

**TOWN BOARD RESOLUTION
TOWN OF MARCELLUS**

At a regular meeting of the Town Board of the Town of Marcellus, held at the Town Hall, 24 East Main Street, in said Town, County of Onondaga, State of New York on October 15, 2009, at 7:00 P.M., there were:

PRESENT:	Daniel J. Ross	Supervisor
	James A. Sheridan	Councilor
	Donald G. Sherman	Councilor
	Thomas C. Lathrop	Councilor
	Bernard L. Montgomery	Councilor

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled Local Law No. 4-2009, "A Local Law to Enact a New Zoning Law in the Town of Marcellus," was presented and introduced at a regular meeting of the Town Board of the Town of Marcellus held on September 14, 2009; and

WHEREAS, a public hearing was held on such proposed local law on the 15th day of October, 2009 by the Town Board of the Town of Marcellus and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Marcellus in its final form in the manner required by Section 20 of the Municipal Home Rule Law of the State of New York; and

WHEREAS, the New York State Environmental Quality Review (SEQR) process for this action was completed by this Board at its September 14, 2009, meeting, this Board, having determined no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the Town of Marcellus, such that there are no other involved agencies within the meaning of SEQR, assumed lead agency status and determined this to be an unlisted action with no significant adverse effect; and

WHEREAS, it is in the public's interest to enact said proposed Local Law No. 4-2009.

NOW, upon the Motion of Councilor Sheridan and seconded by Councilman Montgomery,

IT IS HEREBY RESOLVED, that the Town Board of the Town of Marcellus, Onondaga County, New York, does hereby enact proposed Local Law No. 4-2009 as follows:

**TOWN OF MARCELLUS
LOCAL LAW 4-2009**

**A Local Law to Enact a New Zoning Law
in the Town of Marcellus**

Be it enacted by the Town Board of the Town of Marcellus as follows:

SECTION 1. PREAMBLE; REPEALER

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and for each and every purpose therein specified, the Town Board of the Town of Marcellus does hereby repeal the Town of Marcellus Zoning Ordinance of 1981, and all amendments thereto, heretofore enacted by the Town Board of the Town of Marcellus and does hereby enact the following comprehensive local law regulating the location and use of buildings, structures and land for trade, commercial, industrial, office, residential, farming and other purposes:

“TOWN OF MARCELLUS ZONING LAW OF 2009

**SECTION 1
PURPOSE**

This local law is enacted for the purpose of regulating and restricting the location, erection and use of buildings, structures and the use of land in the Town of Marcellus and for said purposes dividing the Town into zoning districts.

**SECTION 2
ENACTING CLAUSE**

The Town Board of the Town of Marcellus in the County of Onondaga, under authority of Chapter 62, Article 16, of the Consolidated Laws of the State of New York as amended, hereby enacts and publishes as follows:

**SECTION 3
TITLE**

This local law shall be known and may be cited as “Town of Marcellus Zoning Law of 2009 and Map”.

**SECTION 4
DEFINITIONS**

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

Words used in the present tense include the future tense.

The singular number includes the plural.

The word "person" includes a corporation as well as an individual.

The word "lot" includes the word "plot" or "parcel".

The terms "shall" and "must" are always mandatory.

ACCESSORY (IN-LAW) APARTMENT: A secondary dwelling unit, including kitchen facilities, located within or attached to a single-family dwelling, for occupancy by a maximum of two persons, one of whom must be a member of the immediate family (related by blood, marriage, or adoption) of the owner or resident of the principal dwelling. The secondary unit must contain a minimum floor area of 400 square feet, but cannot exceed 30% of the total square-footage of the principal dwelling. The secondary unit must have internal access to the principal dwelling, and meet all applicable building and other codes. The building must maintain the appearance of a single-family dwelling, and have only one set of utility services.

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

ADULT ARCADE: An establishment where, for any form of consideration, one or more still or motion picture projectors, slides projectors, or similar machines, or other image producing machines, for viewing for five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Activities".

ADULT BOOKSTORE OR VIDEO STORE: A business that derives 25% or more of its gross income from the sale, or rental of, or utilizes 25% or more of its retail selling area for books, magazines, periodicals, films, motion pictures, videocassettes, slides, compact discs and/or computer generation or other visual representations which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Activities".

ADULT CABARET: A nightclub, bar, restaurant, bottle club, juice bar, club or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear nude or in a state of nudity or semi-nudity; or live performances which are characterized by the exposure of "Specified Anatomical Activities" or by "Specified Sexual Activities"; or films, motion pictures, video-cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Activities".

ADULT LIVE ENTERTAINMENT: A business where an adult male or female exposes parts of their body identified in "Specified Anatomical Activities".

ADULT MOTEL: A hotel, motel or similar business that offers public accommodations, for any form of consideration, which provide patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other

photographic reproductions characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Activities" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or offers a sleeping room for rent for a period of time less than 10 hours; or allows a tenant or occupant to sub-rent the sleeping room for a period of time less than 10 hours.

ADULT MOTION PICTURE THEATER: An enclosed or unenclosed building or structure or portion of a building or structure or drive-in theater used for presenting materials having, as a dominant theme, material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Activities" for observations by patrons therein.

ADULT NOVELTY STORE: A business which derives 25% or more of its gross income from the sale, or rental of, or utilizes 25% or more of its retail selling area for any form of consideration, instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sado-machistic use or abuse of themselves or others.

ADULT USE: Any business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Activities", including but not limited to adult arcades, adult bookstores or video stores, adult cabarets, adult live entertainment, adult motels, adult motion picture theaters, adult novelty stores, and massage establishments.

"Specified Anatomical Activities":

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

"Specified Sexual Activities":

- a) Human genitals in a state of sexual stimulation or arousal.
- b) Acts of actual or simulated human masturbation, sexual intercourse, oral copulation or sodomy.
- c) Fondling or other intentional erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
- d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c).

ALTERATIONS: As applied to a building or structure, means 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.

ALTERATIONS, STRUCTURAL: Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

ANTENNA: A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio-navigation, radio, television, wireless, and microwave communications. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

AREA, NET SITE: The total area within the property lines of a project excluding external streets.

BASEMENT: That portion of a building that is partly or completely below grade.

BED AND BREAKFAST: An owner-occupied, single-family dwelling providing sleeping accommodations and a meal in the forenoon of the day, on a temporary basis and for compensation.

BUILDING: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING, ACCESSORY: A structure or piece of equipment that serves the principal use; is subordinate in area, extent, and purpose to the principal use; and is located on the same lot as the principal use. Examples of such facilities include transmission equipment and storage sheds.

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

BUILDING, FRONT LINE OF: The line created by the Face of the Building (as extended to the side boundary lines) nearest the front line of the Lot. This face includes sun parlors, porches, and decks, whether enclosed or unenclosed but does not include steps.

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

BUILDING PERMIT: The written authorization from the Codes Enforcement Officer required before commencing construction or other improvement, removal, relocation or demolition of any building or structure and before the installation of heating equipment

or wood burning devices. A permit gives approval for the construction or use, subject to the conditions set forth in Section 21 of this local law.

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

BUILDING SETBACK: The distance as measured:

- (a) from any Street Line to the Front Line Of the main or principal Building on a Lot;
- (b) from the Face of the side of a Building to the side Lot boundary line; and
- (c) from the Face of the rear of a Building on a Lot to the rear Lot Lines.

The front property line and Street Line shall be determined to be the same line.

CARE HOME: A facility occupied as a temporary or permanent residence by three or more persons, and designed primarily as housing for persons in need of care or supervision for reasons of chronic illness, handicap, age, senility, or convalescence. Facilities shall include, for example, nursing homes, rest homes, homes for prenatal care, and convalescent homes, but shall exclude medical care facilities.

CERTIFICATE OF OCCUPANCY OR COMPLIANCE: A written statement from the Codes Enforcement Officer or other properly authorized person that the construction or use proposed under the same numbered permit, is completed and complies with the existing regulations of the Zoning Local Law. A Certificate of Occupancy serves as authorization to occupy the facility. A Certificate of Compliance confirms that the improvements meet all conditions of the permit.

CHURCH: A structure (including a synagogue, mosque, or temple) used for worship or religious instruction, together with social and administrative rooms accessory thereto.

CODES ENFORCEMENT OFFICER: A person employed by the Town of Marcellus to enforce the provisions of this local law and the Uniform Code. May also be referred to as Zoning Officer.

COUNTRY STORE: A use that would provide opportunities for agricultural enterprises located in the Town to retail their products directly to consumers. Agricultural products grown or otherwise produced by the owner must constitute a substantial portion of all items sold. The sale of other related items of an agricultural or country nature is permitted to attract customers and promote the sale of the owner's agricultural products. Such related items include produce, plants, lawn and garden supplies, pet food, baked goods, ice cream, clothing items promoting the store, and the like. Prohibited sales include vehicles, petroleum products, hardware, tobacco products, beer and liquor, non-promotional clothing, furniture, sporting goods, farm or garden machinery, and other items not related to and designed to promote the agricultural nature of the establishment.

DAY CARE CENTER: A facility offering care for three or more children in other than a residential dwelling, for more than three hours per day, but not more than twenty-four hours per day.

DISSEMINATION: The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a person, customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Activities".

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

DWELLING AREA: See **FLOOR AREA**.

DWELLING, ONE-FAMILY: A detached building designed for or occupied exclusively by one family.

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

DWELLING, MULTIPLE: A building used or designed as a residence for three or more families living independently of each other.

DWELLING UNIT: A dwelling or portion thereof providing complete living facilities for one family.

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

FAMILY DAY CARE: Consistent with Section 390 of NYS Social Services Law, a program caring for three to six children in a residential dwelling, for more than three hours per day, but not more than twenty-four hours per day. Such program may include an additional one or two school-age children if those children receive care primarily before or after school.

FARM: Any parcel of land containing at least five acres which is used for gain in the raising of agricultural products, live stock, poultry and/or dairy products. It includes necessary farm structures within the prescribed limits, and storage of equipment used. It excludes the raising of furbearing animals, riding academies, livery or boarding stables and dog kennels.

FARM POND: Natural or man-made body of water, the primary purpose of which is agriculture.

FILLING STATION: Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning or servicing such motor vehicles.

FLOOR AREA: The sum of the gross horizontal areas of all floors of a building measured from the exterior faces of exterior walls excluding attic space with less than 7 feet of headroom, basements, garages, terraces, breezeways, and parking ports.

GARAGE, PRIVATE: A garage used for storage purposes only and having a capacity of not more than three automobiles or not more than one automobile per family housed in the building to which such a garage is accessory, whichever is greater.

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

GROUP FAMILY DAY CARE: Consistent with Section 390 of NYS Social Services Law, a program caring for seven to ten children in a residential dwelling, for more than three hours per day, but not more than twenty-four hours per day. Care may also be provided for up to two additional school-age children outside school hours.

HOME OCCUPATION: An accessory use of a character customarily conducted within a dwelling by the resident(s), which is clearly secondary to the residential use of the dwelling, and does not change the character or have any exterior evidence of such secondary use, except signs as permitted by this local law.

HOTEL: A building or group of buildings containing rooms that is to be used, rented, or hired out to be occupied as temporary lodging for sleeping purposes. Kitchens, dining rooms, meeting rooms, and other facilities intended for the accommodation of its patrons may be provided within the building or in an accessory building. A Bed & Breakfast is not considered a hotel.

KENNEL: One or more structures used for the harboring of more than three dogs that are more than six months old for commercial purposes.

LOT: Land occupied or capable of being occupied by a Building and its accessory Buildings, together with such open spaces as are required, created in compliance with Town ordinances and local laws, having not less than the minimum area, width, depth and all other requirements for the zoning district in which said land is located, as set forth in the Zoning Law, and in compliance with all other applicable laws, rules and regulations.

LOT, CORNER: A parcel of land at the junction of and fronting on two or more intersecting streets or proposed public rights-of-way.

LOT COVERAGE: That percentage of the lot covered by the area of all buildings and structures.

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

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE: Any line dividing one lot from another.

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

LOT WIDTH: The width of a Lot measured along the Street Line.

MASSAGE: A method of treating the external part of the human body by rubbing, stroking, kneading or vibrating with the hand or any instrument or any other treatment or manipulation of the human body which occurs as part of or in connection with "Specified Sexual Activities" or where any person providing such treatment, manipulation or service related thereto, exposes his or her "Specified Anatomical Areas."

MASSAGE ESTABLISHMENT: Any business where body rubs, body shampoos, massages (as defined above) or similar services are administered. This definition shall not include the profession of massage therapy by persons licensed or authorized pursuant to Article 155 of the NYS Education Law, nor to those persons specifically exempt from Article 155 of the NYS Education Law.

MEDICAL CARE FACILITY: A facility where medical care is offered to persons on an in-patient or out-patient basis by one or more licensed members of the medical profession, including hospital, clinic, physicians' office, but not including Home Occupations, or nursing and convalescent homes (see Care Home).

MOBILE HOME: A structure, transportable in one or more sections, that is built on a chassis, and is designed for residential occupancy, and provided with mechanical systems, such as plumbing, heating, electrical, and refrigeration equipment. It may be on wheels or a permanent foundation, but excludes travel trailers, motor homes, camping trailers, and other forms of recreational vehicles.

MOBILE HOME PARK: A lot on which two or more mobile homes are located.

OUTDOOR STORAGE: The use of land for the outdoor storage of equipment, materials, supplies, vehicles, or merchandise. Such uses include, by illustration, lumber, building supplies, equipment, automobiles, and contractors' storage, but exclude junkyards, waste, or scrap products.

PARKING SPACE: An off-street space used for the temporary parking of one licensed motor vehicle, not including access driveway, and having direct access to a public street.

PERSON: An individual or group of individuals, corporation, association, partnership, or other entity.

RECREATION, INDOOR: A recreation use or facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities within an enclosed building. Examples include gymnasiums and exercise/fitness centers, community centers, tennis or other racquet courts, bowling alleys, indoor soccer facilities, team sports arenas, racquetball and tennis clubs, ice and roller skating rinks, swimming pools, curling centers, billiard parlors, and firearms ranges, but not including amusement rides or regular live entertainment.

RECREATION, OUTDOOR: A recreation use or facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outside of an enclosed building. Examples include team sports playing fields, including stadiums and arenas, golf courses and driving ranges, miniature golf, batting and pitching cages, hard or soft courts, skateboard parks, motorized vehicle racing, pony rides, firearms and archery ranges, swimming pools, water slides, ice rinks, and amusement parks.

RECREATION, PRIVATE: A recreation use or facility not owned or operated by a public agency.

RECREATION, PUBLIC: A recreation use or facility owned or operated by a public agency.

ROAD: See **STREET**.

RURAL OCCUPATION: An occupation that is carried on in a dwelling unit or on a property where a dwelling unit exists, provided that the occupation is carried on by the resident owner of the property or a resident member of the owner's immediate family. A "rural occupation" must clearly be incidental or accessory to the principal use of the property, and may include mechanical and/or repair work, engine repairs, appliance repair, stands for the sale of baked goods, home crafts or nursery merchandise, small-scale off-site construction, driveway installation or repairs, landscaping, delivery services, beauty parlors, and small low-intensity businesses of a similar nature. A "rural occupation" shall not include restaurants, parking lots, drive-in retail fuel stations, outdoor storage of inoperative motorized equipment, or other high-intensity businesses of a similar nature.

SIGN: Any structure or part thereof attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard", but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any

political, educational, charitable, philanthropic, civic, professional, and religious or like campaign, drive, movement, or event.

SPECIAL USE: A use that is deemed allowable within a given zone, but which is potentially incompatible with other uses, and therefore, is subject to special standards and conditions set forth for such use subject to approval by the Zoning Board of Appeals.

STORAGE TRAILER: A complete truck used for storage of materials, supplies or tools, or a van type of trailer such as is usually towed by a tractor. It may be mounted on wheels or skids, and is not intended for habitation.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STREET: A Public Right-Of-Way for vehicular traffic that is publicly owned, open to the general public, and has been accepted by the Town. The term includes designations such as highway, parkway, Road, avenue, boulevard, lane, place, drive, alley, and other variations.

STREET LINE: The common boundary of a Street Right-Of-Way, as distinguished from the pavement, and the front property line of a parcel.

STRUCTURE: A combination of materials, including a Building as defined herein, to form a construction that is safe and stable and includes among other things, decks, sheds, fences, swimming pools, display signs, radio towers, satellite dishes over 3 feet in diameter and windmills.

SWIMMING POOL: Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas.

TELECOMMUNICATIONS TOWER: A structure on which transmitting and/or receiving antenna(e) are located.

TRAILER: A vehicle designed to be towed for the purpose of transporting goods, wares, or merchandise.

UNIFORM CODE: New York State Uniform Fire Prevention and Building Code effective January 1, 1984, and as subsequently revised and/or amended.

USE: The specific purpose, for which land, building, or other structure is designed, intended, arranged, utilized, or maintained.

USE, ACCESSORY: See **ACCESSORY USE**.

YARD, FRONT: An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line. Porches and decks, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

YARD, REAR: An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the center line of the alley if there be an alley, and the rear line of the building.

YARD, SIDE: An open unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required the rear boundary of the side yard shall be the rear line of the lot.

ZONING PERMIT: The written authorization from the Codes Enforcement Officer, other than a Building Permit, that the construction or use proposed is in accord with the regulations of the Zoning Law. A permit gives approval for the construction or use, subject to conditions set forth in Section 21 of this local law.

SECTION 5 **ESTABLISHMENT OF ZONES**

A. For the purpose of promoting the public health, safety, morals and general welfare of the community, the Town of Marcellus is hereby divided into the following zones:

- R-1 Zone: Residential
- R-2 Zone: Residential – (Lake Shore)
- R-3 Zone: Residential – (Multiple Dwelling)
- R-4 Zone: Residential
- A-1 Zone: Agricultural
- B-1 Zone: Business
- L-1 Zone: Light Industry
- PUD Zone: Planned Unit Development

In addition, overlay controls shall apply in designated areas as shown on Zoning Map. Subdivisions of these types and additions of other types may be made as amendments to this local law.

Said zones are bounded and defined as shown on a map titled "Zoning Map of the Town of Marcellus, New York, dated July 2009," and certified by the Town Clerk which accompanies and which, with all explanatory matter thereon, is hereby made a

part of this local law. Such zoning map is hereby adopted as the official Zoning Map of the Town of Marcellus and shall supersede and replace any and all other zoning maps of the Town of Marcellus.¹

- B. Rules for interpretation. The following rules shall apply for any of the aforesaid zones as shown on the Zoning Map:
1. Where zone boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines or highway right-of-way lines shall be construed to be such boundaries.
 2. Where zone boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
 3. Where zone boundaries are so indicated that they are approximately parallel to the center lines of streets, or the center lines of right-of-way lines of highways, such zone boundaries shall be construed as being parallel thereto and at such district therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
 4. Where the boundary of a zone follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
 5. Where the boundary of zone follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Marcellus unless otherwise indicated.

SECTION 6 **APPLICATION OF REGULATIONS**

Except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the zone in which it is located.
- B. No building shall hereafter be erected or altered:
 1. To accommodate a house for a greater number of families, or
 2. To occupy a greater percentage of lot area, or
 3. To have narrower or smaller front yards, side yards or rear yards than is specified herein for the zone in which such building is located.
- C. No part of a yard or other space required about any building for the purpose of complying with the provisions of this local law shall be included as a part of a yard or other open space similarly required for another building.
- D. Where the Zoning Board of Appeals finds that extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of the Official

¹ Editor's Note: Said Zoning Map and amendments thereto are on file in the office of the Town Clerk.

Zoning Map or these regulations. The foregoing provision does not apply in matters involving variances.

- E. In residential zones, there shall be only one principal use of a lot. In all zones, permitted agricultural uses may be carried on in conjunction with a residential use, but in no event shall a lot contain more than one residential dwelling structure. In non-residential zones, more than one principal use may occupy a lot or structure upon issuance of a special permit, and site plan review and approval.

SECTION 6a **LOT AND BUILDING LIMITATIONS**

The following measurements shall apply to the appropriate zone.

Zone	Min. Lot Size		% of Lot Coverage	Yard Dimensions				Max. Bldg. Height	Min. Dwelling Areas *
	Width	Area		Front	One Side	Both Side	Rear		
A-1	200'	80,000	30%	35'	20'	40'	35'	35'	900
B-1	100'	10,890	35%	35'	25'	50'	30'	35'	NA
R-1	150'	40,000	30%	35'	15' (4)	30'	35'	35' (4)	600
R-2	75'	10,000	20%	35'	10' (3)	20'	35'	35' (3)	900
R-3	200'	80,000	30%	35'	15' (4)	30'	35'	35' (4)	900
R-4	80'	12,000	20%	35'	12' (3)	24'	35'	35' (3)	900
PUD	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
L-1	100'	43,560	20%	60'	25' (2)	50' (2)	50'	3 Stories 35'	NA

* In square feet per family.

NOTES:

- (1) On corner lots, that portion of a lot contiguous to a public right-of-way shall be considered as front yard area and that portion of a lot contiguous to a side yard shall be considered as side yard area for the purpose of applying the regulations herein.
- (2) 50 feet for one side yard and 100 feet for both, if adjoining residential zone.
- (3) Permitted accessory buildings in R-2 and R-4 zones may not be more than 100 square feet in area limited to one story and must be at least 3 feet from the side and rear lot lines and meet front setback requirements.
- (4) Permitted accessory buildings in R-1 and R-3 zones may not be more than 150 square feet in area limited to one story and must be at least 3 feet from the side and rear lot lines and meet front setback requirements.
- (5) To be determined by the Town Board.

SECTION 7 **R-1 RESIDENTIAL ZONE**

A. Permitted Principal Uses:

1. One-family dwelling and private garage.
 2. A church on a lot not less than 2 acres.
 3. Public park, playground or recreational area, including those operated by membership organizations for benefit of members, not for gain.
 4. Public school, institution of higher education, public library, municipal building other than a public work garage or a public work storage area.
 5. Customary agricultural operations provided that:
 - a) There shall be no storage of manure or odorous substances within 100 feet of any property line.
 - b) No building shall be erected for farm purposes on any lot of less than 5 acres or be nearer than 100 feet to any street line or 100 feet to any other property line.
 - c) No sales on the premises shall be permitted for any materials, goods or produce except those grown on the premises.
- These restrictions shall not unreasonably restrict or regulate farm operations within an agricultural district, unless it can be shown that the public health or safety is threatened.
6. Other uses subject to special permit by Zoning Board of Appeals and subject to the conditions stated below:
 - a) Recreational facilities, including clubs and lodges. On a lot of 5 acres or more, a social club or lodge, and social and recreational buildings in connection therewith, providing that:
 1. Such facilities shall be located at such distance from any lot line as the Zoning Board of Appeals finds to be necessary in any particular case, but in any event not less than 100 feet.
 2. The State and County Departments of Health shall certify that such installation will comply with their respective codes or regulations.
 - b) Care Home. On a lot of 5 acres or more provided that such home is located at least 75 feet from any street or lot line and contain accommodations for not more than 10 patients and staff members per acre.
 - c) Medical Care Facility. On a lot of 5 acres or more, provided that any building so used be located at least 100 feet from any street or lot line.
 - d) Day Care Center. On a lot of 5 acres or more, provided that:
 1. It shall be approved by the State Department of Education.
 2. An appropriately enclosed play space shall be located not less than 75 feet from any street or lot line.
 - e) Not-for-profit museums, art galleries, and libraries. On a lot of 2 acres or more, provided that the grounds and exterior of all buildings shall be maintained in conformity with the prevailing standards of the surrounding residential neighborhood.
 - f) Private school. On a lot of 5 acres or more, provided that:

1. It shall be approved by the State Department of Education.
 2. If exempt from real estate taxes, it shall not provide sleeping quarters for more than one resident family in addition to boarding students, resident teachers and maintenance employees.
 3. No recreational area in connection with such private school shall be within 100 feet of any lot or street line.
- g) Public utility stations or facilities. Facilities include electric or natural gas substations, water pumping stations, telephone facilities and similar installations. A unit electric substation having a maximum capacity of 10,000 KVA as to any single transformer or a natural gas substation or water pumping station, or other public utility facility shall meet the following requirements:
1. The area covered by the substation installation shall not exceed 50 feet by 75 feet; and,
 2. The minimum size of lot shall be 10,000 square feet with a minimum width of 75 feet;
 3. An electric substation installation shall be enclosed by a protective fence and gate; and,
 4. The location of the station installation within the lot shall be in accordance with a site plan and with suitable landscaping features approved by the Zoning Board of Appeals. The provisions of such an approved site plan with respect to lot size and location of the installation therein, when approved by such Board, shall be in lieu of the provisions applicable to the zone in which the lot is located to the extent that the latter provisions are inconsistent with the approved plan.
- h) Storage trailer.
1. To be used incidental to permitted construction.
 2. Term – for a period of not more than three months from date of issue. A three-month extension may be granted by the Zoning Board of Appeals in case of an emergency or disaster.
 3. Shall contain no full time living quarters.
- i) Access to agricultural and/or light industrial zone may be permitted provided that the right-of-way is through a lot not less than 150 feet in width, or by other means as approved by the Planning Board. Access roads must be suitably graded and surfaced not closer than 36 feet to any side line. The area between the roadway and the side yard shall be suitably landscaped.
- j) Permitted accessory buildings exceeding 150 square feet.
1. The use shall be consistent with and subordinate to the principal use and may not be carried on independently of the principal residential use.
 2. The special permit is issued for the use specified on the application. Any change of use is subject to approval by the Zoning Board of Appeals.
 3. Must conform to side, front, and rear yard setbacks.

B. Permitted Accessory Uses:

1. The raising of field, fruit and vegetable crops.
2. A non-commercial greenhouse for personal use.

3. On a lot of 5 acres or less, the keeping of not to exceed one horse or cow per acre.
 - a) There shall be no storage of manure or odorous substances within 100 feet of any property line.
 - b) No building housing horses or cows shall be nearer than 100 feet to any street line or 100 feet to any other property line.

These restrictions shall not unreasonably restrict or regulate farm operations within an agricultural district, unless it can be shown that the public health or safety is threatened.
4. Home occupations, such as barbers, and sale of home produced crafts; or a professional office or studio of an architect, artist, dentist, doctor, veterinarian, engineer, lawyer, musician, real estate broker or agent, surveyor, teacher or member of a similar established profession (but not including an office or establishment of mortician, undertaker or embalmer) residing on the premises, providing that:
 - a) The home occupation shall be conducted wholly within the primary structure on the premises. Not more than 15% of the floor area of the primary structure or more than 50% of the area of the ground floor shall be so used.
 - b) No more than one person not residing in the dwelling unit may be employed in the home occupation.
 - c) Uses such as studios for instruction in vocal or instrumental music or dancing shall be equipped and used so that sounds therefrom shall not be heard on nearby premises.
 - d) Signs shall be no more than 2 square feet, and shall not be neon or flashing or of such character as to be distracting.
 - e) Adequate off-street parking spaces for the traffic generated shall be provided so as to effectively eliminate problems created by on-street parking.
 - f) A special permit will be required for a home occupation if any of the following are present or intended:
 1. Sign.
 2. Regular delivery or pickup of goods.
 3. Non-resident employee(s).
 4. Additional parking for work-related visitors.
5. Other accessory uses and structures such as tool and play houses, provided that their use shall be customarily incidental to that of the principal use on the same premises. The uses shall not become noxious or injurious to the health, safety, morals, or general welfare of the community by reason of the production or emission of dust, smoke, noise, refuse matter, odor, gas, fumes, vibration, or similar substances or conditions. Structures shall be architecturally consistent with the character of the neighborhood.
6. Bed and Breakfast, subject to special permit by the Zoning Board of Appeals and the following conditions:
 - a) A special permit will be valid for one year and will be renewable on an annual basis contingent on successfully passing an inspection by the Codes Enforcement Officer of all applicable conditions.
 - b) Only a morning meal shall be served and only to registered guests.

- c) The number of guests shall not exceed two per available rental room and four people maximum.
 - d) Off-street parking shall be provided in accordance with this ordinance without unreasonably changing the existing residential character of the lot.
 - e) The maximum length of stay shall be seven nights.
 - f) An annual inspection for compliance with current fire codes will be required, and a guest book shall be maintained and available for inspection by the Codes Enforcement Officer on a yearly basis.
 - g) Hardwired smoke detectors shall be placed in each bedroom and on each floor outside the bedrooms.
 - h) An unlighted sign, no larger than 2 square feet will be permitted.
7. Family and Group Family Day Care.
 8. Accessory (In-Law) Apartment, subject to special permit.

SECTION 8 **R-2 RESIDENTIAL ZONE (Lake Shore)**

A. Permitted Principal Uses:

1. All principal uses permitted in R-1 zone, except Day Care Centers, Care Homes, and Medical Care Facilities, subject to the same requirements as specified.
2. Docks.

B. Permitted Accessory Uses:

1. All accessory uses permitted in R-1 zone, subject to the same requirements as specified.
2. Boat houses, bath houses and other structures including boat hoists, provided that:
 - a) No part of the structure is closer than 3 feet to the side lot line, and that,
 - b) The height of the structure shall not be in excess of 11 feet above the maximum lake level as established by the Onondaga County Water Authority.
3. Docks.

SECTION 9 **R-3 RESIDENTIAL ZONE (Multiple Dwelling)**

A. Permitted Principal Uses:

1. All principal uses permitted in R-1 zone, except Day Care Centers, Care Homes, and Medical Care Facilities, subject to the same requirements as specified.
2. Two-family dwelling.
3. Multiple-family dwelling.

B. Permitted Accessory Uses:

1. All accessory uses permitted in R-1 zone, subject to the same requirements as specified.

SECTION 10 **R-4 RESIDENTIAL ZONE**

NOTE: This zone shall be limited to areas serviced by both public water supply and public sewerage facilities.

A. Permitted Principal Uses:

1. One-family dwelling.
2. A church on a lot not less than 2 acres.
3. Public park, playground or recreational area including those operated by membership organizations for benefit of members, not for gain.
4. Public school institutions of higher education, public library, municipal buildings other than a public works garage or a public work storage area.

B. Permitted Accessory Uses:

1. All accessory uses permitted in R-1 zone, except for Bed and Breakfasts, subject to the same requirements as specified, except that permitted accessory buildings may not contain more than 100 square feet of floor area and must be at least 3 feet from the lot lines.

SECTION 11 **A-1 AGRICULTURAL ZONE**

A. Permitted Principal Uses:

1. All principal uses permitted in R-1 zone, subject to the same requirements as specified. A special permit for accessory buildings over 150 square feet in area is not required.
2. Two-family dwelling.
3. Other uses subject to special permit by the Zoning Board of Appeals under conditions as stated below.
 - a) Farm product processing plants. On a lot of 5 acres or more:
 1. Providing that the principal and accessory structures shall not be less than 100 feet from any property line.
 2. No outdoor storage of materials to be processed.
 3. Off-street loading space for not less than three trucks shall be provided.
 4. There shall be no more than one identifying sign.
 5. There shall be no discharge of obnoxious waste material.
 - b) Nurseries and greenhouses. On a lot not less than 2 acres, and no outdoor storage of manure or animal waste closer than 100 feet from any property line.
 - c) Indoor and outdoor recreational activities. On a lot of 5 acres or more, a social club or lodge, and social and recreational buildings in connection therewith, providing that:
 1. Such facilities shall be located at such distance from any lot line as the Zoning Board of Appeals shall find to be necessary in any particular case, but in any event not less than 100 feet.

2. The State and County Departments of Health shall certify that such installation will comply with their respective codes or regulations; and,
 3. There shall be not less than one off-street parking unit for each three members of a golf, swimming or country club, and one such parking unit for each five members of other club or lodges.
- d) Sales yards. Farm sales shall be permitted for products produced or raised on the property; with the added proviso that stands or other structures for the sale of such products be located outside of the public right-of-way. However, farm stands/buildings greater than 150 square feet in floor area shall be subject to setbacks and other requirements established for the A-1 zone.
- e) Airports and other air landing facilities. On a lot not less than 2,000 feet longer than the landing facility; and width not less than $\frac{1}{4}$ of the aggregate length of the lot.
1. Hangers and parking places for aircraft and equipment shall not be closer than 50 feet from property line.
 2. Landing strips shall be located in such a way as to afford a minimum of 50 feet of clearance over any public thoroughfare or right-of-way for telephone or electric facilities in existence at the time of special permit, computed at an approach or glide angle of one inch vertically for 40 feet horizontally, beginning at the end of landing strip.
 3. Landing strip shall be located not less than 200 feet from any property line.
- f) Dog kennels and animal hospitals. On a lot not less than 2 acres provided that:
1. No outdoor runs are maintained closer than 75 feet from a property line.
 2. No building shall be closer than 40 feet from the street line.
 3. No more than one identifying sign.
- g) Mobile homes.
1. No enclosed structural additions shall be permitted more than 8 feet in width.
 2. There are no more than four residential structures within 500 feet of subject mobile home at the time of issuance of permit.
 3. The mobile home shall be occupied only by the property owner or members of his/her immediate family.
 4. The removal of the mobile home from the premises shall terminate the special permit.
- h) Mobile home parks.
- On lots of not less than 5 acres, mobile home parks, subject to the provisions of the current Marcellus Township Mobile Home Ordinance.
- i) Exploration, drilling, production, transportation and processing of oil and natural gas.
1. **LEGISLATIVE INTENT:**
It is hereby declared to be the policy of the Town of Marcellus to regulate the exploration, drilling, production, transportation and processing of oil and natural gas in order to prevent pollution and hazardous conditions within the Town.

2. APPLICATION FOR SPECIAL PERMIT:

Any owner or lessee of property within an A-1 Agricultural zone, as defined by the Town of Marcellus Zoning Law, desiring to explore, drill for, produce, transport or process oil or natural gas on his/her premises shall obtain a written permit therefore from the Zoning Board of Appeals. In order to obtain such permit the applicant shall file with the Town Clerk of the Town of Marcellus an application in duplicate for such permit which shall set forth and include the following:

- A. Detailed statement of proposed operations.
- B. Duly acknowledged consent in writing of the owner of the premises and mortgagee, if any, including their addresses, or copy of lease executed by all owners and mortgagees.
- C. An attorney's opinion of title or title policy in a form satisfactory to the Town Attorney certifying the names of the record owners and mortgagees, if any.
- D. Receipted tax bills or photocopies thereof certifying that all taxes and assessments against the property described in the application have been paid.
- E. Copies of permits from the New York State Department of Environmental Conservation authorizing such operations upon the premises, together with all supporting papers submitted in support of such application.
- F. A restoration and plugging bond similar to that filed with the Department of Environmental Conservation of the State of New York for each well in an amount no less than \$20,000, as determined by the Town.
- G. A certificate of liability insurance coverage in an amount to be determined by the Town, in which the property owner and the Town of Marcellus are named insureds as their interests may appear.

3. DURATION OF FEES:

- A. The applicant shall pay to the Town Clerk the sum set forth in the established schedule of fees for each permit proposed to be issued by the Zoning Board of Appeals, and a permit shall be required for the drilling of each well.
- B. The application and supporting documents shall be submitted by the Town Clerk to the Zoning Board of Appeals for consideration at its next regularly scheduled meeting.
- C. The Zoning Board of Appeals may issue a permit for a period of one year from the date of said application for said permit. The said permit shall not be transferable without the express written permission of the Town Board. If production from said well has not commenced within one year of issuance, said permit may be renewed thereafter for successive periods of one year, upon payment of a renewal fee as set forth in the schedule of fees.

4. CONDITIONS FOR ISSUANCE OF PERMIT:

The Zoning Board of Appeals, as a condition to the issuance of such permit, must determine, from the documentation and testimony furnished in support of said application that the following standards have been or will be met if the permit is issued:

- A. That operations under the permit will not significantly contribute to pollution of air, water or other natural resources within the Town.
- B. That the well will not be drilled within 300 feet of any residence, nor within 300 feet of any other building, nor within 300 feet of any public highway, nor within 300 feet of any walkway, nor within 300 feet of any public park.
- C. That NYSDEC regulations, under the particular circumstances of the permit applied for, provide adequate safeguards for the protection of the lives, health and property of the residents of the Town of Marcellus.

j) Country Store.

1. Lot not less than 5 acres.
2. Building size and size of indoor retail areas shall be appropriate to the size of the owner's farm and the type of agricultural products produced by the owner, not to exceed that required to effectively market the owner's farm products directly to consumers. In no case shall the indoor retail area exceed 5,000 square feet.
3. Indoor restaurant facilities (where allowed) shall be considered part of the total retail area and shall not exceed 10% of the total indoor retail area.
4. If indoor restaurant facilities are part of a country store, public restrooms shall be provided.
5. With the exception of minimum lot size (5 acres), dimensional requirements for nonresidential uses and structures shall apply.

B. Permitted Accessory Uses:

1. All accessory uses permitted in R-1 zone, subject to the same requirements as specified.
2. Rural Occupation, subject to special permit by the Zoning Board of Appeals.

SECTION 12
B-1 BUSINESS ZONE

A. Permitted Principal Uses:

1. All principal uses permitted in R-1 zone, except for new one-family dwellings, subject to the same requirements as specified, with the exception of the minimum 5-acre requirement for Day Care Centers, Care Homes, and Medical Care Facilities.
2. Stores and shops for the conduct of retail business.
3. Personal service shops.
4. Banks, offices, restaurants and similar community services.
5. Veterinary hospital or kennel for boarding and care of small animals.

6. Printing shops or plant.
7. Motor vehicle sales lots.
8. Public works garage or storage areas.
9. Other uses subject to special permit by the Zoning Board of Appeals, under conditions as stated below:
 - a) Public garage or filling station meeting the following requirements:
 1. No repair work to be performed out-of-doors.
 2. Pumps, lubricating or other devices to be located at least 20 feet from any street line or highway right-of-way.
 3. All fuel, oil or similar substances to be stored at least 35 feet distant from any street and lot line.
 4. All automobile parts, dismantled vehicles and similar articles to be stored within a building.
 - b) Warehousing and distribution, excluding truck terminal.
 - c) Indoor and outdoor recreation activities.

B. Permitted Accessory Uses:

1. All accessory uses permitted in R-1 zone, subject to the same requirements as specified, except that "residing on premises", as stated in R-1 zone, permitted accessory use No. 4 shall not be required.
2. Signs relating solely to the business or profession conducted on the premises and advertising only the name of the owner or lessee or the trade name of the establishment and the goods sold or services rendered. Such signs shall not exceed 2 feet in height, nor in length $\frac{1}{2}$ of the building to which it is attached, nor shall they project therefrom more than 9 inches. Such signs may be affixed or painted upon stores or office windows. If illuminated, they shall be illuminated by a steady light.
3. Free-standing static, stationary signs, located on the premises to which they are related, providing that such signs shall be located at least 15 feet from any street line. The maximum area shall be 32 square feet, with a maximum length of 8 feet in either length or width. The maximum height of the top of the sign shall be 12 feet and there shall be a minimum of 3 feet of bottom open space along its entire length. No free-standing sign may be placed or located on a vacant lot or parcel of land lying between two residential buildings or uses where such structures or uses are less than 100 feet apart. Signs shall not be neon or flashing or of such character as to be distracting.
4. A dwelling unit as an integral part of the principal structure.

SECTION 13
L-1 LIGHT INDUSTRY ZONE

A. Permitted Principal Uses:

1. All principal uses permitted in R-1 and A-1 zones, except for one and two-family dwellings, subject to the same requirements as specified.
2. All principal uses permitted in B-1 zone.

3. Analytical, pharmaceutical and commercial laboratories, including product testing.
4. Cabinet makers, carpenter shops, screen door and window manufacturing, furniture manufacturing and repair, and lumber yards.
5. Bookbinding, engraving, printing and publishing plants.
6. Bakers and baked goods manufacturing.
7. Jewelry manufacturing.
8. Development and research centers.
9. Warehousing and distribution, excluding truck terminals.
10. Other light industrial or manufacturing uses including manufacturing, fabrication, processing, converting, altering, assembling, or other handling of products subject to special permit by the Zoning Board of Appeals.
11. Adult Uses, subject to special permit by the Zoning Board of Appeals, and conditions outlined in Section 17.
12. Medical Care Facility.
13. Terms for special permits relating to the above:
 - a) Operation shall not cause or result in:
 1. Emission of dust, smoke, observable gas or fumes, odor, noise, excess light or radiation, interference with radio or TV reception or vibration beyond building site;
 2. Menace by reason of fire, explosion or other physical hazard;
 3. Harmful discharge of waste material;
 4. Unusual traffic congestion due to number of vehicles required.
 - b) Operation shall be in harmony with the appropriate and orderly development of the zone.

B. Permitted Accessory Uses:

1. All accessory uses permitted in the R-1 and A-1 zones, subject to requirements as specified.
2. All accessory uses permitted in B-1 zone, subject to requirements as specified.

SECTION 14
CLUSTER AND PLANNED UNIT DEVELOPMENT

A. Cluster Development

1. The Planning Board is granted authority, to be exercised simultaneously with the approval of PLATS, to modify the applicable provisions of the Town of Marcellus Zoning Local Law as they pertain to locations zoned R-1, R-2, R-3 and R-4, subject to the conditions of Section 278 of the Town Law and the other conditions hereinafter set forth.
2. In addition to the requirements of SECTION 6a –LOT AND BUILDING LIMITATIONS the developer shall submit a computation and demonstrate by appropriate documents and drawings the allowable development site density.
3. In the event that the application of this procedure results in a Plan showing lands available for park, recreation, open space, or other municipal purposes directly

related to the Plan, any conditions on the ownership use and maintenance of such lands shall be approved by the Town Board.

B. Planned Unit Development (PUD) Zone

1. General Provisions

- a) Provisions are included for a Planned Unit Development (PUD) zone to permit establishment of areas in which diverse uses may be brought together in a compatible and unified plan of development which shall be in the interest of the general welfare of the public. The PUD is intended to promote site design and land use flexibility not feasible in other zones. In PUD zones, land and structures may be used for any lawful purpose in accordance with the provisions set forth herein.
- b) The classification of any property within the PUD zone requires the undertaking of a two-step process involving the approval of both the Town Board and the Planning Board.
 1. In the first step, the Town Board in its legislative capacity establishes the boundaries of the proposed PUD zone and sets limits on the nature and range of uses, geometric and site controls, and overall project planning. The Town Board's action is in response to the applicant's submission of a general outline that sets forth the contemplated development for the proposed PUD zone.
 2. The Planning Board is delegated by the Town Board to be responsible in the second step for ensuring that the general outline approved by the Town Board is properly implemented. The Planning Board achieves compliance by reviewing and approving (if and when acceptable) the project plan submitted by the applicant. The project plan is the detailed narrative and graphic documentation for the development of the entire PUD zone.
 3. It is understood that certain public benefit features will be required to ensure that the quality of design and amenity are sufficient to justify the departure from conventional zoning restrictions. Emphasis on the preservation of natural site attributes will be accomplished through design and placement of structures which complement rather than conflict with the natural terrain and other natural features such as trees and watercourses.

2. Establishment by Town Board

- a) All Planned Unit Development (PUD) zones shall be established by the Town Board in accordance with the procedures set forth herein.
- b) Establishment of a PUD zone is a change to the Zoning Map and shall be made by the Town Board, pursuant to New York State Town Law and the following additional requirements:
 1. Upon receipt of an application, the Town Board shall refer the PUD proposal to the Planning Board for its advisory opinion on the establishment of the PUD zone. The Planning Board shall respond to the Town Board with a written report of its findings and recommendations within a time period established by the Town Board, to be not less than 30

days and not more than 90 days, unless modified by mutual agreement of the Town Board and Planning Board.

2. The Town Board is the lead agency for purposes of the New York State Environmental Review Act (SEQR) and shall determine the environmental significance of the proposed PUD zone pursuant to SEQR and make the appropriate notification or referrals to the applicable municipalities or other levels of government.
 3. Prior to any public hearing, the Town Board may meet informally with the applicant, the Planning Board, or other interested parties to discuss the PUD proposal.
 4. Upon public notice of at least 10 days, the Town Board shall conduct a public hearing, after which and upon the consideration of the recommendations by the Planning Board and other agencies, it may vote upon the establishment of the PUD zone.
 5. The Town Board shall, in its resolution adopting the PUD zone change, transfer the PUD zone to the reviewing authority of the Planning Board for project plan approval and shall instruct the Planning Board of the specific uses, area, and other geometric controls to be maintained in the PUD zone or in designated sub-areas and may stipulate project phasing and a timetable of Planning Board review. The resolution shall include a copy of the approved schematic plan of the proposed PUD zone.
- c) In order to obtain approval of the Town Board for establishment of a PUD zone, the following documents shall be submitted:
1. A written narrative outlining the applicant's overall concept for the proposed PUD zone, including but not limited to: an explanation of how the proposed PUD conforms to the Town's Comprehensive Plan; the range and mix of land uses; development density; building types; impact upon existing and provision for public facilities, including traffic; points of access; parking; open space/recreation areas; and project financing and phasing.
 2. A schematic plan of the site, drawn to scale, graphically depicting the land use, development, density, and improvements addressed in the applicant's narrative statement.
 3. Appropriate environmental assessment forms, as determined by the Town, in accordance with SEQR. An Environmental Impact Statement (EIS) may be required.
 4. A survey of the property or properties proposed for inclusion in the PUD zone.
- d) The Town Board may identify portions of a PUD zone as discrete geographic sub-areas of the project. Such designated sub-areas may have land uses or standards different from the balance of the PUD zone, provided that such designated sub-areas are fully integrated in the overall development for the entire PUD zone.
- e) The Town Board may establish the sequence in which development of a PUD zone shall proceed by specifying the order in which sub-areas, sections, or phases of a PUD are to be developed. If not specified by the Town Board, the

Planning Board may establish a sequence of project staging during project plan review.

- f) If a proposed PUD zone is to be undertaken in a staged development, the Town Board may stagger the schedule of the Planning Board's project plan approval to correspond with the approved project staging.

3. Approval by Planning Board

- a) Finalization of the PUD.

1. The PUD zone regulations are effective to a specific site, and the Zoning Map is amended upon adoption of an approval resolution by the Town Board. No permits or other approvals may be issued until a project plan has been approved by the Planning Board.
2. Failure to obtain project plan approval within the required time limits shall cause the original authorization of the Town Board to lapse, and the Planning Board shall refer the property or properties to the Town Board for a zone change back to the original zone.
3. The project plan is a detailed narrative and graphic documentation for the development of the entire land area or of designated sub-areas within the PUD zone and, unless otherwise specified, shall be approved, with modifications, or disapproved by the Planning Board within 180 days of the approval date of the PUD zone by the Town Board and receipt of a complete application package.
4. The Planning Board shall evaluate the project plan in accordance with the resolution of the Town Board's authorizing establishment of the PUD zone, applicable site plan review standards, subdivision standards, and all applicable laws, codes, and standards of Onondaga County and New York State.
5. Unless specified by the Town Board, the Planning Board shall be responsible to approve the schedule and order of development within the PUD.

- b) Planning Board Responsibilities.

1. The Planning Board may not specifically prohibit nor permit uses or structures not similarly authorized or prohibited by the Town Board.
2. The Planning Board shall ensure compliance of the project plan with the area and geometric controls specified in this section unless modified by the Town Board, and with the Town Board resolution establishing the PUD zone.
3. Upon review by the Planning Board of all detailed site plans within the PUD, it shall determine:
 - a) Whether the detailed site plan is consistent with and carries out the intent of the project development plan as approved.
 - b) Whether, in the opinion of the Planning Board, arrangements for the ownership and maintenance of common land are workable and will result in the permanent preservation of such land for its indicated use.
 - c) Whether, if the application involves less than the total area of the planned unit development, the development proposed under the site

plan could exist by itself as a unit capable of sustaining an environment of continuing quality and stability consistent with the project plan. Stages of total communities or new towns may be waived from this determination.

c) Project Plan Documents.

1. Project plans must include maps, drawings, and other materials that show:
 - a) Site plans for all construction for which building permits are sought and all adjoining or adjacent structures.
 - b) Landscaping plans showing all open space, plazas, malls, courts, and pedestrian ways within or immediately surrounding the proposed construction.
 - c) Grading plans using United States Geologic Survey (USGS) datum showing existing and proposed topographic contours within and surrounding the proposed construction.
 - d) Improvement plans showing existing and proposed drainage, water and sanitary sewer facilities, easements if any, within or affected by the proposed development.
 - e) Vehicular and pedestrian traffic circulation plans showing proposed streets, points of access, sidewalks, and off-street parking and loading to serve any proposed building or facilities.
 - f) General floor plans and building elevations of proposed structures.
 - g) Other items as determined by the Planning Board including, but not limited to, lighting, snow storage, and signage.
 - h) Construction schedule, sequence of development, and project financing.
 - i) Designated area(s) reserved for parkland.
2. The Planning Board may require submission of additional material to explain and/or justify the project plan, which could include, but is not limited to, the following:
 - a) Information necessary to assure compatibility of the proposed project with adjoining existing uses and to Town planning objectives.
 - b) An explanation of the manner in which all requirements of the overall project plan and of other applicable regulations are to be met and in which adequate access for emergency vehicles and fire protection is to be maintained.
 - c) Payment-in-lieu-of-land for parklands.
 - d) Bonding security for proposed public improvements.

d) Project Plan Approval and SEQR Compliance.

Project plan approval is a Planning Board action, and separate from the Town Board establishment of the PUD zone and shall be conducted in accordance with the applicable procedures and requirements, including New York State Town Law and SEQR. Separate environmental analysis of each project phase may be necessary to supplement the initial SEQR determination and findings made for establishment of the PUD zone.

4. Performance Standards

- a) Unless the Town Board establishes other controls or standards at the inception of the PUD zone, the following shall apply uniformly to the entire PUD zone or to designated portions.
- b) Permitted Uses.
 - 1. The Town Board shall specify the permitted uses within the PUD zone when such zone is initially established and may identify specific uses for lots or sub-areas within the PUD zone. Where residential uses are permitted, the Town Board may establish the unit densities. If the Town Board chooses not to establish densities, the provisions of Subsection D (3) shall apply.
 - 2. The PUD shall also be used to address uses, which, due to their size or character, have potentially significant impacts and require maximum review of location, scale, and design.
- c) Minimum Area.
 - 1. No PUD zone shall have a gross land area of less than 10 acres, exclusive of existing public rights-of-way.
 - 2. Once established, a PUD zone may be enlarged to include other contiguous areas regardless of their size. Such areas, if separated by a public right-of-way, may be considered contiguous if, in the opinion of the Town Board, the continuity of the original PUD zone is maintained or enhanced.
- d) Dimensional Controls.

Unless otherwise specified by the Town Board, the following shall apply:

 - 1. Distance between buildings.
 - a) Front, rear, and side yards for residential uses shall be designed so that a building is not closer than 20 feet to any other residential building and 50 feet to any non-residential building.
 - b) Front, rear, and side yards for non-residential uses shall be designed so that a building is not closer than 30 feet to any other non-residential building and 50 feet to any residential building.
 - c) For purposes of interpretation, a structure that contains both residential and non-residential uses shall comply with the requirements of Subsection D(1)b.
 - d) Accessory structures shall be no closer than 10 feet to the principal structure with which they are associated and no closer than 20 feet to any other principal structure, and 5 feet to any other accessory structure.
 - 2. Distance from lot lines.

The minimum distance between any point on a principal structure and the lot line shall not be less than 10 feet.
 - 3. Density of development.

Unless the Town Board has established a minimum density pursuant to Subsection B, all residential development shall provide an average density of 10,000 square feet of land per dwelling unit. Commercial and industrial

uses shall maintain a minimum of 20,000 square feet of land per each building.

4. Lot coverage.

Maximum lot coverage for all development within a PUD zone shall not exceed 30% of the gross land area.

5. Height.

The maximum height of all principal structures shall not exceed 35 feet for residential buildings, 40 feet for commercial or industrial buildings, and 15 feet for accessory structures.

6. Parking/Loading.

The provisions of Section 19 of the Zoning Local Law shall apply to PUD zones. Shared parking and storage may be included in the calculation of the overall parking compliance.

7. Supplementary Regulations.

Unless provided for in Subsection B or by the Town Board when establishing the PUD zone, Section 24 of the Zoning Local Law shall apply to all developments within the PUD zone.

5. *Modifications and Amendments*

- a) Unless otherwise provided by the Town Board or Planning Board, all land use activities situated within and in existence on the effective date of the PUD classification or developed in accordance with an approved project plan may be altered or modified. Such modifications shall be subject to the approval of a project amendment by the Planning Board in the event of the following:
 1. Change in type or location of approved land use.
 2. Increase in floor area in excess of 10% of a principal or accessory structure.
 3. Demolition of a principal structure, except where mandated by an appropriate official in the interest of public safety.
 4. Establishment or realignment of new streets or other public/common areas.
 5. Any change to landscaping, open space, parking, public facilities, or other improvements addressed in the project plan.
- b) Any modifications not addressed or exceeding the limits established at the inception of the PUD zone shall be reviewed and approved by the Town Board.
- c) It is the intent of the PUD zone that no nonconforming elements will exist within the zone. The flexibility of the land use and geometric controls and review procedures should prevent the creation of any nonconforming element. In the event that nonconformity does exist, any subsequent changes shall conform to the zone controls and shall be subject to an issuance of a project plan amendment by the Planning Board.

SECTION 15 **CRITICAL ENVIRONMENTAL AREA (CEA) OVERLAY ZONE**

- A. PURPOSE. The purpose of this zone is to preserve the Nine Mile Creek corridor and tributaries, and to protect the area from development that may potentially pose a threat to the special characteristics of this unique resource. It will also provide recreational amenities and enhance the aesthetic quality of the community.
- B. REGULATIONS. Land within the boundaries of this zone is subject to the regulations and controls of both the overlay zone and the underlying zone. In the event of conflict between the zones, the more restrictive requirement shall apply. The boundaries of the overlay zone shall be as shown on the Town's Zoning Map, and are generally established as 100 feet from: (1) the stream, (2) 100-year floodplain, or (3) NYSDEC wetland, whichever is greater. In the area around Otisco Lake, the boundary is 50 feet.
- C. PROPOSED ACTIVITIES. Proposed activities within the CEA shall require a special permit from the Zoning Board of Appeals. Such activities may include, but no be limited to construction, excavation or fill, clearing of existing vegetation, destruction of wildlife habitat, or any activities that would cause erosion.

Activities that do not require a special permit include:

1. Maintenance of existing landscaping or natural vegetation;
2. Minor or temporary uses of land that have negligible impact on the environment;
3. Alterations, repairs, or improvements to existing structures, other than expansion;
4. Installation of playground equipment or structures less than 100 square feet that have negligible impacts to the environment; and
5. Maintenance of driveways and roads.

If unclear, the Codes Enforcement Officer will determine whether a proposed activity qualifies under any of these cases. The Codes Enforcement Officer, at his discretion, may refer the decision to the Zoning Board of Appeals.

- D. APPLICATIONS. All applications for special permit shall include a completed SEQR long Environmental Assessment Form (EAF).
- E. COSTS. If in the opinion of the Town, it is necessary to seek assistance by an engineer, landscape architect, or other professional in the review of any application for special permit, the cost shall be borne by the applicant.

SECTION 16 **HIGHWAY OVERLAY ZONE**

- A. PURPOSE. The purpose of this zone is to balance transportation functionality of a highway corridor with environmental considerations and land use. The intent is to

preserve the scenic vistas of the corridor, while at the same time, providing additional controls and/or opportunities for specific types of development along the corridor.

- B. LOCATION. The requirements of this zone shall apply to the following highway corridors, as shown on the Zoning Map:
 - US Route 20, from NY Route 174 easterly to the Town line
- C. REGULATIONS. Land within the boundaries of this zone is subject to the regulations and controls of both the overlay zone and the underlying zone. In the event of conflict between the zones, the more restrictive requirement shall apply.
- D. PRINCIPAL PERMITTED USES. The following principal uses will be permitted (subject to special permit) in addition to those allowed by the underlying zone:
 - 1. Hotels.
 - 2. Restaurants.
 - 3. Country Store (including sale of products by other than property owner).
 - 4. Professional Office Buildings.
- E. SETBACKS. The minimum front yard setback shall be 100 feet from the street line.

SECTION 17 **ADULT ENTERTAINMENT**

- A. PURPOSE. It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Town of Marcellus, this section is intended to restrict adult uses to industrially zoned areas of the Town. The Town Board has found that the operational characteristics of adult uses and the secondary effects of adult uses increase the detrimental impact on a community when such uses are spread throughout the community. Therefore, this section is intended to promote the health, safety and general welfare of the residents of the Town of Marcellus by regulating the concentration and location of such adult uses. This section has neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this section to restrict or deny access by the distributors and exhibitors of adult entertainment and/or sexually orientated entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.
- B. RESTRICTIONS. All adult uses shall comply with the applicable provisions of the Zoning Local Law including those relating to structures and uses permitted in the L-1 Light Industry zone.

In addition, no person shall construct, establish, operate, or maintain, or be issued a certificate of occupancy for, any adult use within the Town unless such use meets the following standards:

1. No more than one adult use shall be allowed or permitted on any one lot.
 2. No adult use shall be allowed on a lot that is closer than 500 feet from: (a) a structure in which there is another adult use; (b) any residential or business zone; (c) any structure that is utilized, in whole or in part, for residential purposes; (d) any church or other regular place of worship, community center, funeral home, library, school, nursery school, daycare center, hospital or public park, playground, recreational area or field; (e) any public buildings; and (f) any hotels or motels.
 3. Where there is a conflict between these regulations and any other law, rule or regulation of the Town including the Zoning Local Law, the most restrictive law, rule or regulation shall apply.
 4. All distances set forth herein shall be measured from lot line to lot line.
- C. OBSERVATION FROM PUBLIC WAY. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical activities from any public way or from any other lot, including but not limited to any lighting, display, decoration, poster, photograph, video, sign, show, doorway, window, screen or other opening.
- D. PENALTIES. A violation of any provision of this section shall be punishable as provided in Section 28.

SECTION 18 **NONCONFORMING STRUCTURES, USES, AND LOTS**

- A. DEFINED. A structure, use, or lot, lawfully existing at the time of the enactment of this ordinance or any amendment affecting such structure, use, or lot that does not conform to the regulations of the zone in which it is located.
- B. CONTINUATION. A nonconforming use may be continued subsequent to adoption of this ordinance, but the structure shall not be enlarged or altered in a way which increases its nonconformity, and the use shall not be enlarged or increased to occupy a greater area of land.
- C. EXTENSION. A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption of this ordinance. A nonconforming use may not be changed to another nonconforming use.
- D. PLACING IN SAFE CONDITION. Nothing in this local law shall be deemed to prevent the strengthening or restoring to a safe condition of any structure declared unsafe by any public official.
- E. ALTERATION OR RESUMPTION OF USE. A nonconforming structure or use may not be altered, rebuilt, or resumed, except in conformity with the regulations for the district in which it is located, under the following conditions.

1. It has once been changed to a conforming use.
 2. A nonconforming use of land has ceased for any reason for a period of more than 30 days.
 3. A nonconforming use of a structure has ceased for a consecutive period of 6 months or for 18 months during any three year period. An application for time extension for up to 12 months may be submitted to the Zoning Board of Appeals for consideration.
- F. DISTRICT CHANGES. Whenever an area is transferred from a district of one classification to a district of a different classification, the above regulations shall apply to nonconforming uses created by such transfer.

SECTION 19 **OFF-STREET PARKING**

- A. DIMENSIONS. All parking spaces, exclusive of handicap spaces, shall be 10 feet x 20 feet, unless otherwise approved by the Planning Board.
- B. REQUIREMENTS. The following off-street parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building erected or altered for use for any of the following purposes:
 1. Dwelling – at least two parking spaces for each dwelling unit and at least one parking space for every two boarders and/or lodgers resident therein.
 2. Theater, church or other place of public assemblage – at least one parking space for every six seats, based on maximum seating capacity.
 3. Hotel, motel, bed and breakfast – at least one parking space for each guest sleeping room.
 4. Restaurant or other eating place – at least one parking space for every four seats.
 5. Medical Care Facility – at least one parking space for every four beds.
 6. Retail store, personal service shop, undertaking establishment, kennel, pet shop and veterinary hospital – at least one parking space for every 300 square feet of floor area.
 7. Bank and office building – at least one parking space for every 500 square feet of floor area.
 8. Industrial or manufacturing establishment -- at least one parking space for every four employees during the greatest shift.
 9. Public, private, and parochial schools – at least one parking space for each classroom therein.
- C. LOADING/UNLOADING. Loading/unloading spaces shall be provided and satisfactorily maintained (by the owner of the property) for each building erected or altered for use for any of the following purposes:
 1. Hotel or motel – at least one space.
 2. Restaurant or other eating place – at least one space.
 3. Medical Care Facility – at least one space.

4. Retail business, office, or service establishment – at least one space for each 5,000 square feet of floor area.
 5. Bank or office building – at least one space.
 6. Industrial or manufacturing establishment - at least one space for every 10,000 square feet of total floor area.
- D. ADDITIONAL SPACES. Subsequent to construction of improvements, if provisions for parking and/or loading are determined by the Town to be insufficient for the activities on the property, the Town may require that additional spaces be provided.
- E. ADDITIONAL REGULATIONS:
1. All parking spaces shall be on the same lot with the principal building, except that such parking spaces may be otherwise located upon approval of the Zoning Board of Appeals granted in Section 25 of this local law and the procedures set forth, and upon further finding that it is impractical to provide parking on the same lot with such building.
 2. When the application of a unit of measurement for parking spaces to a particular use or structure results in a fractional space, any fraction under $\frac{1}{2}$ shall be disregarded and fractions of $\frac{1}{2}$ or over shall be construed to require one parking space.

SECTION 20 **ADMINISTRATION AND ENFORCEMENT**

The Town Board of Marcellus, may, from time to time, designate and appoint and pay compensation to a person or persons to administer, supervise and enforce the rules and regulations of this local law.

SECTION 21 **ZONING PERMIT, BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY OR COMPLIANCE**

Any person wishing to change or expand the use of any building, structure or land or erect any building or structure, or perform any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit, shall apply to the Town Clerk for a Building or Zoning Permit. Application forms for this purpose may be obtained from the Town Clerk. The applicant must affirm on said application that all requirements of the Zoning Law and Uniform Code as herein defined shall be complied with. If the application appears in correct form and for a permitted use in compliance with this local law, the Codes Enforcement Officer shall issue a Zoning Permit or Building Permit to the applicant within ten days of the date of filing. The reason for rejection shall be noted on the copy returned to the applicant.

No building or structure hereinafter erected or altered shall be occupied or any change of use or expansion of use implemented until a Certificate of Occupancy or Compliance has been issued by the Codes Enforcement Officer to the applicant. It is the responsibility of the applicant to notify the Codes Enforcement Officer upon the completion of the construction to the building or structure or, of the change or expansion in use. The Codes Enforcement Officer will then inspect the project. If said inspection reveals the requirements of this local law have been complied with and all the requirements of the New York State Uniform Protection and Building Code are complied with, then the Codes Enforcement Officer shall issue a Certificate of Occupancy or Compliance within 30 days.

- A. NEW BUILDING AND VACANT LAND. Construction on any building hereafter erected shall not be commenced nor shall vacant land be occupied or used, in whole or in part, until the appropriate permit shall have been issued by the official designated by the Town Board and posted on the premises certifying that such building, its location, and its use and the use proposed for the land conforms to the provisions of this ordinance.
- B. BUILDINGS HEREAFTER ALTERED. No building shall hereafter be enlarged or extended or altered, wholly or in part, so as to change the classification of occupancy, and no building hereafter altered for which a permit has not been heretofore issued, shall be occupied or used, in whole or in part, until a certificate of occupancy shall have been issued.
- C. CHANGES OF OCCUPANCY OF EXISTING BUILDING.
 1. No change of occupancy, use or construction shall be made in a building hereafter unless the official designated by the Town Board certifies that such changes conform substantially to the provisions of this local law and a Certificate of Occupancy or Compliance has been issued.
 2. The use of a building or premises shall not be deemed to have changed because of a temporary vacancy or change of ownership or tenancy, except in the case of legal nonconformity as outlined in Section 18.
- D. LENGTH OF VALIDITY. Permits shall be valid for up to one year from date of issue. Upon application to the Zoning Board of Appeals, a one year extension may be granted, provided that such an application shall be made in writing prior to the end of the first year. If at the end of two years substantial work has not been done, the permit shall expire and shall be null and void.
- E. NONCONFORMING LOTS. A building permit will be eligible for issuance by the Codes Enforcement Officer for nonconforming lots, as defined in Section 18 provided that:
 1. The lot was conforming at the time of adoption of this local law;
 2. The proposed construction will comply with all setbacks and other dimensional controls for the appropriate zone; and

3. The proposed construction does not increase the nonconforming feature(s) of the property.

SECTION 22
**PERMITS FOR EXCAVATION, FILLING, GRADING,
AND CLEARING OF VEGETATION**

- A. PURPOSE. The purpose of this section is to regulate and control modification of the topography of the land by excavating, grading, filling or similar activities. The Town of Marcellus finds that the uncontrolled modification of existing topography has resulted in the destruction of natural ground cover, air pollution, soil erosion, stream and pond sedimentation, and alteration and disruption of natural drainageways and has adversely affected the health, safety, and general welfare of the Town's residents.
- B. APPLICATION. This section shall apply to all real property in the town. To the extent that the Mined Land Reclamation Act, or NYS Environmental Conservation Law does not otherwise apply, a permit as described in this section is required wherever it is proposed to modify the topography of such real property in any one of the following ways:
 1. Removal of natural vegetation from an area in excess of 10,000 square feet;
 2. Grading, excavating, or filling an area in excess of 10,000 square feet, or in excess of 2 feet in depth;
 3. Grading resulting in the obstruction of a drainageway; or
 4. Grading resulting in the construction of a new drainageway.

- C. FILL. Upon issuance of a permit, soil, rock, stone, gravel, sand, cinders, and uncontaminated construction and demolition debris of the type(s) specifically listed in this section may be used to fill a site or portion of a site to grade(s) approved by the Codes Enforcement Officer and/or Town Engineer.

The term "uncontaminated construction and demolition debris" shall include only bricks, concrete and other masonry materials, plaster, drywall, and asphaltic pavement resulting from the construction, remodeling, repair and demolition of structures and roads that is not contaminated by other foreign materials, including but not limited to: asbestos, garbage, electrical fixtures, transformers, fluorescent lights, carpeting, furniture, appliances, tires, metal, drums, or containers of any size.

- D. EXCEPTIONS. This section shall not apply to land:
 1. Being used for farm purposes, where the activity meeting the criteria in Subsection B is a normal and expected farm activity, such as plowing or harvesting;
 2. Controlled by a permit pursuant to Section 21;
 3. Which is governed by a site plan pursuant to Section 26 of this Zoning Local Law; or
 4. Which is governed by a subdivision plat approved in accordance with the Town of Marcellus Subdivision Regulations.

- E. TOPSOIL REMOVAL. It shall be unlawful to strip topsoil for sale or for use on other premises, except as may be incidental to a construction project and confined to the construction area.
- F. PERMIT. It shall be unlawful for any person to modify existing topography as provided in Subsection B without first obtaining a valid permit from the Codes Enforcement Officer. An applicant for permit must submit an application that meets the requirements of Subsection G. If the application is incomplete, the Codes Enforcement Officer shall return it to the applicant, specifying the manner in which it is incomplete. Upon receipt of a complete application, the Codes Enforcement Officer may refer the application to the Planning Board for review. The Planning Board may schedule a public hearing, grant the permit with or without modifications, or deny the permit.
- G. PERMIT APPLICATION. The completed application shall include the appropriate fees, a narrative describing the proposed action, and a site location plan showing site, property lines, general topography, and area drainage.
 - In addition, the following information may be required, at the discretion of the Town:
 1. A map of the area to be modified showing original and final contours at maximum 2 foot intervals, direction of drainage flows and appropriate information on adjacent properties as they affect or are affected by the applicant's site;
 2. Erosion, runoff, and siltation control measures in accordance with New York State guidelines;
 3. Dust, mud, and debris control on public highways;
 4. Hours of operation and duration of proposed work, including a specific completion date;
 5. Screening for surrounding areas, if required;
 6. Reclamation, including suitable replacement of ground cover, topsoil and seeding, erosion and runoff control;
 7. A completed SEQR EAF;
 8. An agreement executed by all owners of record, in recordable form if required, giving a right of entry to agents of the Town. Failure to perform in accordance with the requirements of this chapter and the conditions of the permit may result in revocation of the permit and completion of the required reclamation by the Town. Should the Town complete the reclamation upon the permittee's failure to do so, such work shall be completed at the sole cost of the permittee; and
 9. A deposit in accordance with Subsection H.
- H. DEPOSIT. The Planning Board may specify a deposit with the Town Clerk of a minimum of \$1,000 per acre or fraction thereof of land to be disturbed, or such greater amount as for a particular project to insure that the reclamation is completed as required. The amount to be deposited shall be in the form of cash, cash equivalent, letter of credit, or performance bond, which must be approved by the Town attorney. Upon failure of the property owner to complete the reclamation as specified in the

permit within the time set forth therein, the Town and/or its agents may enter upon said premises and complete the reclamation. The cost of said work shall be drawn from the security on deposit with the Town. Any security remaining on deposit after completion of said work shall be returned to the owner. Any excess charges incurred by the Town over and above the security shall be paid by the property owner and shall be a lien on said property until paid.

- I. STOP WORK. Any activity undertaken by a property owner subject to this section of the Zoning Local Law without a permit shall be subject to a stop-work order by the Town. Any reclamation necessary to bring such illegal modifications of the topography into conformance with this section will be promptly accomplished by the property owner. Should the property owner fail to bring the property into conformance within 30 days of issuance of the stop-work order, the Town may undertake and complete such reclamation in accordance with Subsection G.
- J. OTHER PERMITS. A proposed modification of the topography may require the acquisition of other permits or approvals, such as those required for lands in flood zones, or in or near wetlands administered by the New York State Department of Environmental Conservation or U.S. Army Corps of Engineers. Receipt of a permit pursuant to this section does not preclude the necessity of obtaining any other permits required for the proposed activity.
- K. LEVELING. The Codes Enforcement Officer may require periodic leveling of fill or graded material.

Any property owner violating any of the provisions of this section shall be subject to the penalties specified in Section 28, and each seven day period of continued violation shall constitute a separate violation hereunder.

SECTION 23 **INTERPRETATION OF ORDINANCE**

In their interpretation and application, the provisions of the local law shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, or the general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the more restrictive, or that imposing the higher standards, shall govern.

SECTION 24 **SUPPLEMENTARY REGULATIONS**

- A. TEMPORARY RESIDENCES. No tent, cabin, basement, capped basement, shack, garage, barn or out-building or any structure of a temporary nature shall be used as a residence excepting that the Zoning Board of Appeals may grant a conditional use permit for six months or for the use of a mobile home (subject to the provisions of any mobile home ordinance of the Town of Marcellus), a garage or a basement as a

temporary residence during the construction of a permanent residence on the same lot. Six-month renewals, not to exceed three, making a total of twenty-four months may be granted in case of emergency or disasters.

- B. HEIGHT EXCEPTIONS. Nothing herein contained shall be interpreted to limit or restrict the height of a church spire, belfry, clock tower, chimney flue, water tank, elevator bulkhead, silo or other similar structure, except that such structures shall be so located on a lot of sufficient size that the distance from the center of the structure to the nearest property line is not less than the height of the structure plus 5% of the height.
- C. SWIMMING POOLS. Private swimming pools shall be permitted in all zones subject to the front, side and rear yard setbacks prevailing in that zone. Pools shall be fenced with a minimum 4 foot fence, which shall be reasonably secure such as chain link or stockade. Fencing requirements shall apply to all pools installed after May 1, 1966. All pools shall be equipped with a gate which can be locked. Farm ponds are exempt from these requirements.
- D. SIGNS. All signs, billboards or other advertising devices are specifically prohibited, except as follows:
 - 1. In zones where signs are a permitted use.
 - 2. In residential zones where a sign no more than 28 inches in length or width may be used to announce a home occupation.
 - 3. In areas where variances have been granted by the Zoning Board of appeals under the conditions set forth in Sec. 25, B.3, (a) and (b). Subdivision identification signs shall be included under this category, subject to such standards as may be established by the Town Planning Board.
 - 4. Temporary signs. Lights and moving parts shall be prohibited on all temporary signs.
 - a) Real estate ("For Sale" or "For Rent") signs, erected a minimum of 10 feet from the edge of the street pavement, no larger than 10 square feet in size, and not remaining longer than thirty days after the sale or rental.
 - b) Construction signs advertising the contractor completing certain construction or activity upon the premises, erected a minimum of 10 feet from the edge of street pavement, no larger than 10 square feet in size, and not remaining longer than thirty days after the construction or activity is complete.
 - c) Political signs, erected a minimum of 10 feet from the edge of street pavement, no larger than 10 square feet in size, not to be erected more than forty-five days prior to Election Day, and not remaining longer than ten days after Election Day.
 - d) Non-profit event signs, erected a minimum of 10 feet from the edge of street pavement, no larger than 10 square feet in size, and not remaining longer than twenty-one days, and not remaining longer than five days after completion of the event.
 - e) In-season, off-site agricultural direction signs, erected a minimum of 10 feet from the edge of street pavement, and no larger than 10 square feet in size.

5. Signs required by County, State or Federal laws.

E. TELECOMMUNICATION TOWERS AND COMMERCIAL DISHES.

1. The following factors will be considered in reviewing an application in all permitted zones:
 - a) The applicant must demonstrate that the proposed location is necessary to meet the frequency reuse and spacing needs of the system, and to provide adequate service and coverage to the Town.
 1. The applicant must demonstrate that all reasonable measures have been taken to minimize the visual impacts of the proposed facilities.
 2. Exceptions to these regulations are limited to new uses which are accessory to residential users and lawful or approved uses existing prior to the effective date of these regulations.
 3. Where these regulations conflict with other laws and regulations of the Town, the more restrictive shall apply, except for tower height restrictions which are governed by these special use standards.
 2. No tower shall be used, erected, moved, reconstructed, changed, or altered except after approval of a special permit and in conformity with these regulations. No existing structure may be modified to serve as a transmission tower unless in conformity with these regulations.
 3. A site plan shall be submitted in accordance with Section 26, and shall show existing and proposed structures and improvements including roads, and grading plans for proposed facilities. It shall also include documentation on the intent and capacity of use as well as a justification for the height of any tower or antenna, and justification for any land or vegetation clearing required.
 4. All towers and accessory facilities shall be sited to have the least practical adverse effect on the environment. The application shall include a completed SEQR Visual EAF Addendum, and a landscaping plan addressing other standards listed within this section, with particular attention to visibility from key viewpoints within and outside of the Town, as identified in the Visual EAF. A more detailed visual analysis may be required, based on the Visual EAF.
 5. At all times, shared use of existing towers shall be preferred to the construction of new towers. Where such shared use is not available, location of antennae on existing structures shall be considered. An adequate report shall be submitted with an inventory of existing towers within reasonable distance of the proposed site, and outlining opportunities for shared use of existing facilities and use of other existing structures as an alternative to new construction.
 6. An applicant proposing to share use of an existing tower shall document the intent from the existing tower owner and land owner to share use. The applicant shall pay all fees and costs of adopting an existing tower or structure to a new shared use, unless otherwise stipulated by mutual agreement of the tower lessor and lessee. Costs may include, but are not limited to, structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes including real property acquisition or lease required to accommodate shared use.

7. In the case of a new tower, the applicant shall submit a report demonstrating potential shared use on existing towers, as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.
8. Towers shall, to the maximum extent possible, be designed to provide for shared use by at least three providers, or designed so they can be retrofitted to accommodate at least three providers.
9. Towers and antennae shall comply with all setbacks within the affected zone. Additional setbacks may be required to contain on-site substantially all ice-fall or debris from tower failure and/or to all tower parts including guy wire anchors and to any accessory facilities. Towers shall not be located closer than 200 feet to any residential zone. Additionally, they shall be so located on a lot of sufficient size that the distance from the center of the structure to the nearest property line is not less than the height of the structure plus 5% of the height.
10. Towers shall not be artificially lighted except to ensure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line, and painted gray, green, black or similar colors designed to blend into the natural surroundings below the tree line, unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e. monopoles or lattice towers) shall be preferable to freestanding structures except where such freestanding structures offer capacity for future shared use. Towers shall be designed and sited so as to avoid, wherever possible, application of FAA lighting and painting requirements.
11. Accessory facilities shall maximize use of building materials, colors and textures, designed to blend with the natural surroundings.
12. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding 4 inches in diameter (measured at a height of 4 feet from the ground) shall take place prior to approval of the special permit. Clear cutting of trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
13. Deciduous or evergreen tree plantings 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 property, including streets, the following vegetative screening shall be required:
 - a) At least one row of native evergreen shrubs or trees capable of forming a contiguous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities.
 - b) In the case of poor soil conditions, planting may be required on soil berms to ensure plant survival. Plant height in this case shall include the height of the berm.
14. An access road and parking shall be provided to ensure adequate emergency and service access. Maximum use of existing roads shall be made. Access road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, top of cut, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to ensure minimal visual disturbance

and soil erosion. Public road standards may be waived in meeting the objectives of this subsection.

15. Signs shall not be permitted on towers, antennae, or related accessory facilities, except for signs displaying owner contact information and/or safety instructions. Such signs shall not exceed 5 square feet in area.
16. All utility connections to towers and accessory facilities shall be installed underground.
17. Towers and related facilities shall be maintained in good condition and repair. Towers shall be inspected annually on behalf of the tower owner by a licensed (in New York State) professional engineer for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Codes Enforcement Officer no later than December 31 of each year.
18. Provisions may be required for towers and accessory facilities to be dismantled and removed upon abandonment of the approved use, including posting of a bond or security.

F. FENCES AND WALLS.

1. Fences and walls within the A-1 Agricultural zone shall be a maximum height of 8 feet.
2. Fences and walls within all other zones may be erected up to a maximum height of 6 feet, except that in residential zones, the maximum height in front yards shall be 4 feet.
3. No structure, planting, or other obstruction shall be placed or maintained in such a manner that would impede vision at streets, driveways, and railroad crossings.
4. Fences shall be installed in a manner such that the structural elements are facing the property on which the fence is located.

G. HEALTH AND SAFETY. The following uses are prohibited in all zones:

1. All uses which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to cause injury or damage to property, business, or vegetation.
2. All uses with sound that is considered offensive, or cause sound levels in excess of 60 decibels measured at any lot line, using the A-weighted scale of a standard sound level meter meeting the current revision of USA Standard S1.4-1961 for General Purpose Sound Level Meters, published by the U.S.A. Standards Institute. Emergencies, school events, and construction activities between the hours of 7:00 AM and 9:00 PM, are exempt.
3. All uses which emit any odor which is considered offensive, measured at any lot line.
4. All uses which emit dust or dirt which is considered offensive, measured at any lot line.
5. All uses which emit any smoke in excess of Ringlemann Chart No. 2, measured at any lot line.

6. All uses which emit any noxious gases which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to cause injury or damage to property, business, or vegetation.
7. All uses which cause as a result of normal operations, a vibration which creates a displacement of 0.003 of one inch, measured at any lot line.
8. All uses, lighting or signs, which create glare, which could impair the vision of a driver of any motor vehicle.
9. All uses which cause a fire, explosion, or safety hazard.

H. OUTDOOR AND VEHICLE STORAGE.

1. All vehicles used for racing shall be stored in an enclosed structure or trailer in residential zones.
2. In R-2 and R-4 zones, tractor-trailers and components, and dump trucks larger than 18,000 pounds GVW shall not parked overnight. In R-1 zone, tractor-trailers and components, and dump trucks larger than 18,000 pounds GVW shall not be parked overnight on lots smaller than 2 acres and within 75 feet of any lot line.
3. In all residential zones, commercial equipment and building materials stored for more than 30 days shall be screened using a fence, hedge, or other barrier, subject to the requirements of Subsection F. Such stored material shall not be visible to an adjacent lot or public right-of-way. This shall not apply while a valid building permit is in effect.

I. LIGHTING. In order to minimize glare, safety hazards for drivers and pedestrians, light trespass and light pollution, lights shall be adjusted in accordance with the following provisions:

1. Lights shall be shielded in such a way as to direct all light toward the ground and away from reflective surfaces.
2. Light fixtures or lamps shall be shielded in such a manner as to direct incident rays away from adjacent property and public streets.

J. PRIVATE AUTO SALES. Private auto sales shall be permitted only on properties with dwelling units, and shall be limited to one vehicle at any time, not-to-exceed three vehicles in a calendar year.

K. OUTDOOR BOILERS. Outdoor boilers using wood or other solid fuels are prohibited in all zones.

L. DRIVEWAYS. The maximum number of driveway entrances onto a Town road for one and two-family dwellings shall be one per building lot. For lots with multiple dwellings and commercial uses, the maximum number of driveway entrances shall be two per building lot. Location of driveway entrances shall be approved by the Town.

SECTION 25 **ZONING BOARD OF APPEALS**

- A. CREATION, APPOINTMENT AND ORGANIZATION. A Zoning Board of Appeals consisting of five members is hereby created. The Town Board shall appoint the members for overlapping five-year terms and shall also appoint the chairperson and the secretary. The Zoning Board of Appeals shall prescribe rules for the conduct of its affairs.
- B. POWERS AND DUTIES. The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this local law, which are more particularly specified as follows:
 - 1. INTERPRETATION. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provisions of this ordinance, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.
 - 2. SPECIAL PERMITS. To issue special permits for any of the uses for which this local law requires the obtaining of such permits from the Zoning Board of Appeals; but not for any other use or purpose. No such special permits shall be granted by the Zoning Board of Appeals unless it finds that the use for which such permits sought will not, in the circumstances of the particular case and under any conditions that the Board considers to be necessary or desirable, be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - 3. VARIANCES.
DEFINITIONS – as used in this section:
 - 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.
 - b) “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.A use variance or area variance shall be granted by the Zoning Board of Appeals only upon a finding pursuant to Section 267-b of the Town Law. In granting any variance, the Zoning Board of Appeals shall prescribe any condition that it deems to be necessary or desirable.
- C. PROCEDURE. The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and by this local law. All appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the local law involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as may be the case.

Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings of the Board in the peculiar case. Each such resolution shall be filed in the office of the Town Clerk, by the case number under one or another of the following headings: interpretation; special permits; variances; together with all documents pertaining thereto. The Zoning Board of Appeals shall notify the Town Board of the Town of Marcellus of each special permit and each variance granted under the provision of this local law.

The Planning Board shall act in an advisory role in applications for special permits and variances.

The applicant for an area or a use variance shall notify by certified mail all property owners within 500 feet of the subject property at least five days prior to the public hearing and shall furnish the Zoning Board of Appeals with Post Office receipts as proof of notification.

SECTION 26 **SITE PLAN REVIEW/PLANNING BOARD**

- A. SITE PLAN REVIEW AND APPROVAL. No building or zoning permits shall be issued for any use or structure until a site plan has been reviewed and approved by the Planning Board.

Site plan review shall not be required for:

1. One or two-family dwellings and associated accessory structures and uses in the R-1, R-2, R-3, R-4 or Agricultural zones.
2. Uses or structures that require a Special Permit or a variance from the Zoning Board of Appeals shall be subject to an advisory site plan review prior to any decision by the Zoning Board of Appeals. The advisory review by the Planning Board shall address the site plan criteria in this Section 26 and may include issues the Planning Board deems relevant. Where a Special Permit or variance is required, the Planning Board may only recommend a decision to the Zoning Board of Appeals, but it may offer a list of issues which the Planning Board determines needs further consideration by the Zoning Board of Appeals. The findings, recommendations, or suggestions of the Planning Board shall be presented in writing within forty-five days and shall not be binding upon the Zoning Board of Appeals. The review period may be modified upon mutual consent of the above boards.

- B. SKETCH PLAN. A sketch plan conference may be held between the Planning Board and the applicant prior to the submission of a formal site plan. Such conference is to enable the applicant to discuss his proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concepts. The Planning Board will advise the applicant as to potential problems and concerns and generally determine the information required on the site plan. For the plan conference, the applicant should provide the following:

1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
 2. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features; and
 3. A topographic or contour map.
- C. APPLICATION FOR SITE PLAN APPROVAL. An application for site plan approval shall be made in writing to the chairman of the Planning Board no less than ten working days before any scheduled or special Planning Board meeting. The applicant shall submit a site plan and supporting data which have been prepared by an architect, landscape architect, engineer or land surveyor and which shall include the following information presented in drawn form from this checklist.
1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
 2. North arrow, scale and date;
 3. Boundaries of the property plotted to scale;
 4. Existing watercourses;
 5. Grading and drainage plan, showing existing and proposed contours;
 6. Location, design and type of construction proposed use and exterior dimensions of all buildings;
 7. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
 8. Provisions for pedestrian access;
 9. Location of outdoor storage, if any;
 10. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
 11. Description of the method of sewage disposal and location, design, and construction materials of such facilities;
 12. Description of the method of securing public water and locations, design and construction materials of such facilities;
 13. Location of fire and other emergency zones, including the location of fire hydrants;
 14. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
 15. Location, size and design and type of construction of all proposed signs;
 16. Location and proposed development of all buffer areas, including existing vegetative cover;
 17. Location and design of outdoor lighting facilities;
 18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
 19. General landscaping plan and planting schedule;
 20. An estimated project construction schedule;

21. Record of application for and approval status of all necessary permits from state and county officials;
22. Identification of any state or county permits required for the project's execution;
23. Other elements integral to the proposed development as considered necessary by the Planning Board;
24. SEQR submission;
25. Names of property owners within 500 feet of property;
26. Current survey.

D. REVIEW OF SITE PLAN. The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

1. Location, arrangement, size, design, and general site compatibility of building, lighting and signs.
2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
5. Adequacy of storm water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

E. PLANNING BOARD ACTION ON SITE PLAN. Within sixty-two days of the receipt of a complete application for site plan approval, the Planning Board shall render a decision, file said decision with the Town Clerk, and mail such decision to the applicant with a copy to the Codes Enforcement Officer. At the Board's option, such decision may be reached at a public hearing called for the purpose. The time within which a decision must be rendered may be extended by mutual consent of the applicant and Planning Board.

1. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant, Codes Enforcement Officer, and file same with the Town Clerk.
2. Upon disapproval of a site plan, the Planning Board shall so inform the Codes Enforcement Officer and he shall deny a permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.

- F. REIMBURSABLE COSTS. All costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.
- G. PERFORMANCE GUARANTEE. No Certificate of Occupancy or Compliance shall be issued nor shall occupancy be allowed, until all improvements shown on the site plan are installed or a sufficient performance guarantee provided as determined by the Town Board after consultations with the Planning Board, Codes Enforcement Officer, Town Attorney, and other appropriate parties.
- H. INSPECTION OF IMPROVEMENTS. The Codes Enforcement Officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate.
- I. INTEGRATION OF PROCEDURES. Whenever proposed development requires compliance with other procedures in the Zoning Ordinance or other Town requirements, the Planning Board shall attempt to integrate its site plan review with such other compliance.
- J. HARDSHIP. Where the Planning Board finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of mollifying the intent and purpose of the Official Zoning Map, the Zoning Local Law, the Comprehensive Plan, or these regulations.

SECTION 27 **AMENDMENTS**

The Town Board may, from time to time, on its own motion, or on petition or on recommendation of the Zoning Board of Appeals, amend, supplement, change, modify, or repeal this ordinance in accordance with applicable provisions of law.

SECTION 28 **VIOLATIONS AND PENALTIES**

- A. VIOLATION – PENALTY. A violation of this local law shall be an offense punishable by:
1. a fine not to exceed \$250 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense;
 2. a fine not less than \$250 nor more than \$750 or imprisonment for a period not-to-exceed 15 days, or both, for conviction of a second offense within 5 years of the first;
 3. a fine not less than \$750 nor more than \$1,000 or imprisonment for a period not-to-exceed 15 days, or both, for conviction of a third or subsequent offense, all of which occurred within 5 years of the first.

It shall be unlawful for a person to fail in any manner to comply with any notice, order, or directive of the Codes Enforcement Officer.

Each week of continued violation shall constitute a separate additional violation. In addition, the Town Board shall have such other remedies as are provided by law to enforce the provisions of this local law.

- B. COMPLAINTS OF VIOLATIONS. Whenever a violation of this local law occurs, any property owner of record may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Town Clerk who shall properly record such complaint and immediately refer it to the proper person or Board, who shall take appropriate action to correct such violations.
- C. The Codes Enforcement Officer shall be allowed to post a Notice of Violation on the property in question. Removal of the sign shall be construed to be a violation as defined.

SECTION 29 **REVOCATION OR SUSPENSION OF SPECIAL PERMIT**

If the Zoning Board of Appeals of the Town of Marcellus shall find that any operation permitted hereunder by special permit is not conducted in accordance with the conditions as set forth in that special permit, a notice in writing shall be served upon the holder of the permit directing that the conditions provided be remedied within ten days after the service of such notice. If said condition is not corrected or met after the expiration of said ten-day period, the Zoning Board of Appeals may cause a notice to be made in writing to the holder of said permit, requiring the holder of the permit to appear before the Zoning Board of Appeals at a time to be specified in such notice to show cause why said permit should not be revoked or suspended.

The Zoning Board of Appeals may, after hearing the testimony of witnesses and the holder of the permit, revoke or suspend such permit if the Zoning Board of Appeals shall find that said operation is not being conducted in accordance with provisions of this local law or the conditions of said permit.

SECTION 30 **FEES**

The Town Board may from time to time establish a schedule of fees to defray all or part of the expense of any notices, hearings, permits and approvals under this local law. Said fee or fees shall be paid by the applicant at the time of application.

SECTION 31 **SEVERABILITY**

If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder hereof but such judgment shall be confined in its operation to the clause, sentence, paragraph or section directly involved in the controversy in which judgment shall have been rendered.

SECTION 32 **EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the Secretary of State of the State of New York. The prior zoning ordinance, known as the "Town of Marcellus Zoning Ordinance of 1981," shall remain in effect until the effective date of this local law, at which time the prior ordinance will be deemed repealed and will cease to be in effect."

SECTION 2. EFFECTIVE DATE

This Local Law shall be effective upon filing with the office of the Secretary of State.

The question of the adoption of the foregoing Resolution was duly put to a vote and upon roll call, the vote was as follows:

VOTE:	Daniel J. Ross	Aye/ Nye
	James A. Sheridan	Aye/ Nye
	Donald G. Sherman	Aye/ Nye
	Thomas C. Lathrop	Aye/ Nye
	Bernard L. Montgomery	Aye/ Nye

Resolution duly adopted.

Dated: October 15, 2009