open space shown on the subdivision or the Official Map.

(15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked with an approved pin, pipe or monument as approved by the Town Board, and shall be referred to and shown on the plat.

(16) If the application covers only a part of the applicant's holding, a map of the entire tract shall be submitted so that the part of the applicant's holding covered in the application can be considered in the light of the entire holding. This map shall be drawn at a scale of one-inch equals two-hundred feet (1" = 200') and shall show an outline of the platted area with its proposed streets, and an indication of any probable future street system with its grades and drainage in the remaining portion of the tract, and any probable future drainage layout of the entire tract.

(17) A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.

D. Applicant to Attend Planning Board Meeting. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

E. Study of Major Subdivision Preliminary Plat. The Planning Board shall study the practicability of a Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet un-subdivided, and the requirements of the Town of Scipio Comprehensive Plan, the Official Map, and Zoning Regulations.

F. Public Hearing on Major Subdivision Preliminary Plat.

(1) Within 62 calendar days of the Date of Submission of a Preliminary Plat marked as complete by the Code Enforcement Officer, the Planning Board shall hold a public hearing. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage provided by the Planning Board by way of the Code Enforcement Officer and to post it at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) business days prior to the public hearing. The Town shall publish a public hearing notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public 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.

G. Planning Board Approval of Preliminary Plat.

(1) Within 62 calendar days of the date of the public hearing, the Planning Board shall approve with or without modification, or disapprove the Preliminary Plat; and the

grounds for a modification, if any, or the grounds 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 written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Preliminary Plat.

(2) Conditional Approval of Preliminary Plat. When granting approval to a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to:

a. Modifications to the Preliminary Plat.

b. 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, and welfare.

c. The required improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Final Subdivision Plat.

(3) Effect of Approval of Preliminary Plat. Approval of a Preliminary Plat shall not constitute approval of the Final 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 Final Subdivision Plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. When approving a Preliminary Plat, the Planning Board shall state in writing the modifications, if any, it deems necessary for submission of the plat in final form. Within five (5) business days of the approval of such Preliminary Plat, it shall be certified by the Planning Board Chair as having been granted preliminary approval, and a copy shall be filed with the Town Clerk, a certified copy shall be mailed to the owner, and a copy shall be forwarded to the Town Board. Prior to approval of the Final 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.

Section 15.12 - Major Subdivision Final Plat Application

A. Purpose. This step provides for a refinement of information submitted in the Preliminary Plat review procedure through submission of additional information about site design and improvements. This information permits the Planning Board and the Town Engineer to make decisions concerning the appropriateness of the proposed Major Subdivision. Some important considerations include but are not limited to:

(1) Conditions of the preliminary plat approval.

(2) Mitigating measures identified during the environmental review.

(3) Offers of dedication of land for open space and recreation, or of new public roads.

(4) Requirements of involved agencies.

(5) Drainage considerations.

(6) Water metering during construction.

(7) Phasing of the proposed project if the project is to be phased.

(8) Surety for improvements.

B. Submission of Application. Within six (6) months after the approval of a Preliminary Plat, the applicant shall submit an application for approval of a Final Subdivision Plat in final form. If

the Final Subdivision Plat is not submitted for approval within six (6) months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the Final Subdivision Plat and require resubmission of the Preliminary Plat.

(1) Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:

a. A complete application form; at least nine (9) copies of the Final Major Subdivision Plat printed full size; one (1) original paper copy with original signatures and professional seals in ink of the Final Major Subdivision Plat printed full size; one (1) copy of the Final Major Subdivision Plat printed on 11”x17” paper; the original and one (1) copy of all offers of cession, covenants and agreements; two (2) copies printed full size of all construction drawings; and a digital copy in .pdf format of all materials listed above on a CD or other acceptable device.

b. All copies of the Final Plat shall be clearly marked with the words “Final Subdivision Plat”.

c. The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.

(2) Requirements for Major Subdivision Final Plat Review. Final Plat maps shall include the following information:

a. Proposed subdivision name or identifying title and the names of the Town and County in which the subdivision is located; the names and addresses of the owners of record and of the applicant; and the name, license number and seal of the New York State–licensed land surveyor.

b. Road lines, pedestrian ways, lots, reservations, easements, and areas to be dedicated to public use.

c. Data acceptable to the Code Enforcement Officer as sufficient to determine readily the location, bearing and length of every street line, lot line and boundary line and as sufficient to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State Plane Coordinate System, and in any event should be tied to reference points previously established by a public authority.

d. The length and bearing of all straight lines, radii, length of curves, central angles of curves, and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale, and true-north arrow.

e. The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces whose title is reserved by the developer. For any of the latter there shall be submitted with the Final Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.

f. All offers of cession and covenants governing the maintenance of un-ceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

g. Lots and blocks within a subdivision shall be numbered or lettered in alphabetical order in accordance with the prevailing Town practice.

h. Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of a licensed engineer or surveyor. When referred to the State Plane Coordinate System they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town and their location noted and referred to upon the Final Plat.

i. All lot corner markers shall be permanently located in a way satisfactory to a licensed engineer or surveyor.

j. Pins, pipes or monuments of a type approved by the Town Board shall be set at all corners and angle points of the boundaries of the original tract to be subdivided, and at all street intersections, angle points in street lines, points of curve, and such intermediate points as shall be required by a licensed engineer or surveyor.

k. Construction drawings, including plans, profiles and typical cross-sections as required, showing the proposed location, size, and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and sub-base, manholes, catch basins and other facilities.

Section 15.13 - Endorsement of State and County Agencies

A. Applications for approval on plans for sewer or water facilities shall be filed by the applicant with all necessary Town, County, and State agencies. Endorsement and approval by said agencies shall be secured by the applicant prior to official submission of the Final Subdivision Plat for approval by the Planning Board.

Section 15.14 - Required Improvements

A. Surety. Before the Planning Board grants final approval of a Major Subdivision Final Plat, the applicant shall follow the procedure set forth in either Section 15.14, B or Section 15.14, C below.

B. Full Cost Check or Bond. In an amount set by the Planning Board, the applicant shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the applicant shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of the New York State Town Law Article 16, §277, and further shall be satisfactory to the Town Board and Town Attorney 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, shall be set forth in the bond as the time within which required improvements must be completed.

C. Check or Bond for Completion. 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. For any required improvements not so completed, the applicant shall file with the Town Clerk a bond or certified check covering the costs of such improvements. Any such bond shall be

satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.

D. Underground Utilities Map. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by a licensed engineer or surveyor and a map satisfactory to the Code Enforcement Officer has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the applicant completes all required improvements according to Section 15.14, C hereof, then the map shall be submitted prior to endorsement of the plat by the Planning Board Chair. However, if the applicant elects to provide a bond or certified check for all required improvements as specified in Section 15.14, B hereof, such bond shall not be released until such a map is submitted.

Section 15.15 - Public Hearing and Review of Final Plat

A. Within 62 calendar days of the date of submission of a Major Subdivision Final Plat in final form for approval, a public hearing shall be held by the Planning Board. The Town shall publish a public hearing notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing. If, however, the Planning Board deems the final plat to be in substantial agreement with a Preliminary Plat approved under Section 17.11,G hereof; or modified in accordance with the requirements of a conditional approval or approval with modifications, the Planning Board may waive the requirement for such a public hearing.

Section 15.16 - Planning Board Action on Final Plat

A. Prescribed time for Action. The Planning Board action shall be by resolution to conditionally approve with or without modification; disapprove; or grant final approval to and authorize the signing of the plat by the Planning Board Chair. The action is to be taken within 62 calendar days of the public hearing, if one was held, and if no public hearing was held, within 62 calendar days of the date of submission. This time may be extended by written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Final Plat.

B. Conditional Approval. Upon resolution of conditional approval of a Final Plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon completion of such requirements as may be stated in the resolution. Within five (5) business days of such resolution, the plat shall be certified by the Planning Board Chair as conditionally approved, and a copy filed in the Town Clerk's office, and a certified copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved Final Plat.

C. Certification by Planning Board Chair. Upon completion of such requirements, the plat shall be signed by the Planning Board Chair.

D. Expiration of Approval. Conditional approval of a Final Plat shall expire 180 calendar 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 by the circumstances; such extension is not to exceed two (2) additional periods of 90 calendar days each.

Section 15.17 - Final Approval of Subdivision Plat

A. Signature of Planning Board Chair. Upon completion of the requirements in Sections 15.12 through 15.16 hereof and notation to that effect upon the Final Subdivision Plat, the Final Plat shall be deemed to have final approval and shall be properly signed by the Planning Board Chair. The approved Final Plat shall also be signed by the Cayuga County Health Department and the Cayuga County Real Property Office before it may be recorded with the Cayuga County Clerk.

B. Prompt Filing. Any Subdivision Plat that is not filed or recorded within 30 calendar days of the date upon which the plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.

C. Copies of Recorded Plat Submitted to the Town. The applicant shall provide the Town Clerk with three (3) paper copies printed full size and a digital copy in .pdf format on a CD or other acceptable device of the fully endorsed and recorded Final Plat within 30 calendar days of approval and signature by the Planning Board Chair. If the required paper and digital copies of the recorded final plat map(s) have not been submitted within the designated 30 calendar days, the Code Enforcement Officer will not review or issue a building permit until the Town has received the appropriate copies of the recorded final subdivision plat map(s).

D. Plat Void if Altered After Approval. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is first resubmitted to the Planning Board and the Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

Section 15.18 - Modification of Design Improvements

A. If, at any time during the construction of required improvements, it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary to modify the location or design of the required improvements, the Code Enforcement Officer may, upon approval by the Planning Board Chair, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Code Enforcement Officer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

Section 15.19 - Inspection of Improvements

A. Inspection Fee. At least five (5) business days prior to commencing construction of required improvements, an applicant shall pay to the Town Clerk the inspection fee required by the Town and shall notify the Code Enforcement Officer in writing of the time when the applicant proposes to commence construction of the improvements, so that the Code Enforcement Officer may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

B. Proper Installation of Improvements. If the Town Engineer finds, upon inspection of the improvements performed before the expiration date of a performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications

filed by the applicant, the engineer shall so report to the Code Enforcement Officer and Planning Board. The Town then shall notify the applicant and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No additional Subdivision Plat shall be approved by the Planning Board as long as the applicant is in default on a previously approved Subdivision Plat.

Section 15.20 - Public Streets and Recreation Areas

A. Public Acceptance of Roads. The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on the Subdivision Plat.

B. Ownership and Maintenance of Recreation Areas. When a park, playground, or other recreation area has been shown on a Subdivision Plat, approval of the plat shall not constitute an acceptance by the Town of the recreation area. The Planning Board shall require the plat or licensed survey map to be endorsed with approved and appropriate restrictions and disclaimers to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

Section 15.21 - Cluster Subdivisions

A. Purpose. The Town Board of the Town of Scipio finds that the topography and environmental sensitivities of certain parcels in the Town do not lend themselves to the conventional development as designated by their current zoning. Therefore, the purpose of this Section is to enable and encourage flexibility of design in housing and the development of land in such manner as to permit the most appropriate use of land, to preserve the natural, scenic and ecological qualities of environmentally sensitive areas and to provide larger areas of open space, both for recreation and for environmental conservation purposes pursuant to the provisions of New York State Town Law Article 16, §278.

B. Objectives. Among the objectives which should be achieved through the use of clustered housing are the following:

(1) The creative use of land so as to establish a more desirable living environment than would be possible through the strict application of certain Town zoning standards.

(2) The preservation of surface water, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography and glaciated features. Other areas to be preserved include areas of scenic and ecological values, including open spaces and other environmentally sensitive areas.

(3) To prevent soil erosion, minimize negative environmental impacts and control development in flood hazard areas.

(4) To encourage innovation through flexibility in design and layout of residential housing consistent with the intent of this Article by permitting housing units to be clustered without increasing overall site density.

(5) To permit housing developments that reflect the legislative intent of New York State Town Law Article 16, §278.

(6) To create housing development that is in harmony with the character of the area and the environmental sensitivities of the site.

C. Statutory Authority and Conditions. In accordance with New York State Town Law Article 16, §278, the Town Board authorizes the Planning Board to approve Cluster Subdivisions simultaneously with the approval of a plat or plats in the Agricultural/Residential District (ARD), Hamlet District (HD), and Waterfront District (WD) of the Town of Scipio; and to grant variations to the dimensional standards (area) of the Zoning Ordinance, concurrent with the approval of plats for Cluster Subdivision subject to the conditions set forth in New York State Town Law Article 16, §278. The Planning Board is also authorized, at its discretion, to require the owner to submit an application for Cluster Subdivision subject to criteria established by this Article whether or not the owner makes application for a Cluster Subdivision project.

D. Conditions.

(1) A Cluster Subdivision shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning regulations applicable to the district or districts in which such land is situated and conforming to all other applicable requirements; provided, however, that where the plat falls within two or more contiguous districts, the Planning Board may approve a Cluster Subdivision representing the cumulative density as derived from the summing of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts.

(2) Project density shall be based only upon the amount of usable land which is available for development. In computing the usable or developable land any land situated in a flood hazard area; having slopes in excess of 15%; officially designated freshwater wetlands; lands occupied by public utilities, structures, drainage control areas or rights-of-way; or otherwise unsuitable for development shall not be considered part of the gross area.

(3) The Planning Board as a condition of plat approval may establish such conditions on the ownership, use, and maintenance of such open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands. The Town Board may require that such conditions shall be approved by the Town Board before the plat may be approved for filing.

(4) The plat showing the Cluster Subdivision shall include, in addition to information identified during a pre-application conference in accordance with Section 15.08 and Section 15.11, the areas within which structures may be located; the height and spacing of buildings; open spaces and their landscaping; off-street open and enclosed parking spaces; streets and driveways; and any other features required by the Planning Board. The dwelling units permitted may, at the discretion of the Planning Board, be in detached, semi-attached, or attached structures.

E. Maintenance of Open Lands.

(1) Intent. Open spaces are an inherent part of Cluster Subdivisions, therefore the Town must take special measures for the protection and regulation of these areas and to provide for a system of their permanent maintenance.

(2) Submission requirements. At the Preliminary Plat stage, the developer shall submit a detailed proposal for maintenance of common lands and/or open spaces. The Planning Board may approve or approve with conditions any plans for maintenance of common

areas and/or open spaces. Any conditions imposed for maintenance of open space and/or common lands shall become part of the conditions for Final Plat approval.

(3) Dedication of lands. If the open spaces are to be offered for dedication to the Town, the Planning Board shall refer such offers and related details to the Town Board for the necessary action prior to Final Plat approval.

(4) Property owners' association. If open spaces are not to be dedicated to the Town, the applicant must create a property owners' association and receive approval of the Office of the New York State Attorney General pursuant to state law.

F. Alternative Means of Maintenance of Open Lands. The following methods will be considered alternate means to maintain open spaces:

(1) In the case of single ownership of the Cluster Subdivision by a sole owner, partnership, corporation or other legal means, deed restrictions protecting open spaces from further development may be submitted to the Town Attorney for review and to the Town Board for acceptance.

(2) Any alternative methods for protection and preservation of open lands and common areas shall be submitted at the Preliminary Plat stage to the Planning Board for review and subsequent approval by the Town Board. All alternate proposals shall be submitted to the Town Attorney for review and comment. The Planning Board or Town Board may require any additional information it deems necessary to conduct an adequate review of the alternate proposals.

G. Review Procedure. The review, approval process, and information requirements for a Cluster Subdivision shall be conducted pursuant to the Major Subdivision process procedures in Section 15.11 through Section 15.17 hereof.

(1) Notice and public hearing. The proposed Cluster Subdivision shall be subject to review at a public hearing or hearings held pursuant to the requirements for Major Subdivision approval as set forth in Section 15.11 through Section 15.17 hereof.

(2) Filing of plat. The filing of an approved Cluster Subdivision plat shall be in accordance with Section 15.17 hereof.

(3) Effect. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Town of Scipio Zoning Ordinance or any Local Law applicable to such lands.

Section 15.22 - General Requirements and Design Standards

A. In considering applications for subdivision of land, the Planning Board shall be guided by the following principles and the standards set forth in Sections 15.22,B through 15.22,M hereof. These standards shall be considered minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Section 15.23 hereof. In addition, the following criterion shall be followed:

(1) Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.

(2) Agricultural Viability. The layout of the subdivision presents no apparent impediments to the continuation of viable agricultural activity when the proposed subdivision is

located within a portion of the Town of Scipio included in an Agricultural District established under NYS Agriculture and Markets Law.

(3) Efficient Use of Land. The layout of the subdivision would establish lots that make efficient use of land by avoiding lot layouts which are excessively long and narrow, minimize the number of access points (driveways) to the public road network, and minimize the need to alter the physical and natural features of the site.

(4) Conformity with the Town of Scipio Official Map and Comprehensive Plan. Subdivisions shall conform to the Official Map of the Town of Scipio and shall be in harmony with the Town of Scipio Comprehensive Plan.

(5) Specifications for Required Road Improvements. All required improvements shall be constructed or installed to conform to the Town of Scipio highway and drainage design standards. Further specifications and consultation may be obtained from the Town Highway Superintendent.

B. Road Considerations.

(1) Statement of Acceptance. All roads that are to be dedicated as public roads must comply with the standards set forth in this document. All access roads that are not to be dedicated as public roads must comply with the New York State Town Law, Article 16, §280, §280a, and §281. Roads will be accepted only if they are free and clear of all liens, encumbrances, easements, and rights-of-way. A written statement of acceptance must be filed by the Town Highway Superintendent and the Town Attorney before any road shall be accepted by the Town Board. New curb-cuts (driveway or roadway openings) onto all County routes shall be reviewed by the Cayuga County Highway Superintendent and approved prior to installation and approval for acceptance by the Town.

(2) Width, Location, and Construction. Roads shall be sufficiently wide, suitably located, and adequately constructed to conform to the Town of Scipio Official Map and to accommodate the prospective traffic and afford access for firefighting, snow removal, and other road-maintenance equipment. The arrangement of roads shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

(3) Arrangement of Roads. The arrangement of roads in a subdivision shall provide for the continuation of principal streets of adjoining subdivisions; and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water lines, and drainage facilities. Subdivisions containing 20 lots or more shall have at least two (2) street connections with existing public streets, or streets shown on the Official Map, if such exist, or streets on an approved Subdivision Plat for which a bond has been filed. Where, in the determination of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified. The Planning Board may require the reservation of a 20-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street.

(4) Minor Roads. Minor roads shall be laid out so that their use by through traffic will be discouraged.

(5) Loop Residential Roads and Circle Drives. The creation of loop residential roads will be encouraged wherever the Planning Board finds that such roads are needed or desirable. Circle drives create problems for snow plowing and are discouraged.

(6) Dimensions of Blocks. Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4)-foot-wide paved foot path be included.

C. Road Design. All roads shall be designed and constructed in accordance with the Town of Scipio Highway and Drainage Standards.

D. Further Road Improvements, Including Hydrants and Lighting. Roads may require curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions and in consultation with the Town Highway Superintendent or an Engineer designated to the project by the Town, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare.

(1) Fire hydrants shall conform to all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York and the Town of Scipio specifications or laws for public water service.

(2) Lighting facilities shall be in conformance with Section 7.02 of this Zoning Ordinance. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Town representative designated as an electrical inspector.

E. Utilities. The Planning Board shall require that utilities be placed in the road right-of-way between the paved roadway and road line to simplify location and repair of lines when they require attention. The applicant shall install service connections to the property line of each lot within the subdivision for such required utilities before the road is paved. Where topography is such as to make impractical the inclusion of utilities within the road rights-of-way, perpetual unobstructed easements at least 20-feet in width shall be otherwise provided with satisfactory access to the road. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.

F. Watercourses. Where a watercourse separates a proposed road from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent or an Engineer designated to the project by the Town. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Highway Superintendent or an Engineer designated to the project by the Town, which in no case shall be less than 20-feet in width.

G. Service Roads. Paved rear service roads of not less than 20-feet in width, or in lieu thereof adequate off-road loading space, surfaced with a suitable, dust-free material, shall be provided in connection with lots designed for commercial use.

H. Road Names. All road names shown on a Preliminary Plat or Subdivision Plat shall be approved by the Planning Board. In general, roads shall have names and not numbers or letters. Proposed road names shall be substantially different so as not to be confused in sound or spelling with present names in this or nearby municipalities, except that roads that join or are in alignment with roads of an abutting or neighboring property shall bear the same name. Generally, no road should change direction sharply or at a corner without a change in name. Before any road name is approved by the Town, the Town shall provide the proposed name to the Cayuga County 911 GIS Coordinator so that it can be checked against the list of names within the existing County database to ensure that there will be no confusion as to the unique identity and location of the proposed road name within the Town and nearby municipalities.

I. Considerations for Lots.

(1) Lots shall be buildable. The lot arrangement shall be such that in constructing a building in compliance with the zoning regulations, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots approved in a subdivision cannot be further divided.

(2) Side Lines. All side lines of lots shall be at right angles to straight road lines and radial to curved road lines, unless a variance from this rule will give a better road or lot plan.

(3) Corner Lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site, and to avoid obstruction of free visibility at the roadway intersection.

(4) Driveway Access. Driveway access and grades shall conform to the Town of Scipio highway and drainage design standards; and shall be approved by the Town Highway Superintendent or an Engineer designated to the project by the Town.

(5) Access from Private Roads. Access from private roads shall be deemed acceptable only if such roads are designed and improved in accordance with these regulations.

(6) Monuments and Lot Corner Markers. Monuments and lot corner markers shall be permanent monuments meeting specifications approved by the Town Board as to size, type and installation; they shall be set at such block corners, angle points, points of curves in streets and other points as the Town Highway Superintendent or an Engineer designated to the project by the Town may require; and their location shall be shown on the Subdivision Plat.

J. Drainage Improvements.

(1) Drainage Design Standards. All subdivisions shall provide drainage improvements designed in accordance with the Town of Scipio highway and drainage design standards. Further specifications and consultation may be obtained from the Town Highway Superintendent.

(2) Stormwater Run-off. All subdivisions are subject to all New York State and local laws governing stormwater runoff.

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

K. Parks, Open Spaces, and Natural Features.

(1) Open Space to Be Shown on Plat. Where a proposed park, playground, or open space shown on the Official Map is located in whole or in part in a subdivision, the Planning Board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Section 15.10, C, and Section 15.11, C hereof. Such area or areas may be dedicated to the own by the applicant if the Town Board approves such dedication.

(2) Parks and Playgrounds not shown on Town Plans. The Planning Board shall require that a plat show sites of a character, extent, and location suitable for the development of a park, playground, or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat. The Board shall require that not less than two (2) acres of recreation space be provided for every fifty (50) dwelling units, or fraction thereof, shown on the plat. However, in no case shall the Board require more than ten (10) percent of the total area to be set aside in the subdivision. Such area or areas may be dedicated to the Town by the applicant if the Town Board approves such dedication.

(3) Information to be Submitted. In the event that an area to be used for a park or playground is required to be so shown, the applicant shall, prior to final approval, submit to the Planning Board at least nine (9) copies printed full size, one (1) copy printed on 11”x17” paper, and one digital copy in .pdf format on a CD or other acceptable device, showing, at a scale not smaller than 1:300, such area and the following features thereof:

a. The boundaries of the area, giving metes and bounds of all straight lines, radii, lengths, central angles and tangent distances of all curves.

b. Existing features such as brooks, ponds, clusters of trees, rock outcrops and structures.

c. Existing, and, if applicable, proposed changes in grade and contours of the area and of areas immediately adjacent.

L. Reserve Strips. Reserve strips of land which might be used to control access from a proposed subdivision to any neighboring property, or to any land within the subdivision itself, shall be prohibited.

M. Preservation of Natural Features. Wherever practical, natural features of the property being subdivided shall be preserved.

(1) To the fullest extent practicable, all existing trees and shrubbery shall be preserved by the applicant. The subdivision should be designed with consideration being given to the preservation of natural features. Precautions shall be taken during the process of grading the lots and roads.

(2) Where any land other than that included in public rights-of-way is to be dedicated to the public use, the developer shall not remove any trees from the site without written Town Planning Board approval.

(3) Where a subdivision is traversed by natural surface water, the boundaries and alignment of the body of water shall be preserved unless the Planning Board finds that a change would be ecologically sound and would enhance the development and beauty of the project. All proposed changes in the boundaries of bodies of water shall be designed and

approved in accordance with Article 15 of the New York State Environmental Conservation Law.

(4) Every effort should be taken by the applicant in designing a project to preserve unique physical features, such as historic landmarks and sites, rock outcroppings, hilltop lookout, desirable natural contours, and similar natural features.

Section 15.23 - Waiver of Certain Improvements

A. Where the Planning Board finds that, due to special circumstances of a particular plat, the provision of certain required improvements is not requisite to the interest of the public health, safety, and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, the Board may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Town of Scipio Comprehensive Plan, or the Zoning Ordinance.

B. In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

ARTICLE XVI
Administration

Section 16.01 - Conformance Required

A. No building or land shall be used or occupied and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein set forth for the district in which it is located.

B. No application for a land use permit, Site Plan, Special Permit, Subdivision, Interpretation of any law, rule, ordinance or regulation, Zone Change, Map Amendments or Variances shall be accepted where there are existing violations or delinquent real estate, School, Town or County taxes assessed against the subject property and/or fees imposed by local law, except where such application is intended to cure the violations. Additionally, proof that all local, state and federal regulations and permits have been complied with or obtained shall be submitted as part of the application.

Section 16.02 - Code Enforcement Officer Powers and Duties

A. The provisions of this Ordinance shall be administered and enforced by the Code Enforcement Officer who shall be appointed by the Town Board. The Code Enforcement Officer shall have the duty and power to:

(1) Maintain a map showing the current zoning classification of all land.

(2) Receive and examine all applications for Zoning and Building Permits.

(3) Receive and refer applications for Special Use Permits, Site Plans, and Subdivisions to the Planning Board for their review and approval.

(4) Issue zoning permits, Certificates of Compliance, and certification of occupancy only when there is compliance with the provisions of this Ordinance and with other Town Ordinances provided, however, the issuance of a Zoning Permit shall not be deemed a waiver of the requirements of any Town Ordinance.

(5) Following refusal of a permit, to receive applications for appeals from alleged error of the Code Enforcement Officer and variances and forward these applications to the Zoning Board of Appeals for action thereon.

(6) Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance.

(7) Receive, review, and take action on zoning ordinance violation complaints submitted by residents; business owners or employees; or the Town Board, Planning Board, or Zoning Board of Appeals. All complaints shall be submitted in writing to the Town Clerk on the form provided by the Town available at Town Hall or on the Town's website. The Town Clerk shall forward all complaints to the Code Enforcement Officer within ten (10) business days of receipt and the Code Enforcement Officer shall investigate all complaints within ten (10) business days of receipt from the Town Clerk.

(8) Cause any plans, structures or premises to be examined or inspected to determine compliance with the provisions of this Ordinance. In the fulfillment of these duties, they shall be authorized to enter any premise or structure at a reasonable time and upon reasonable notice to determine whether or not the same is in violation of this Ordinance and may impose such reasonable conditions including but not limited to the posting of securities as may be deemed necessary to ensure compliance.

(9) Revoke by order, a zoning permit issued under a mistake of fact or contrary to the law or the provisions of this Ordinance.

(10) For violations of this Ordinance:

a. Notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action to correct it.

b. Order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work or discontinuance of any illegal work being done; or

c. Take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

(11) On the serving of the notice by the CEO to the owner of any property in violation of any of the provisions of this Ordinance, the certificate of occupancy for such structure or use shall be held null and void. A new certificate of occupancy shall be required for any further use of such structure or premises.

(12) Issue appearance tickets pursuant to authorized sections of the New York State Criminal Procedure Law and exercise such other powers and duties authorized by State Law.

(13) Submit an annual report to the Town Board listing all applications received, inspections made, referrals and action taken on each. Copies of this report shall be transmitted to the Zoning Board of Appeals and Planning Board at the same time.

(14) Provide the Zoning Board of Appeals, in writing, with all facts pertaining to the refusal to issue development permits and certificates when such information is requested by the Board. For denied development permits provide, in writing, the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.

(15) Upon the request of the Town Board, the Planning Board or the Zoning Board of Appeals, shall present to such bodies facts, records, or reports which they may request to assist them in making decisions.

Section 16.03 - Zoning Permits

A. No structure shall be erected, constructed, extended, or moved and no land use or building occupancy change shall occur until a Zoning Permit has been secured from the Code Enforcement Officer. Upon completion or changes in use or construction, reconstruction, extension, or moving of structures, the applicant shall notify the Code Enforcement Officer of such completion.

B. No permit shall be considered as complete or as permanently effective until the Code Enforcement Officer has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Law.

C. Zoning Permits shall not be required for general maintenance work, painting, clearing woodlands, tilling the soil, raising animals, landscaping, or steps, and other similar features. However, all such activities shall abide by the requirements of this Ordinance.

D. Zoning Permits shall be issued with a one (1) year life, renewable for two (2) consecutive years, provided, however, that if the work is not commenced within six (6) months after the issuance of the Zoning Permit, the permit shall automatically expire and a new permit shall be required before such work or change in uses commences.

E. Application Requirements for Zoning Permits.

(1) All applications for Zoning Permits shall be made in writing by the owner, tenant, vendee under contract for sale, or authorized agent on a form supplied by the Town, and shall be filed with the Code Enforcement Officer. The applicant shall:

a. Include a statement as to the proposed use of the building or land.

b. Include a site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses and any existing buildings in relation to property and street lines.

c. Include the number, location, and design of parking spaces and loading spaces if applicable.

d. Include the size, dimensions, location, and methods of illumination for signs, if applicable.

e. Include any additional plans and information reasonably necessary for the Code Enforcement Officer to ascertain whether the proposed use, change in use, erection, alteration, or addition complies with the provisions of this Law.

(2) A permit for any new use or construction which will involve the on-site disposal of sewage or waste, or a change in use or an alteration which will result in an increase in the number of bedrooms in a dwelling unit or an increased volume of sewage or waste to be disposed of on the site, or which will require a new or modified water supply, shall not be issued until a certificate of approval has been issued by the Cayuga County Health Department.

F. Issuance of Zoning Permits.

(1) Zoning Permits shall be granted or refused within twenty (20) business days after the completed written application has been filed with the Code Enforcement Officer except as provided elsewhere in this Law. Upon completion of the activity authorized by the Zoning Permit, the holder of such permit shall notify the Code Enforcement Officer.

(2) All applications with accompanying plans and documents shall become, and be preserved as, a public record, subject to disposition of the Town Board.

Section 16.04 - Special Provisions for Issuance of Permits in Flood Hazard Areas

A. When reviewing applications for Zoning Permits in areas of any district designated as flood hazard areas by the National Flood Insurance Program, the Code Enforcement Officer shall, in addition to the regular duties, act as the Floodplain Administer, and determine if the proposed development is consistent with the need to minimize flood damage.

B. The Code Enforcement Officer, in reviewing all applications for construction in flood hazard locations within the Town, shall require that any such proposed construction shall:

(1) Be designed and anchored to prevent the flotation, collapse, or lateral movement of the structure or portions of the structure due to flooding.

(2) Use construction materials and utility equipment that are resistant to flood damage.

(3) Use construction methods and practices that will minimize flood damage.

(4) Provide adequate drainage in order to reduce exposure to flood hazard.

(5) Locate public utilities and facilities, including sewer, gas, electrical, and water systems, on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage.

(6) Provide a topographic survey showing the proposed structures and their elevations.

Section 16.05 - Certification of Occupancy

A. No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy or certificate of completion has been issued by the Code Enforcement Officer stating that the building(s) or proposed use thereof complies with the provisions of this Ordinance.

(1) Certificates of Occupancy.

a. No structure hereafter erected shall be used and no land shall be used or changed in use until a certificate of occupancy therefore has been issued by the CEO.

b. No structure hereafter altered shall continue to be used for more than thirty (30) days after the alteration is completed unless a certificate of occupancy shall have been issued by the CEO.

c. Except upon a written order of the Board of Appeals, no certificate of occupancy shall be issued for any structure or use that would be in violation of any of the provisions of this Ordinance.

d. Applications for certificates of occupancy shall be made upon such forms and shall be accompanied by such layout or plot plans as shall be prescribed by the CEO to facilitate enforcement of this Ordinance in conjunction with the New York State Building Code, as amended.

Section 16.06 - Fees

A. The applicant, at the time of application for a Zoning Permit, shall pay to the appropriate Town Official the fee for said permit as established by the Town Board by resolution. All fees are non-refundable. All fees shall be established by the Town Board by resolution in the Town of Scipio Fee Schedule.

Section 16.07 - Violations

A. In the case that any building or structure is erected, constructed, reconstructed, altered, or converted, or any building, structure; or land is used in violation of this Ordinance, the proper local authorities of the Town, in addition to other remedies agencies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises; and upon the failure or refusal of the proper local officer, board, or body of the Town to institute any such appropriate action or proceeding for a period of ten (10) business days after written request by a resident taxpayer of the Town so to proceed, any three (3) taxpayers of the Town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board, or body of the Town is authorized to do.

Section 16.08 - Fines and Penalties

A. Unless otherwise stated, a violation of this Ordinance shall be an offense punishable by a fine not to exceed $500 or by imprisonment for a period not to exceed ten (10) days, or both. Each day's continued violation shall constitute a separate, additional violation. For any and every violation of the provisions of this Ordinance, the following shall be liable, upon conviction thereof:

(1) The owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist;

(2) The owner, general agent, contractor, lessee, or tenant of any part of a building or premises in which part such violations have been committed or shall exist;

(3) The general agent, architect, building contractor, or any other person who knowingly commits, takes part, or assists in any such violation, or who maintains any building or premises in which any such violation shall exist.

ARTICLE XVII
Boards

Section 17.01 - Town Board

A. Powers and Duties. In addition to the jurisdiction conferred on it by other provisions of the regulations of the Town and New York State Law, the Town Board shall have the following powers and duties.

(1) Text amendments. In accordance with New York State Law, the Town Board shall be responsible for reviewing text amendment to this Ordinance and for taking final action to approve, approve with modifications or deny such proposed amendments.

(2) Map amendments. The Town Board shall be responsible for reviewing map amendment (rezoning) applications and for taking final action to approve, approve with conditions or deny such applications.

Section 17.02 - Planning Board

A. Establishment of a Planning Board.

(1) The Town Board authorizes the creation of a five-member Planning Board pursuant to § 271 of the New York State Town Law. The members of the Planning Board shall be appointed by the Town Board for terms of five years. Terms of all Planning Board members shall be staggered as required by law.

(2) Board Composition. All members of the Planning Board shall be residents of the Town of Scipio and shall not be officers or employees of the Town or any of its agencies or departments.

(3) Chairperson and Vice Chairperson. The Town Board shall appoint one (1) of the Planning Board members as Chairperson, to preside at all meetings and hearings and to fulfill the customary functions of that office. The Chairperson shall annually appoint one (1) of the members as Vice Chairperson.

a. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Board.

(4) Two alternate members of the Planning Board may be appointed by the Town Board for terms of five years. All provisions of state law relating to Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Planning Board.

(5) The Chairperson of the Planning Board may designate one or more alternate members of the Planning Board to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member of the Planning Board is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Planning Board. When so designated, the alternate member of the Planning Board shall possess all the powers and responsibilities of a member of such Board.

(6) Vacancies. Vacancies on the Planning Board shall be filled by the Town Board.

B. Removal of Members.

(1) Any member of the Planning Board may be removed for cause by the Town Board at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public meeting. Cause for removal of a member may include one or more of the following:

a. Any undisclosed or unlawful conflict of interest;

b. Any violation of the codes, ordinances or rules applicable to the member's performance of their duties;

c. Any unwillingness or inability to carry out their duties in a prompt, conscientious and competent manner;

d. Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing their duties or any other specific conduct of the member found by the Town Board to be detrimental to the proper functioning of the Board;

e. Members may be removed from the Planning Board if they miss thirty-three (33%) percent of the meetings during the course of one (1) calendar year, miss three (3) consecutive meetings or do not meet their mandatory training requirements.

C. Rules, Expenses, and Required Training.

(1) The Planning Board may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Planning Board.

(2) The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses, including the means for the Planning Board to maintain a written record of its meetings and public hearings.

(3) The Town Board shall require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Planning Board members for appropriate expenses incurred in obtaining such training or continuing education.

D. Powers and Duties. The duties of the Planning Board are to:

(1) Prepare, review and/or recommend revisions to the Comprehensive Plan for the development of the Town as provided under § 271 of New York State Town Law and/or Town Board resolution.

(2) Review and comment on all proposed zoning amendments before referral to the County Planning Board.

(3) Conduct site plan review as authorized by § 274-a of New York State Town Law and prescribed in Article XIV of this Ordinance.

(4) Review and approve Special Use Permits as authorized by § 274-b of New York State Town Law and prescribed in Article V of this Ordinance.

(5) Review and approve the subdivision of parcels as authorized by §§ 276, 277, 278, 279, 280 and 280-a of the New York State Town Law and prescribed in Article XV of this Ordinance.

(6) Render assistance to the Zoning Board of Appeals at its request.

(7) Research and report on any matter referred to it by the Town Board.

(8) Make investigations, maps, reports, and recommendations in any matter related to planning and development as it seems desirable providing expenditures of the Planning Board do not exceed the budget appropriations for the Planning Board.

(9) All such powers and duties as are conferred upon the Planning Board and subject to the limitations set forth in §§ 271, 272-a, 273, 274-a, 276, 277 and 278 of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to town planning boards.

E. Meetings.

(1) The Planning Board shall hold regularly scheduled meetings, provided there are meeting agenda items for Planning Board consideration, and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three or more members.

(2) The presence of three (3) members of the Planning Board shall constitute a quorum which shall be necessary to act on any matter before the Planning Board. The concurring vote of at least three (3) members shall be necessary for any action by the Board, subject to state law.

(3) All votes of the Planning Board shall be taken by roll call.

(4) Planning Board decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 19.03 herein.

(5) In accordance with § 74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Planning Board having a conflict of interest shall abstain from any discussion or voting on that matter.

(6) The Planning Board may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.

(7) The Planning Board may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.

(8) All meetings of the Planning Board shall be open to the public.

(9) The Planning Board shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Secretary to the Planning Board.

(10) Planning Board Secretary and Public Record. The Planning Board Secretary shall attend all its proceedings and, upon request, the proceedings of any of its Committees. The Secretary shall provide for the keeping of the record of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board. The Town Clerk shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

(11) Conflicts. No member of the Planning Board shall participate in the hearing or disposition of any matter in which they have an economic interest. Any conflict of

interest prohibited by Article 18 of the General Municipal Law shall disqualify a member.

F. Decisions and recommendations.

(1) Decisions. The Planning Board may rely on the personal knowledge of its members, testimony at the public hearings, on its inspections of the property and on any reports available to it. Every decision of the Planning Board shall be by resolution and shall expressly set forth any limitations or conditions imposed or use authorized.

(2) Final Decision. All decisions of the Planning Board shall occur at a meeting open to the public and shall state any special circumstances or conditions. Decisions of the Board shall be final upon adoption of the minutes and/or resolution of Planning Board by a majority of the members of the Planning Board and the filing of the minutes and/or resolution with the Office of the Town Clerk, whichever shall occur first.

(3) Failure to Act. In any case where this Ordinance provides that the failure of the Planning Board to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision.

a. Where no decision is made by the Planning Board and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

(4) Notification of Decision. Within five (5) business days following the final decision on such applications, the Secretary shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Town Clerk. However, any failure to provide such notice shall not affect such decision. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.

(5) Appeals. An appeal from any final decision of the Planning Board may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, Code Enforcement Officer or board of the Town in accordance with Article 78 of the New York Civil Practice Law and Rules.

(6) Dismissal of application. In addition to other decision options available, the Planning Board may dismiss any application pending before it, if the Board in its discretion, reasonably exercised, determines that the application has not been or is not being actively pursued and moved forward by the applicant. Any such dismissal may be without prejudice, as may be determined by the Board.

G. Conditions of Approval.

(1) A violation of a condition imposed pursuant to this Ordinance shall be deemed a violation of this Ordinance and shall be an offense punishable pursuant to Section 16.08.

Section 17.03 - Zoning Board of Appeals

A. Establishment of a Zoning Board of Appeals.

(1) The Town Board authorizes the appointment of a five-member Zoning Board of Appeals pursuant to § 267 of New York State Town Law. The members of the Zoning Board of Appeals shall be appointed by the Town Board for terms of five years. Terms of all Zoning Board of Appeals members shall be staggered as required by law.

(2) Board Composition. All members of the Zoning Board of Appeals shall be residents of the Town of Scipio and shall not be officers or employees of the Town or any of its agencies or departments.

(3) Chairperson and Vice Chairperson. The Town Board shall appoint one (1) of the Zoning Board of Appeals members as Chairperson to preside at all meetings and hearings and to fulfill the customary functions of that office. The Chairperson shall annually appoint one (1) of the members as Vice Chairperson.

a. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Board.

(4) Two alternate members of the Zoning Board of Appeals may be appointed by the Town Board for terms of five years. All provisions of state law relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility in office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Zoning Board of Appeals.

(5) The Chairperson of the Zoning Board of Appeals may designate an alternate member of the Zoning Board of Appeals to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Zoning Board of Appeals. When so designated, the alternate member of the Zoning Board of Appeals shall possess all the powers and responsibilities of a member of such Board.

(6) Vacancies. Vacancies on the Zoning Board of Appeals shall be filled by the Town Board.

B. Removal of Members.

(1) Any member of the Zoning Board of Appeals may be removed for cause by the Town Board at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public meeting. Cause for removal of a member may include one or more of the following:

a. Any undisclosed or unlawful conflict of interest;

b. Any violation of the codes, ordinances or rules applicable to the member's performance of their duties;

c. Any unwillingness or inability to carry out their duties in a prompt, conscientious and competent manner;

d. Any conduct tending to cast doubt upon the integrity or objectivity of the member in performing their duties or any other specific conduct of the member found by the Town Board to be detrimental to the proper functioning of the Board.

e. Members may be removed from the Zoning Board of Appeals if they miss 33 percent of the meetings during the course of one (1) calendar year, miss three (3) consecutive meetings or do not meet their mandatory training requirements.

C. Rules, expenses, and required training.

(1) The Zoning Board of Appeals may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by such Board.

(2) The Town Board shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses, including the means for the Zoning Board of Appeals to maintain a written record of its meetings and public hearings.

(3) The Town Board shall require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Zoning Board of Appeals members for appropriate expenses incurred in obtaining such training or continuing education.

D. Powers and Duties.

(1) The Zoning Board of Appeals shall have appellate jurisdiction with regard to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. The Zoning Board of Appeals shall decide any question involving the interpretation of such provisions as more fully described in this section. Where a proposed site plan, special use permit, or subdivision contains one or more dimensional features which do not comply with this Ordinance, application may be made for an area variance without the necessity of an order, requirement, decision, interpretation, or determination by the Code Enforcement Officer. The duties of the Zoning Board of Appeals are to:

a. Reversing or affirming orders, requirements, decisions, interpretations, and determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer and to that end shall have all the powers of the Code Enforcement Officer.

b. Granting area or dimensional variances.

1. The Zoning Board of Appeals shall have the power, on appeal from a decision or determination of the Code Enforcement Officer, to grant area variances as defined herein. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination and in accordance with § 267-b of New York State Town Law, the Zoning Board of Appeals shall also consider:

(A) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by 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.

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

3. The Zoning Board of Appeals shall, in the granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of this Ordinance, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

c. Granting use variances.

1. The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use variances as defined herein.

2. No such use variance shall be granted by the Zoning 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 and in accordance with § 267-b of New York State Town Law, the applicant shall demonstrate to the Zoning Board of Appeals that:

(A) Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;

(B) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(C) The requested use variance, if granted, will not alter the essential character of the neighborhood; and

(D) The alleged hardship has not been self-created.

3. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. If the review of an agricultural data statement was required pursuant to Article 25-AA, § 305-a, of the New York State Agriculture and Markets Law, the Zoning Board of Appeals shall evaluate and consider the agricultural data

statement in its review of the possible impacts on the functioning of farm operations in the agricultural district.

4. The Zoning Board of Appeals shall, in the granting of a use variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the zoning regulations contained in this Ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

(2) Procedures for processing zoning appeal.

a. Each order, requirement, decision, interpretation, or determination of the Code Enforcement Officer shall be filed in the office of the Town Clerk within five (5) business days from the day it is rendered. An appeal shall be taken within 60 calendar days after the filing of any order, requirement, decisions interpretation, or determination of the Code Enforcement Officer and shall be filed at least ten (10) business days prior to the scheduled meeting of the Zoning Board of Appeals. All appeals shall be in writing, on forms established by the Zoning Board of Appeals, which shall be available from the Code Enforcement Officer and shall specify the grounds for the appeal and the relief sought. Any appeal for an area variance shall be accompanied by a site plan prepared in accordance with the site plan requirements specified in Article XIV of this Ordinance. Any appeal for a use variance for property within an Agricultural District containing a farm operation or for property with boundaries within 500 feet of a farm operation located in an Agricultural District, shall include an agricultural data statement with the application. If an agricultural data statement is required, the Zoning Board of Appeals shall mail, via registered mail, written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.

b. Every appeal shall refer to the specific provision of the Zoning Article(s) involved and establish the details of why the order, requirement, decision, interpretation and/or determination of the Code Enforcement Officer should be reversed or why a variance should be granted and shall address the considerations described in Section 17.03, D, (1) herein if the appeal is for a variance.

c. Upon receipt of the completed appeal form and the agricultural data statement, if required, the Zoning Board of Appeals shall:

1. Schedule a public hearing.

2. Arrange for publication of notice of the public hearing as described in Section 17.07, D, (3) herein.

3. Refer the application to the County Planning Board in accord with Article 12-B, § 239-m, of the New York State General Municipal Law, if the subject property is within 500 feet of the boundary of any county, town, village, existing or proposed county or state park, any right-of-way of any county or state road or parkway, any stream or canal owned by the county, and existing or proposed county- or state-owned land on which a public building or institution is situated.

4. Determine whether a draft environmental impact statement should be required.

d. Within 62 calendar days following the public hearing, the Zoning Board of Appeals shall render a decision or, if the parties have agreed to a time extension, within such time extension.

(3) Public hearing and Zoning Board of Appeals decision.

a. Public hearings shall be scheduled within 62 calendar days from the date that the Zoning Board of Appeals receives the appeal. Any such appeal shall be deemed received when the appeal is first presented at a duly called meeting of the Zoning Board of Appeals. The Town shall publish a public hearing notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing. Such notice shall briefly describe the nature of the appeal and the time and place of the hearing. The cost of publication of the public hearing notice shall be borne by the appealing party. If the matter has been referred to the Cayuga County Planning Board pursuant to Article 12-B, § 239-m, of the New York State General Municipal Law, a notice of the public hearing shall also be mailed to the Cayuga County Planning Board at least ten (10) business days prior to such hearing along with the full statement of such action as defined in Article 12-B, § 239-m, of the New York State General Municipal Law.

b. A copy of the public notice may be sent to adjacent property owners within the Town, but failure to send such notice shall not affect the jurisdiction of the Zoning Board of Appeals or the legality of the decision of the Zoning Board of Appeals. The cost of mailing said notice shall be borne by the appealing party.

c. The Secretary to the Zoning Board of Appeals shall make a factual record of the public hearing. Public records shall be taken by stenographic and/or tape recorder means and shall be transcribed accurately into a narrative form which may or may not be a verbatim transcript.

d. The decision of the Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant. If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals findings and decision shall be sent to the County Planning Board.

E. Meetings.

(1) The Zoning Board of Appeals shall hold regularly scheduled meetings, provided there are meeting agenda items for Zoning Board of Appeals consideration, and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three or more members.

(2) The presence of three (3) members shall constitute a quorum which shall be necessary to act on any matter before the Zoning Board of Appeals. The concurring vote of three (3) members shall be necessary for any action by the Board, subject to state law.

(3) All votes of the Zoning Board of Appeals shall be taken by roll call.

(4) Zoning Board of Appeals decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 17.04 herein.

(5) In accordance with § 74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.

(6) A member absent from any portion of a hearing or meeting shall be qualified to vote at a subsequent hearing or meeting upon the matter heard.

(7) The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.

(8) The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.

(9) All meetings of the Zoning Board of Appeals shall be open to the public.

(10) The Zoning Board of Appeals shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Secretary to the Zoning Board of Appeals.

(11) Zoning Board of Appeals Secretary and Public Record. The Zoning Board of Appeals Secretary shall attend all its proceedings. The Secretary shall provide for the keeping of the record of the proceedings of the Board, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain all state-mandated permanent records of Board meetings, hearings and proceedings and all correspondence of the Board. The Town Clerk shall provide for keeping a file of all records of the Board, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.

(12) Conflicts. No member of the Zoning Board of Appeals shall participate in the hearing or disposition of any matter in which they have an economic interest. Any conflict of interest prohibited by Article 18 of the General Municipal Law shall disqualify a member.

F. Decisions.

(1) Decisions. The Board may rely on the personal knowledge of its members, testimony at the public hearing, on its inspections of the property and on any reports available to it. Every decision of the Zoning Board of Appeals shall be by resolution and shall expressly set forth any limitations or conditions imposed or any relief approved or work or use authorized.

(2) Final Decision. Decisions of the Zoning Board of Appeals shall first present findings and conclusions at a meeting open to the public and shall state any special circumstances or conditions. Decisions shall be final upon adoption of the minutes and/or resolution of the Board and the filing of the minutes and/or resolution with the Office of the Town Clerk, whichever occurs first.

(3) Failure to Act. In any case where this Ordinance provides that the failure of the Zoning Board of Appeals to act within a fixed period shall be deemed a denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision may be appealed in the same manner as any other decision.

a. Where no decision is made by the Zoning Board of Appeals and the time period for rendering a decision has not expired, the action will be placed on the agenda of the next scheduled regular or special meeting.

(4) Notification of Decision. Within five (5) business days following the final decision of the Zoning Board of Appeals, the Town Clerk shall mail notice thereof to each person entitled to such notice and file such decision in the office of the Town Clerk. However, any failure to provide such notice shall not affect such decision. As to other matters brought before the Board, the Board shall prepare such report as it shall deem appropriate to the subject matter.

(5) Appeals. An appeal from any final decision of the Zoning Board of Appeals may be taken within 30 days of the filing of such decision by any person aggrieved or by any authorized officer, Code Enforcement Officer or board of the Town in accordance with Article 78 of the New York Civil Practice Law and Rules.

(6) Dismissal of application. In addition to other decision options available, the Zoning Board of Appeals may dismiss any application pending before it, if the Board in its discretion, reasonably exercised, determines that the application has not been or is not being actively pursued and moved forward by the applicant. Any such dismissal may be without prejudice, as may be determined by the Board.

G. Conditions of Approval.

(1) A violation of a condition imposed pursuant to this Ordinance shall be deemed a violation of this Ordinance and shall be an offense punishable pursuant to Section 16.08.

Section 17.04 - Referrals to County Planning Board

A. Proposed actions involving the adoption and/or amendment of a comprehensive plan, the adoption and/or the amendment of a zoning local law or ordinance, the approval of site plans, the issuance of special use permits, subdivision approval, and the granting of use and area variances shall be referred to the Cayuga County Planning Board, pursuant to §§ 239-l, 239-m, and 239-n of the General Municipal Law, if the property involved is within 500 feet of the boundary of any county, town, village; existing or proposed county or state park; any right-of-way of any county or state road or parkway; any stream or canal owned by the county; existing or proposed county- or state-owned land on which a public building or institution is situated; and the boundary of a farm operation located in an agricultural district, except that the following shall be exempt from such referral in accordance with the agreement between the Cayuga County Planning Board and the Scipio Town Board adopted on June 14, 2000:

(1) Activities that, while within 500 feet of a state or county highway, are on a parcel that does not front on such state or county highway;

(2) Activities that, while within 500 feet of a municipal boundary, would be permitted within the area of the adjoining municipality abutting the parcel where the activity is proposed;

(3) Area variances;

(4) Amendments to a local zoning law or ordinance that are intended to clarify, redefine, expand, or modify words and/or terms that do not alter the dimensional or use standards of the regulation;

(5) Amendments to a local zoning law or ordinance that are intended to address procedural or administrative matters that do not alter the dimensional or use standards of the regulation;

(6) Amendments to a local zoning law or ordinance that are intended to reduce the type or number of uses permitted within a particular zoning district;

(7) Amendments to a local zoning law or ordinance that are intended to reduce the intensity and/or density of development permitted within a particular zoning district;

(8) Any subdivision of land not required to be submitted to the Cayuga County Health Department for review under the definition of a subdivision set forth in Section 1115 of the Public Health Law of the State of New York; and

(9) Any activity subject to review by a local agency employing a municipal planner on a full time basis who will advise the referring agency concerning the referred matter.

B. Effect of County Planning Board review.

(1) If the Cayuga County Planning Board recommends the approval of a matter referred to it, the local board's decision is governed by a simple majority vote.

(2) If the Cayuga County Planning Board recommends approval subject to stated conditions or modifications, or recommends disapproval, the local board may override the County Planning Board recommendation only by a majority plus one vote.

(3) If the Cayuga County Planning Board fails to make a recommendation within 30 calendar days following the date on which the matter was referred to the Cayuga County Planning Board, the local board may take action on the matter after the expiration of such thirty-day period, and the local board's decision is governed by a simple majority vote.

C. Report on final local action. Within 30 calendar days following a local board's final decision on a matter that was referred to the Cayuga County Planning Board, the local board shall provide a copy of its final decision to the County Planning Board. If the local board acted contrary to the Cayuga County Planning Board's recommendation, the local board shall also provide to the Cayuga County Planning Board its reasons for such decision.

Section 17.05 - Agricultural Data Statements

A. Applicability. Any application for a special use permit, site plan approval, use variance or subdivision review and approval by the Planning Board, Zoning Board of Appeals or Town Board that would occur on property within an Agricultural District containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an Agricultural District, shall include an agricultural data statement. The Planning Board, Zoning Board of Appeals, or Town Board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such Agricultural District.

B. Notice to land owners. Upon the receipt of such application by the Planning Board, Zoning Board of Appeals or Town Board, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for said project. The cost of mailing said notice shall be borne by the applicant.

C. Contents of an agricultural data statement. The agricultural data statement shall including the following information:

(1) The name and address of the applicant;

(2) A description of the proposed project and its location;

(3) The name and address of any owner of land within the Agricultural District, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and

(4) A Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

Section 17.06 - Fee Reimbursement

A. In connection with any application for a Special Use Permit, Site Plan approval, Major Subdivision or Cluster Subdivision approval, Zoning Amendment, or Variance, the reviewing board may require the applicant to pay in advance into an escrow fund established to cover the reasonable costs of reviewing such application. Such costs may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) business days of final action by the reviewing board.

ARTICLE XVIII
Amendments

Section 18.01 - Procedure

A. The Town Board may from time to time, on its own motion or on petition or on recommendation of the Planning Board, the Zoning Board of Appeals, or a member of the public, amend, supplement or repeal the regulations and provisions of this Ordinance including changing the Zoning District classification of a particular parcel of land, often referred to as a re-zoning, after public notice and hearing.

B. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:

(1) The Town shall publish a public hearing notice in the Town's official newspaper and post in any other location/media that the Town deems appropriate and necessary at least ten (10) business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing.

(2) A written notice of any proposed change or amendment affecting land included in such proposed change or of that immediately adjacent, extending 100 feet therefrom, or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land at least ten (10) business days prior to the date of such public hearing.

(3) A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law of New York State, as such area is shown on an approved zoning map filed with the Code Enforcement Officer, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least ten (10) business days prior to the date of such hearing.

(4) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commissioner having jurisdiction over such state park or parkway at least ten (10) business days prior to the date of such public hearing.

(5) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, town, or county shall be given to the Clerk of such municipality and to the Clerk of the County Legislature at least ten (10) business days prior to the date of such hearing.

(6) In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of that immediately adjacent, extending 100 feet therefrom, or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

ARTICLE IXX
Severability, Repealer and Effective Date

Section 19.01 - Severability

A. It is hereby declared to be the legislative intent that:

(1) Should the courts declare any provision of this law to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this law shall continue to be separately and fully effective.

(2) Should the court find the application of any provision or provisions of this Law to any lot, building or other structure, or tract of land, to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property or situation immediately involved in the controversy, and the application of any such provision to other person, property or situations shall not be affected.

Section 19.02 - Repealer

A. Local Law No. 1 of 2015 adopted December 9, 2015 and entitled and cited as the “Town of Scipio Zoning Law” and all supplements and amendments thereto, are hereby repealed. Provided, however, if the present Law is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective as aforesaid, then in that event the Law entitled cited as the “Town of Scipio Zoning Law” together with its supplements and amendments, would necessarily remain in full force and effect. In addition to the supplements and amendments mentioned above, the following Laws and their supplements and amendments are hereby repealed:

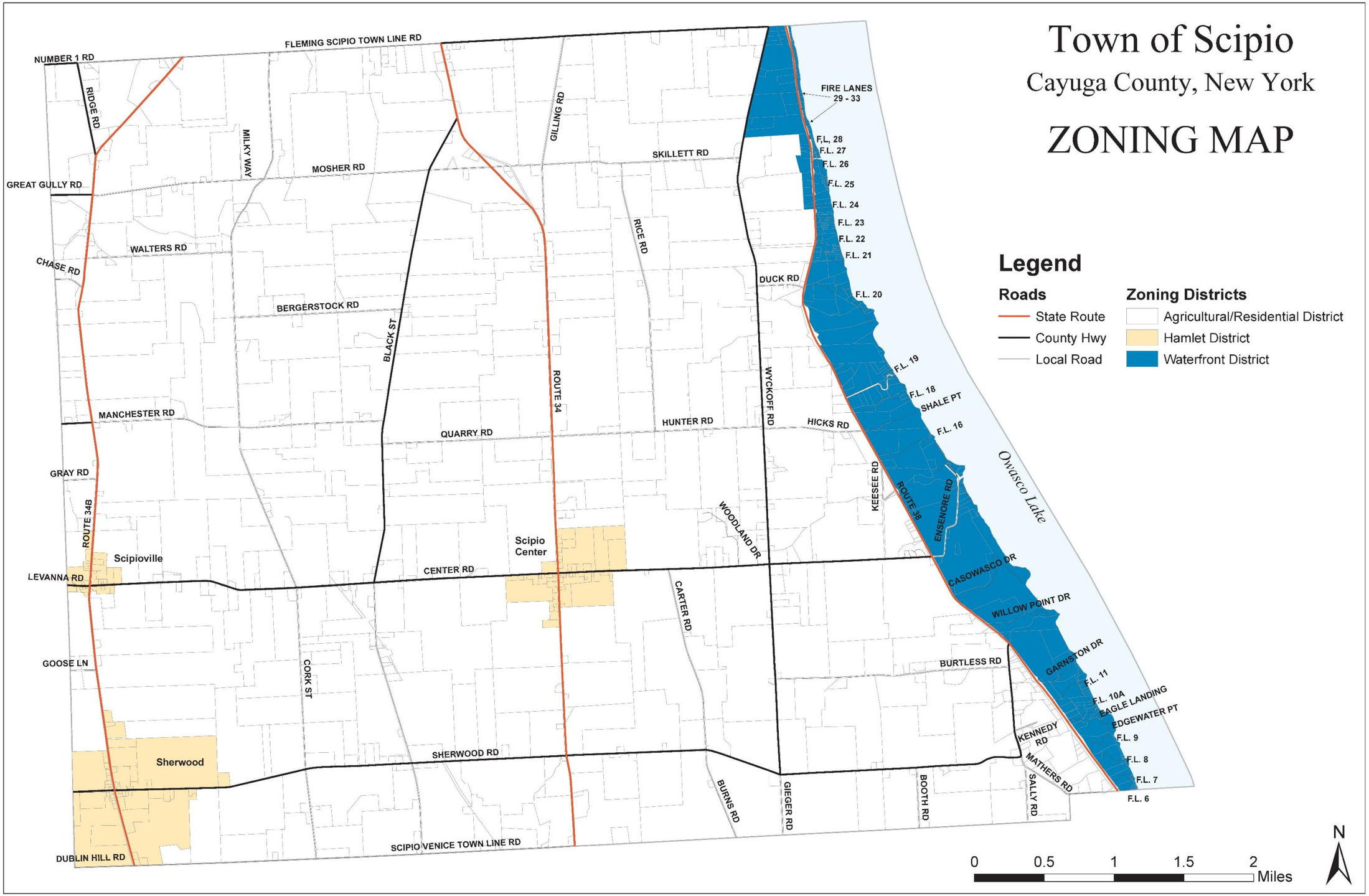
(1) Local Law No. 2 of 2015 entitled “Town of Scipio, Subdivision Regulations of 2015”.

B. If this Law entitled “Zoning Ordinance of the Town of Scipio, NY” adopted and effective as noted in Section 19.03 herein, is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective as aforesaid, then in that event the laws listed above together with their supplements and amendments, would necessarily remain in full force and effect until this Law is found to be effective and valid.

Section 19.03 - Effective Date

A. Be it enacted this 6th day of October, 2021 by the Town Board of the Town of Scipio of Cayuga County, New York that this Law shall be effective immediately.

ERRATA - Wherever in this enactment words other than "Zoning Ordinance" have been used and referring to this enactment, those words shall mean "Zoning Ordinance".


Town of Scipio
Cayuga County, New York
ZONING MAP
Legend
Roads
State Route
County Hwy
Local Road
Zoning Districts
Agricultural/Residential District
Hamlet District
Waterfront District
FLEMING SCIPIO TOWN LINE RD
NUMBER 1 RD
RIDGE RD
MILKY WAY
MOSHER RD
GILLING RD
SKILLETT RD
GREAT GULLY RD
WALTERS RD
CHASE RD
RICE RD
DUCK RD
BERGERSTOCK RD
BLACK ST
ROUTE 34
WYCKOFF RD
MANCHESTER RD
QUARRY RD
HUNTER RD
HICKS RD
GRAY RD
KEESEE RD
ROUTE 38
ENSENORE RD
ROUTE 34B
WOODLAND DR
Scipio Center
Scipioville
LEVANNA RD
CENTER RD
CASOWASCO DR
CARTER RD
WILLOW POINT DR
GARNSTON DR
GOOSE LN
CORK ST
BURTLESS RD
KENNEDY RD
Sherwood
SHERWOOD RD
MATHERS RD
SALLY RD
BURNS RD
GIEGER RD
BOOTH RD
SCIPIO VENICE TOWN LINE RD
DUBLIN HILL RD
FIRE LANES 29 - 33
F.L. 28
F.L. 27
F.L. 26
F.L. 25
F.L. 24
F.L. 23
F.L. 22
F.L. 21
F.L. 20
F.L. 19
F.L. 18
SHALE PT
F.L. 16
Owasco Lake
F.L. 11
F.L. 10A
EAGLE LANDING
EDGEWATER PT
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F.L. 8
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