

**TOWN OF ATTICA
ZONING LAW**

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ARTICLE 1: GENERAL PROVISIONS

100 TITLE

The Town Board of the Town of Attica does hereby repeal the Town of Attica Zoning Law adopted on April 12, 1967, and all amendments thereto and does hereby establish a revised comprehensive zoning plan for the Town of Attica, Wyoming County, New York, which plan is set forth below in the form of text, maps, and schedules, that collectively shall be known and cited as the “Town of Attica Local Law Number One (1) of 2011.”

110 INTENT

This Local Law is adopted pursuant to the authority and power granted by Municipal Home Rule Law, Article 2, Section 10 et seq., of the Consolidated Laws of New York State with intent to promote the public health, welfare, safety, convenience, order, and prosperity of the community in the following respects:

- A. To guide the growth and development of the Town in accordance with the goals and objectives of the Town’s Comprehensive Plan.
- B. To protect farming and farming-related land uses and economic activities.
- C. To follow Comprehensive Plan recommendations for land use, population density and intensity of development; to conserve the value of land and buildings in accordance with the character of the district and its suitability for particular uses; protect the economic stability of the entire Town and encourage complementary industrial and commercial economic activities; and provide for orderly and beneficial growth commensurate with the availability and capacity of public facilities and services, and the ability of land and natural resources to accommodate such growth.
- D. To ensure adequate and appropriate sites for a diverse mix of housing opportunities.
- E. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural scenic qualities of open space.
- F. To safeguard natural, historic and scenic resources; prevent contamination of public and private drinking wells and aquifers, air quality, lakes and ponds, and freshwater wetlands, and watercourses; and preserve the integrity, stability, and beauty of the community.

- G. To establish the most beneficial relationship between land use, buildings, and the circulation of traffic throughout the Town with particular regard to the lessening of congestion, the safe and efficient movement of vehicles and pedestrians, the provision of adequate parking facilities, and convenient access appropriate to the prospective use.
- H. To secure safety from fire, flood, panic, and other dangers; provide adequate light and air and land.
- I. To guide public policy so as to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other community facilities and infrastructure; and guide private enterprise in building development, investment, and other economic activity relating to land use and buildings.
- J. To assure privacy for residences and freedom from nuisances and harmful, unsightly uses; protect the community against obtrusive and incompatible land uses and operations; and protect property values.
- K. To enhance the rural character and appearance of the Town of Attica as a whole.

120 APPLICABILITY

Upon adoption of this zoning law by the Town Board, no use, building or structure shall be constructed or authorized on any property in the Town until the location and extent thereof conform to this zoning law.

130 VALIDITY, SAVING AND SEVERABILITY

Should any section, paragraph, sentence, clause, word, part, or provision of this zoning law be declared void, invalid or unenforceable, for any reason, such declaration shall not affect the validity of any other part of this zoning law which can be given effect without the part(s) declared void, invalid, or unenforceable.

140 INTERPRETATION, CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of this zoning law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. It is not intended to interfere with, abrogate, or annul other rules, regulations or ordinances. Whenever the requirements of this zoning law are inconsistent with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern.

150 EFFECTIVE DATE

This zoning law shall take effect immediately upon filing with the Office of the Secretary of State in accordance with state law.

160 SUPERCESSION

The “Zoning law of the Town of Attica, Wyoming County, New York,” enacted by the Town Board in 1967 together with all changes and amendments thereto, is hereby comprehensively revised and superseded by this zoning law.

170 VIOLATIONS AND PENALTIES

Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this Zoning Law shall be guilty of an offense, and upon conviction thereof, shall be subject to a fine of not more than \$350.00 or imprisonment for a period not more than five (5) months or both. Each day a violation is continued shall be deemed a separate offense.

180 FEES

- A. Each application for a permit provided by this zoning law shall be accompanied by a fee, payable in cash or other form of security approved by the Town Attorney, according to the fee structure in effect at the time of application. Fees shall be established and/or amended from time to time by resolution of the Town Board.
- B. A fee schedule shall be posted at the Town Clerk’s office.

ARTICLE 2: WORD USAGE & DEFINITIONS

200 WORD USAGE: ADMINISTRATIVE AGENCIES DEFINED

For the purpose of this Zoning Law, certain words and terms used herein shall be defined as follows:

A. Word Usage

- 1. All words used in the present tense include the future tense.
- 2. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- 3. The word “person” includes an association, partnership or corporation.

4. Unless otherwise specified, all distances shall be measured horizontally along the ground.
5. The word “building” includes the word “structure”.
6. “Lot” includes the words “plot”, “parcel”, “tract” or “site”.
7. The word “premises” includes a lot and all buildings or structures thereon.
8. The word “street” includes “road,” “highway” and “lane”; “watercourse” includes “drain,” “ditch” and “stream”.
9. To “erect”, “to construct” and “to build” a building or structure each have the same meaning and also include “to excavate” for a building and “to relocate” a building by moving it from one location to another.
10. “Used shall be deemed also to include “designated, intended or arranged to be used or occupied”.
11. “Shall” is mandatory and not discretionary; “may” is permissive.

B. Administrative Agencies Defined

BOARD OF APPEALS - The Zoning Board of Appeals of the Town of Attica.

COUNTY PLANNING BOARD - The Planning Board of the County of Wyoming.

DEPARTMENT OF HEALTH - The New York State Department of Health and/or the Wyoming County Department of Health pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

TOWN PLANNING BOARD - The Planning Board of the Town of Attica.

TOWN BOARD - The Town Board of the Town of Attica.

ZONING OFFICER - The official or officials designated by the Town Board of the Town of Attica to enforce the provisions of this Zoning Law.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION - The New York State Department of Environmental Conservation.

C. References:

Throughout these regulations one will find reference to publications of other agencies or testing methods such as:

AASHTO - American Association of State Highway and Transportation Officials
ANSI - American National Standards Institute, Inc.
ASTM - American Society for Testing and Materials
AWWA - American Water Works Association
NSF - National Sanitation Foundation
NYSDEC - New York State Department of Environmental Conservation
NYSDOH - New York State Department of Health
NYSDOT - New York State Department of Transportation

Reference for these designations are widely accepted and readily available for the specifics and details that may be required for a design situation.

210 DEFINITIONS

ACCESS: A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.

ACCESSORY BUILDING OR STRUCTURE: A detached building or structure which: (1) is customarily incidental and subordinate to, and serves a principal building; (2) is subordinate in area, extent or purpose to the principal building served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building use; and (4) is located on the same parcel as the principal building. This definition shall include private garages.

ACCESSORY USE: A use incidental and subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

ADULT BOOKSTORE: Any business enterprise having as a substantial portion of its stock-in-trade books, magazines, pamphlets, pictures, drawings, photographs, and audio/visual material of any kind, which are characterized by their emphasis on the description or depiction of areas of the anatomy customarily associated with sexual activities; or any business enterprise having a substantial area of its establishment devoted to the sale, rental, and display of such material. Adult bookstores customarily exclude minors by reason of age.

ADULT ENTERTAINMENT ESTABLISHMENT: Any business enterprise having as a substantial portion of its activity the presentation of live shows, motion-picture films or sound recordings, or similar visual or audio material, which are characterized by their emphasis on the description or depiction of areas of the anatomy customarily associated with sexual activities; or any business enterprise serving food and beer, wine, or liquor whose entertainers or waiters and waitresses appear in a state that displays areas of the anatomy

customarily associated with sexual activities; or any business enterprise that offers services requiring the client or customer to display said anatomical areas, except medical and health services establishments. Adult entertainment establishments customarily exclude minors by reason of age.

AGRICULTURAL DATA STATEMENT: Agricultural data statement Required under Section 283-a of NYS Town Law, if a subdivision is within an Agricultural District containing a farm operation or on properties within boundaries within five hundred (500) feet of a farm operation in an Agricultural District.

AGRICULTURE (FARMING): The use of land for agricultural production purposes including, but not limited to: tilling of the soil, dairying, pasturage, animal and poultry husbandry, apiculture, arboriculture, horticulture, floriculture, viticulture, aquaculture, and accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural production activities.

AIRPORT: Any area of land designed for the operation of general aviation aircraft, including hangars for storage and servicing, taxiways, landing strips, and accessory uses.

AIRSTRIP, PRIVATE: An airport, as defined above, used solely for the benefit of the landowner and for emergency landing when necessary.

ALTERATIONS: As applied to a building or structure; (1) an enlargement of a building or structure, whether by extending on a side or by increasing in height; (2) the moving from one location or position to another; and (3) any alteration whereby a structure is adapted to another or different use.

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices, or construction techniques used for the production of heat, light, cooling, electricity, or other forms of energy on site and may be attached to or separate from the principal structure. Current examples include windmills, solar collectors and solar greenhouses, heat pumps, or other related devices. For the purposes of this Zoning Law, this definition shall apply to individual residences, farms, businesses, and other non-commercial uses. Commercial generating plants are excluded.

ANIMAL HOSPITAL: A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation, and/or recuperation. It may also include boarding that is incidental to the primary activity.

ANTENNA: A structure or mount supporting a system of wires, rods, discs, dish, horns, or similar devices used for the transmission and/or reception of electromagnetic waves.

ANTIQUE AUTOMOBILE: Any motor vehicle which is twenty-five (25) or more model years old and which can be economically restored to a value which is greater than the cost of restoration.

APARTMENT: A dwelling unit that is intended to be leased or rented. This term shall not be deemed to include a motel, hotel, boarding house, or travel trailer.

APARTMENT BUILDING: A building arranged, intended or designed to be occupied by three (3) or more families living independently of each other. Such dwelling units may be offered as rental units or as condominiums.

APPLIANCE: Any stove, refrigerator, washing machine, dryer, freezer, television set, radio, or other household device or equipment.

AUTOMOBILE OR MANUFACTURED HOME SALES: An open area, other than a street, used for the display, sale, lease, or rental of new or used motor vehicles or manufactured homes in operable condition and where no repair work is done.

AUTOMOBILE REPAIR, MAJOR: General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, such as collision services, body repair and frame straightening, painting and upholstering, vehicle steam cleaning and undercoating.

AUTOMOBILE REPAIR, MINOR: Minor repairs, incidental replacement of parts and motor services to passenger automobiles and trucks that do not exceed one and one-half (1 ½) ton capacity, but to not include any operation included in the definition of "Automobile Repair, Major" above.

AUTOMOBILE SERVICE STATION OR FILLING STATION: A building or place of business where gasoline, oil and greases, batteries, tires, and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail, or where minor repair service and vehicle state inspections may be rendered.

BAKED GOODS STORE: A place in which baked goods are produced and sold on the premises.

BED AND BREAKFAST ESTABLISHMENT: A single-family dwelling where overnight lodging, with or without the service of meals, is offered to transient guests for compensation. Such use shall be secondary to the principal use of the dwelling. This term includes hostels and tourist homes but does not include hotels, tourist courts, motor lodges, tourist cabins, or similar terms.

BEST MANAGEMENT PRACTICES: A practice, or a combination of practices, that are determined to be effective, practical means (technological, economical and institutional) of preventing or reducing the amount of water pollution generated by non-point sources to a level compatible with water quality goals. Examples of BMP's include but are not limited

to road building, spoil management, channel/stream crossings, vegetation control, sediment/erosion control and buffer zones.

BLOCK: An area bounded by streets.

BUFFER AREA: A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms, designed to provide a physical screen preventing visual access from one use to another and to reduce the escape and/or intrusion of litter, glare, fumes, dust, noise, or other noxious or objectionable elements.

BUILDABLE AREA: The space remaining on a lot after meeting its natural constraints including steep slopes (in excess of 15%), wetlands, floodplains, any requirements of a stream buffer, and the minimum open space requirements (coverage, yards, and setbacks) have been met.

BUILDER: A person who obtains a building permit for construction of a structure on an approved site.

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

BUILDING CODE: The New York State Uniform Fire Prevention and Building Code.

BUILDING COVERAGE: The amount of land covered or permitted to be covered by a building and its accessory buildings and measured in terms of a percentage of total lot area. Such coverage shall be measured on a horizontal plane at finished grade level and excludes uncovered porches, terraces, and steps.

BUILDING GROUP: Any building, such as a store group, which is divided into separate parts by one (1) or more unpierced walls, extending from the ground up.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the proposed finished grade of the building to the highest point of the roof for flat roofs and to the mean height between the eaves and the ridge of gable, hip, mansard, pitch, or gambrel roofs. For the purpose of determining the maximum permitted height for principal buildings, such measurement shall be made from the average finished grade at the front building line.

BUILDING LINE: A line formed by the intersection of a horizontal plane at an average grade level and a vertical plane that coincides with the exterior surface of the building or a projected roof or porch. The vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves. All yard and setback requirements are measured to the building lines.

BUILDING MATERIAL SUPPLY: A retail operation selling hardware, lumber, and other products used for construction and home improvement.

BUILDING PERMIT: A written permit issued by the Wyoming County Code Enforcement Officer authorizing construction in compliance with the Building Code.

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

BUSINESS, GENERAL: Any establishment engaged in sale of goods or services not otherwise identified in Section 610.

BUSINESS, NEIGHBORHOOD: Small commercial establishments catering primarily to nearby residential areas providing convenience goods and services including, but not limited to, grocery stores (of less than 6,000 square feet in gross floor area), drug stores, beauty salons, barber shops, carryout dry-cleaning, and laundry pickup stations.

BUSINESS, SERVICE: A commercial establishment primarily providing services rather than selling products.

CAFÉ: A small restaurant where drinks and snacks are sold and may accommodate seating for 25 people or less. Examples are coffeehouses, coffee shops, juice bars, soup and sandwich eateries, and similar style restaurants.

CAMOUFLAGING: The construction of facilities to house or support a telecommunications tower so that the towers blend readily with the landscape, neighborhood, and adjacent architectural features. Examples of camouflaging are silo and barn, windmill and simulated tree.

CAMPGROUND: A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding mobile homes designed for year-round occupancy or as a place of residence.

CAR WASH: A structure or building designed for the washing, waxing, or similar treatment of automotive vehicles as its principal function. An Automobile Service Station or Filling Station having portable washing equipment shall not be deemed to be a car wash where such is an accessory service to the principal service of the Automobile Service Station or Filling Station.

CARPORT: A roofed structure without enclosing walls, used for the storage of one or more motor vehicles.

CEMETERY: The land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried, and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or

compartments, but may not include a structure for the purpose of the cremation of human remains.

CERTIFICATE OF COMPLIANCE: A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with this Zoning Law.

CHURCH: Any structure used for worship or religious instruction including social and administrative rooms' accessory thereto.

CLEAR CUTTING: A method of harvesting where virtually all trees on a site are removed.

CLEAR SIGHT TRIANGLE: An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street right-of-ways.

CLERK OF PLANNING BOARD: The individual appointed by the Attica Town Board.

CLUB: Any organization catering to members and their guests, or a building or premises used for recreational, general, social, or athletic purposes not open to the general public. Clubs shall not be conducted primarily for gain, and vending stands, merchandising, or commercial activities shall not be conducted except as required for membership and purposes of such club. For the purpose of this Zoning Law, this term shall include religious organizations, lodges, fraternal organizations, mutual benefit societies, and other similar organizations.

CLUSTER DEVELOPMENT: A subdivision plat or plats, approved pursuant to NYS Town Law Section 278, in which the Zoning Law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands.

CODE ENFORCEMENT OFFICER: An official appointed by the Town Board to enforce the NYS Uniform Fire Prevention and Building Code.

COMMERCIAL: See "BUSINESS".

COMMON AREA: Space reserved for use by any and all residents of a housing development including open space or recreation areas.

COMMUNICATION TOWER: See "TOWER".

COMMUNITY AREAS: Those areas intended for the beneficial use or enjoyment by all residents of a development, including driveways, roadways, parking areas, walkways, landscaped areas, open space and recreation areas.

COMMUNITY RESIDENCE: A resident facility for the mentally disabled operated pursuant to the New York State Mental Hygiene Law and regulations promulgated there under.

COMPREHENSIVE PLAN: A document setting forth policies for the future growth and development of the town.

CONDITIONAL APPROVAL OF A FINAL PLAT: Approval of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such "conditional approval" does not qualify a final plat for recording nor authorize issuance of building permits prior to the signing of the final plat by a duly authorized officer of the Planning Board and recording of the final plat in the Office of the County Clerk in accordance with provisions of this Zoning Law.

CONDOMINIUM: An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. The owner has title to the interior individual dwelling and a shared interest in the common elements.

CONSERVATION EASEMENT: A deed recorded in Wyoming County Clerk's office which contains a voluntary agreement that limits land to specific uses. Easements may apply to entire parcels of land or to specific parts of a property. Private land protected by a conservation easement remains on the tax rolls. All conservation easements must be filed with the Town Clerk.

CONSTRUCTION OBSERVER: An agent of the Town empowered to observe the construction progress of the project and its compliance with the approved plans.

CONTRACTOR: A person acting for the Subdivider to construct the required improvements of the project. The Contractor is responsible to perform the work in conformance with the approved plans subject to a review by Town officials.

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

CONVENIENCE STORE: Small commercial establishments providing frequently needed retail goods, including but not limited to grocery stores (under 5,000 square feet in floor area), and gasoline service without any of the auto related services available at a Gasoline or Service Station.

CONVERSION: A change in use or occupancy of a building, generally by alteration or by other reorganization, as to increase the number of families or dwelling units within a structure.

CROSS LOT ACCESS EASEMENT: A right-of-way conveyed by legal instrument to permit passage of vehicular and pedestrian traffic between two or more parcels.

CROSSWALK: A right-of-way, municipally or privately owned, which traverses and area to furnish access for pedestrians.

CUL-DE-SAC: A street, lane, etc., closed at one end; blind alley; dead-end street.

CULTURAL FACILITIES: The building and land used for the purposes of educational entertainment including museums, libraries, art galleries, theaters for the performing arts, institutional philanthropic use, and public meetings.

CURB LEVEL: The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line. Where a building is on a corner lot, the curb level is the average of the mean levels of the curb on the two intersecting streets. Where no such grade has been established, the Highway Superintendent shall establish same for the purposes of this Ordinance.

DAY CARE CENTER: A place other than an occupied residence which provides day care of children; or, an occupied residence which provides group care for five (5) or more children away from their own homes according to New York State regulations.

DEBRIS: An accumulation of any broken or destroyed material, rubble, or fragments having no economic value.

DEDICATION: The deliberate appropriation of land by its Owner for any general and public uses, reserving to the Owner only rights which are compatible with the full exercise and enjoyment of the public uses to which the land has been designated.

DESIGN PROFESSIONAL: Architect, Professional Engineer or Land Surveyor licensed to practice in New York State.

DEVELOPMENT: Any activity other than normal agricultural, conservation, or forest management activity which materially affects the existing condition of land or improvements, including but not limited to:

- A. Removal of trees or other natural cover.
- B. Substantial excavation or deposits of earth or other fill, including alteration of the banks of any stream or body of water.
- C. Construction, reconstruction, alteration, or demolition of any improvement.
- D. Commencement of any use of the land and improvements thereto and any change in the type or intensity of such use.

DENSITY: The ratio of land area per family or dwelling unit on a lot.

DISCONTINUANCE OF USE: A use shall be determined by the Zoning Enforcement Officer or Building Inspector to have ceased when it has been discontinued, whether with the intent to abandon such use or not.

DISTRICT or ZONING DISTRICT: An area or section of the town described on the Zoning Map contained within this Zoning Law and within which uniform requirements regulate the use of land and structures and the height, bulk, density, and setback of structures.

DOCK: Any structure, whether affixed to land or floating, placed in or upon a lake, stream, or brook where a boat is or may be moored or provides access for swimming, fishing, or for any other use, recreational or otherwise. The term shall include piers, wharves, crib docks, stake docks, floating docks, and all such similar structures.

DRIVE-IN BUSINESS: A business providing service or delivery of goods to persons in a vehicle, the vehicle being driven to a position designed to provide that service or goods from inside a building. This term shall include drive-in outdoor theaters, drive-in banking, drive-in photo processing, fast food establishments, pharmacies, auto washing facilities, refreshment stands, and similar uses. This term shall not include retail fuel outlets or filling stations.

DRIVEWAY: A roadway providing a means of access from a street to a property or off-street parking area. An access way may also be deemed a driveway.

DRIVEWAY, SHARED: A driveway connecting two or more contiguous lots to the public street system.

DWELLING: Any building, or portion thereof, designed or used principally as a residence or sleeping place for one (1) or more persons. Structures which do not have permanent or approved sanitary facilities shall not be considered a residential dwelling.

- **SINGLE FAMILY:** A detached residential dwelling designed for and occupied by one family only.
- **TWO-FAMILY:** A detached building containing two dwelling units, designed for occupancy by not more than two families. A duplex is a two-family dwelling which is designed with a common wall.
- **MULTIPLE FAMILY:** A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided. This definition includes buildings and townhouses.
- **SEASONAL DWELLING:** A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including hunting cabins, vacation cottages, summer cottages, and vacation lodges.

DWELLING UNIT: One room or rooms connected together for owner occupancy or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other

rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities, designed for occupancy by one family.

EASEMENT: A specified (limited) use of private land for a public, quasi-public, or private purpose authorized by a legal easement document.

EMERGENCY VEHICLE: Vehicles and apparatus used by agencies providing emergency services including fire, ambulance and public safety.

EMPLOYEES or NUMBER OF EMPLOYEES: For the purpose of determining off-street parking requirements, employees or number of employees shall be computed on the basis of the greatest number of persons to be employed or capable of employment during any one work period day or night.

ENVIRONMENTAL ASSESSMENT FORM (EAF): The form used by an agency to assist it in determining the environmental significance or nonsignificance of actions.

ENVIRONMENTAL IMPACT STATEMENT: A written “draft” or “final” document prepared in accordance with Sections 617.9 and 617.10 of 6 NYCRR Part 617 of the State Environmental Quality Review regulations.

ESSENTIAL SERVICES: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities, or public receiving and retransmission of communications signals.

EXCAVATION: (See MINING AND EXCAVATION)

FAMILY: One or more persons, usually but not necessarily related by blood, marriage, or adoption, living together as a single, not-for-profit housekeeping unit.

FARM: Any parcel of land having a minimum of five acres that is worked for gain in the growing of agricultural products or the raising of animals (See **AGRICULTURE**). It includes necessary farm structures within the prescribed limitations and the storage of equipment used. It excludes riding academies and livery or boarding stables and kennels.

FARM ANIMAL: Animals other than household pets that may, where permitted, be kept and maintained for commercial production and sale and/or family food production, education, or recreation. Farm animals are identified, but not limited to, these categories: large animals, e.g. horses and cattle; medium animals, e.g. sheep, goats; or small animals, e.g. rabbits, chickens, turkeys, pheasants, geese, ducks, and pigeons.

FARM BUILDING: Any building used for the housing of agricultural equipment, produce, livestock, or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operating of the farm as defined by this Article.

FARM AND CRAFT MARKET: A retail marketplace comprised of independent merchants selling to the public a diverse and varied line of goods and products. Merchandise offered for sale may include, but is not limited to, farm produce, handmade furniture and other cottage craft products, prepared food, meats, antiques, and manufactured goods.

FARM LABOR HOUSING: A property which consists of a tract of land and all vehicles, manufactured homes, buildings, or other structures pertaining thereto, any part of which may be used or occupied by persons employed as migrant farmworkers including sleeping facilities, provided in whole or in part by the employer of such persons, owner, lessee, or operator thereof, with or without stipulated agreement as to the duration of their stay, whether or not they are supplied with meals but who are supplied with such utility services as are necessary for their habitation of such property.

FAST FOOD: A type of eating establishment where food and beverages are ordered and purchased over counters and/or at a drive-through in a ready to consume state for consumption within the building, elsewhere on the premises and/or for carry or drive out whose design and method of operation includes one or both of the following characteristics: (1) paper, plastic, or other disposable containers; (2) there are two or more cashier stations available to patrons. A restaurant as defined in this zoning law shall not be construed to be a fast food eating establishment. A retail shop or store (such as a grocery store, a retail bakery, a retail ice cream or frozen dessert store, a retail store whose principal purpose is not food sales, and any similar retail shop or store) shall not be construed to be a fast food eating establishment.

FENCE: A structure of wood, masonry, wire mesh, or other material, which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

FINAL PLAT: Drawing(s) prepared in accordance with this Zoning Law showing a proposed subdivision, including all information required to be shown on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat.

FINAL PLAT APPROVAL: The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional of the plat are completed. Such approval qualifies the plat for recording in the Office of the County Clerk.

FINISHED GRADE LEVEL: The level where the finished grade of the ground intersects the foundation walls. Height measurements shall be based from the finished grade level.

FIREWOOD: Trunks and branches of trees and bushes, but does not include leaves, needles, vines or bush smaller than three inches in diameter.

FITNESS/WELLNESS FACILITY: A facility intended to provide structured exercise, diet, or similar personal health fitness sessions. The types of programs include those traditionally associated with a health club or spa and specifically exclude drug, alcohol, or mental rehabilitation services and programs.

FLEA MARKET: A business comprising a number of separate stands or spaces, either in one building or in separate buildings on the same premises that are rented or leased to individual dealers for the purpose of buying, selling, or exchanging, generally, goods of all sorts.

FLOOD HAZARD DISTRICT: The land in the floodplain subject to a one percent or greater chance of flooding in any given year. It is also commonly referred to as the base floodplain or 100-year floodplain.

FLOOD INSURANCE RATE MAP (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the town.

FLOOD INSURANCE STUDY: The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary-Floodway Map and the water surface elevation of the base flood.

FLOOD LIMITS: The land-water boundary of a natural watercourse flowing at a frequency (i.e., 100 Year) defined by a responsible agency such as the U.S. Army Corps of Engineers or the U.S. Federal Emergency Management Agency.

FLOOR AREA, GROSS: The sum of the horizontal area of the floor or floors of a building as measured from the exterior faces of exterior walls or from the center line of walls separating two buildings, but not to include attached or built-in garages, porches, or terraces and basements or unfinished floor area.

FLOOR AREA, HABITABLE: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. A floor used only for storage purposes is not a "habitable floor". All dimensions shall be measured from the interior faces of exterior walls or from the center line of the base of walls separating two dwelling units.

FORMAL OFFER TO SELL: Any offer to sell land which involves a form of public offering including but not limited to real estate listings, auction listings, media advertising (printed, radio, television, etc.) or use of signs.

FRESHWATER WETLANDS: Areas within the Town of Attica as defined on the Tentative Freshwater Wetlands Map prepared pursuant to Article 24 of the Environmental Conservation Law and filed in the Town Clerk's Office. Formal determination of freshwater wetlands is subject to review and approval by the New York State Department of Environmental Conservation and/or U.S. Army Corp of Engineers.

FRONTAGE: All of the property abutting one side of a road, street, or thoroughfare, measured along the road, street, or thoroughfare line.

GARAGE, PRIVATE: An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit. A garage cannot serve as the principal use on any lot.

GARAGE, PUBLIC: Any garage other than a private garage, operated for gain, available in a rental basis for the storage of motor vehicles, recreational vehicles, boats, and other tangible personal property.

GASOLINE OR SERVICE STATION: Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline, oil, or other motor vehicle fuel, or that is used or designed to be used for lubricating, washing, cleaning, or otherwise servicing motor vehicles, but not including the painting or major repair thereof or the use of mechanical car washing equipment. The term gasoline or service station may also include a convenience store, provided that the store is an integral part of the gasoline or service station.

GENERAL OFFICE: Any building or part of a building in which one or more persons are employed in or conduct the management or direction of an agency, business, organization, profession, public administration, but excludes such uses as retail sale, manufacture, assembly or storage of goods, or places of assembly and amusement.

GOLF COURSE: A tract of land improved with trees, greens, fairways, and hazards used for playing golf. A golf course may include clubhouses and shelters. Facilities commonly referred to as “putt-putt golf”, “miniature golf”, “pitch and putt”, etc., are specifically excluded from this definition.

GRADING PLAN: A plan showing all present and proposed elevations for storm water drainage and disposal.

GREENHOUSE: Any building or structure constructed principally of glass or other transparent or translucent material and used for the propagation, growing, or protection of flowers and plants.

GROCERY STORE: A retail outlet selling foodstuffs and daily essential items, which may include but not be limited to canned goods, vegetables, meats, dairy products, condiments, and paper goods.

GUYED TOWER: A tower supported by wire anchors onto which a telecommunications device is affixed.

HOME OCCUPATION: A home occupation is a business, profession, occupation, or trade conducted for gain or support within a residential building, or a structure accessory thereto,

which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. The home occupation shall be owned and operated by the occupant of the residential structure and only by the person or persons maintaining their primary residence in said dwelling unit. For purposes of this section, primary residence is defined as the location of an individual's residence for more than six (6) months of the year. The following types of businesses shall not be considered to be a home occupation: motor vehicle repair; motor vehicle, boat, and manufactured home sales and rental; fuel outlets (including gas stations and mini-marts); drive-in businesses; scrap and salvage material storage and sales (including junkyards); laundries and dry-cleaning establishments; recreation, entertainment, or amusement enterprises (including adult entertainment or other adult uses); restaurants and tearooms, tourist homes and bed and breakfast establishments; biological or medical testing laboratories, clinics, hospitals, and convalescent homes; funeral homes; kennels, stables, animal hospitals and veterinarians' offices; and building supply and farm equipment stores. Yard sales, garage sales, and any similar type of sales exceeding four (4) calendar weeks shall be considered to be a home occupation and subject to the provisions therefore.

HOMEOWNER'S ASSOCIATION: An organization of residential property owners, duly constituted, residing within a particular development whose major purpose is to own, preserve, maintain, and provide community areas, facilities and services for the common enjoyment of the residents. All homeowner's association administration and management agreements must be filed with the clerk of the Town of Attica.

HOSPITAL: The term hospital shall be deemed to include clinic, sanitarium, rest home, nursing home, convalescent home, and any other place for the diagnosis, treatment or other care of human ailments.

HOTEL: A multiple dwelling or any part thereof which contains living and sleeping accommodations for transient occupancy and which may contain one or more dining rooms, including but not limited to such terms as "motel", "motor court", "motor hotel", "tourist court", or "inn".

HOUSEHOLDER: An individual who resides in a dwelling unit and who owns, rents, or otherwise has legal possession of such unit.

IMPERVIOUS SURFACE: Any structure, building, or material, such as concrete, asphalt, brick, or metal, constructed or erected on landscaped or natural buffer areas which impedes the percolation of water into the ground. Impervious surfaces do not include dirt, crushed stone, or gravel surfaces.

IMPROVEMENTS: A physical change to the land or installation of certain services necessary to produce usable and desirable lots or sites from raw acreage, including but not limited to water and sewer facilities, recreation and open space areas, grading, pavement, curbs, gutters, storm sewers and drains and betterments to existing watercourses, sidewalks and other pedestrian ways, street signs, shade trees, sodding or seeding, and monuments,

whether such improvements are intended to be dedicated and maintained by the public or held in private ownership.

JUNK: Any non-operating, dismantled, wrecked, or abandoned appliance, vehicle, lawnmower, motorized yard equipment or other property, which has no value other than nominal salvage value, if any, and which has been left unprotected from the elements. This definition shall include, but is not limited to, the following:

JUNK APPLIANCE: Any stove, refrigerator, washing machine, dryer, freezer, television set, radio or other household device or equipment which has been placed outside for a period of at least one (1) month and been exposed to the elements.

JUNK MOTOR VEHICLE: Any motor vehicle which is unlicensed, wrecked, stored, discarded, dismantled, or which is not intended or in any condition for legal use upon the public highway.

JUNK YARD: A lot, land, or structure or part thereof used for the collection, storage, dismantling, disassembly, packing, sorting, salvage, buying, selling, or exchange of waste paper, rags, scarp, or discarded materials, motor vehicles, manufactured homes, farm equipment or machinery, or parts of any sort. More than two (2) abandoned, unregistered, disabled, dismantled, or partly dismantled vehicles or pieces of equipment, allowed to remain unhoued on a premise for a period of more than thirty (30) days shall constitute a junkyard. Also, the unhoued storage, sale, or abandonment of waste paper, rags, scrap metal, discarded materials, or the collecting, dismantling, storage, salvaging, or abandonment of machinery, appliances or vehicles not in operating condition shall constitute a junk yard.

KENNEL: An establishment for the keeping, breeding, and raising of domesticated animals for profit or gain, but shall not apply to the keeping of animals in a veterinarian clinic for the purposes of observation and/or recovery necessary to veterinary treatment.

LAND SEPARATION: Any division of land into four or fewer lots within a three year period, where all such developable lots or parcels: (1) front on an existing public street, (2) do not require the extension of municipal facilities, and (3) comply with all the area requirements (i.e., lot width, lot area, etc.) set forth herein or have received all necessary area variances. Any division of agricultural land for the purpose of continued agricultural use shall be considered a land separation.

The three year period shall commence running upon the final approval by the Town Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets, or for the installation or construction of municipal facilities, shall not be included within this definition.

Land separation shall also include the division of land to allow the transfer of property between adjacent parcels, provided nonconforming lots or parcels are not created, no existing degree of nonconformity is increased and the proposed division does not involve the alteration of lot lines or dimensions of any lots or sites shown on a subdivision plat previously approved and filed with the County Clerk.

LANDFILL: A lot or land area used primarily for disposal of solid waste employing an engineering method that minimizes environmental hazards by spreading and compacting alternate layers of solid waste and cover material.

LIGHT MANUFACTURING/INDUSTRIAL: Assembly, treatment, processing, or packaging of products that does not emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond their property boundaries.

LOADING SPACE, OFF-STREET: Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

LOT: A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by a common interest or use, and the customary accessory uses and open space belonging to same.

- **LOT (CORNER):** A parcel of land at the junction of, and fronting on two or more intersecting streets, roads, or thoroughfares.
- **LOT (FLAG):** A lot meeting the minimum lot area, lot width, and lot depth requirements (the flag portion of the lot) of the zoning district which it is located in, and is connected to a public road or highway right-of-way by a strip of land (the pole part of the lot). Flag lots have two distinct parts: the flag and the pole. The flag is the only building area and the pole provides the only access to the flag portion and provides the only street frontage for the lot at less than the required street frontage for the zoning district.
- **LOT (THROUGH):** An interior lot having frontage on two parallel or approximately parallel streets, roads, or thoroughfares.

LOT AREA: The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street, or highway right-of-way shall not be included in calculating lot area.

LOT DEPTH: The mean distance from the front lot line to the rear lot line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The linear distance along a lot line which adjoins the road or highway which provides access to the lot.

LOT LINE: The property lines bounding the lot:

- **Lot Line, Front:** The line separating the lot from a street right-of-way.
- **Lot Line, Rear:** The lot line opposite and most distant from the front lot line.

- **Lot Line, Side:** Any lot line other than a front or rear lot line.

LOT, NON-CONFORMING: Any lot lawfully existing in single and separate ownership at the effective date of this zoning law, or any amendment thereto affecting such lot, which does not conform to the dimensional regulations of this zoning law for the district in which it is situated.

LOT OF RECORD: A lot which is part of an approved subdivision recorded in the Office of the County Clerk, or a lot described by metes and bounds, the description of which has been so recorded.

LOT WIDTH: The width of the lot between the side lot lines at the front building line as prescribed by the front yard regulations.

MEAN HIGH AND LOW WATER MARKS: The approximate average low water level or high water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS).

MIGRANT FARMWORKER: An individual who is employed in farm activities of a seasonal or temporary nature.

MINERAL: Any naturally formed material located on or below the surface of the earth including, but not limited to, sand, gravel, stone, peat, topsoil, and water.

MINING AND EXCAVATION: The excavation, removal, handling and processing of stone, sand, gravel, clay, earth, or other surface or subsurface material extracted from the premises, including the transportation, storage, crushing, grinding, pulverizing or mixing of the extracted raw materials and all uses and operations accessory thereto. The extraction of gas and oil through wells shall be included within this definition.

MINING SUBJECT TO STATE JURISDICTION: An operation which results in the mining or proposed mining from each use of more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within twelve successive calendar months or an operation which results in the mining or proposed mining of over 100 cubic yards of minerals from or adjacent to any body of water not subject to the jurisdiction of the New York State Environmental Conservation Law or the Public Land Laws.

MINING NOT SUBJECT TO STATE JURISDICTION: All mining which is not defined as mining subject to state jurisdiction.

MINIMUM OPEN SPACE: That area of a lot which shall be properly maintained with a combination of natural, not artificial, lawn, shrubs, trees, and other plant materials and related ground covers.

MINI STORAGE UNITS: The use of a wholly enclosed building for the storage of personal property in self-contained, self-storage units, each of which units have separate and exclusive access from either the exterior or interior of the building and is rented out for a fee.

MODULAR HOME: A factory-manufactured home having no permanent support frame and designed to be transported to a site in one or more sections for erection, construction, or installation as a permanent structure. Modular homes shall be affixed to a permanent site-built foundation and shall meet the requirements of the New York State Uniform Fire Prevention and Building Code. For the purposes of this zoning law, modular homes shall be regulated as a dwelling.

MONOPOLE: A single pole of variable cross section onto which telecommunications devices are affixed.

MOTEL: A building or group of buildings, whether detached or in connected units, containing sleeping units or lodging facilities for transient guests. Accessory facilities such as restaurants, meeting rooms, retail business activities and other similar services, which solely accommodate the motel patrons and not the general public, are allowed. The term motel includes buildings designated as auto cabins, auto courts, motor lodges, tourist courts, hotels, and similar terms.

MOTOR VEHICLE: Any vehicle designed to be propelled or drawn by power other than muscle power, except electrically driven wheelchairs being operated or driven by an invalid. This term shall include automobiles, trucks, buses, motorcycles, tractor-trailers, boats, motorhomes, snowmobiles, all-terrain vehicles, and garden and lawn tractors.

MOTOR VEHICLE REPAIR SHOP: A building, or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles for compensation.

MUNICIPAL FACILITY: Facilities operated by either a municipality or governmental agency for the provision of potable water; collection, treatment and/or disposal of waste water; lighting, stormwater and/or erosion control; or provision of/for transportation (streets, highways, etc.).

NON-CONFORMING BUILDING OR STRUCTURE: A building or structure legally existing at the time of enactment of this zoning law or any amendment thereto, and which does not conform to the area or dimensional regulations of the district or zone in which it is situated.

NON-CONFORMING LOT: A lot of record existing at the date of the enactment of this zoning law which does not have a minimum width, depth, or area for the district in which it is located.

NON-CONFORMING USE: Any use of land, buildings, or structures, legally existing at the time of enactment of this zoning law, which does not legally conform to the regulations of the district or zone in which it is located.

NOT FOR PROFIT CORPORATION: A corporation formed or existing under the Not-For-Profit Corporation Law of New York State.

NOXIOUS USE: Any use which is dangerous, offensive, or injurious by reason of the emission of dust, smoke, refuse matter, odor, gas fumes, noise, or vibration in contravention of the standards and criteria established by this zoning law and other applicable laws, rules, codes, and regulations.

NURSERY: A building or structure, and lands associated therewith, for the growing of flowers, fruits, vegetables, plants, shrubs, trees, or similar vegetation together with gardening tools and implements which are sold at retail from such building or lot to the general public.

OFFICE BUILDING: A building in which office use comprises more than fifty (50) percent of the total floor area. This does not include home occupations, where offices are a secondary or incidental use.

OFFICIAL MAP: The map (if) established by the Town Board under Section 270 of the Town Law showing the streets, highways, and parks heretofore laid out, and any amendments thereto adopted by the Town Board, or additions thereto resulting from the approval of subdivision plats by the Planning Board, and subsequent filing of such approved plats in the Office of the County Clerk.

OPEN SPACE: Area unoccupied by any building, structure, or parking area, whether paved or unpaved.

OPEN STORAGE: An unenclosed area used for temporary or seasonal storage of vehicles, materials, building supplies, stock, or supplies for later use in conjunction with a permitted principal use, accessory use, or Special permitted use.

OUTDOOR FURNACE: Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

PARKING, OFF-STREET: An off-street area with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

PARKING SPACE: Space available for the parking of one motor vehicle and having an area of not less than 180 square feet (9 by 20 feet), exclusive of passageways and driveways providing access thereto.

PERMITTED USE: A use listed in the Zoning District regulations of this zoning law as permitted.

PERSONAL SERVICE: A building, or part of a building, in which persons are employed in furnishing services and otherwise administering to the individual and personal needs of persons, such as a barber's shop and hairdressing.

PERSONAL TRANSPORTATION SERVICES: Establishments primarily engaged in providing local and suburban transportation services (i.e. taxis, buses, limousines).

PLACE OF WORSHIP: Any church, synagogue, temple, mosque, or similar structure used for worship or religious instruction including social and administrative rooms accessory thereto.

PLANNED RESIDENTIAL DEVELOPMENT: A residential development of land, based on an overall development plan approved by the Town Board and recommendations of the Town Planning Board in accordance with Special permit procedures in which the development is intended to be maintained and operated as a unit in single ownership or controlled by an individual, partnership, corporation, cooperative, or association and which has certain facilities in common, such as open space and recreation areas, utilities, and parking facilities. The density of development of a Planned Development may exceed the density otherwise permitted within the zoning district in which the land is located.

PLANNING BOARD: The Planning Board of the Town of Attica, Wyoming County, New York.

POND: Any naturally occurring impounded body of water or man-made impounded body of water having a depth at any point greater than two (2) feet and being constructed by the removal of soil and/or construction of a dam or embankment intended to impound water. For purposes of this definition, Swimming Pools shall be excluded.

PRELIMINARY PLAT: A drawing prepared in accordance with Article III and VI of this Local Law showing the layout of a proposed subdivision, including, but not restricted to, road and lot, layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles.

PRELIMINARY PLAT APPROVAL: The approval of a layout of a proposed subdivision as set forth in the preliminary plat but subject to the approval of the plat in final form in accordance with the provisions of this Local Law and Section 276 of NYS Town Law.

PREMISES: A lot, plot, or parcel of land, together with all structures and uses thereon.

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

PRINCIPAL USE: The main or primary purpose for which a building, structure, or lot is to be used.

PROFESSIONAL OFFICES: The office or place of business where professional services are offered and does not involve, as a principal use, the sale of goods or the keeping of a stock in trade. Professional offices include but are not limited to, medical doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists, and chiropractors.

PROFESSIONAL SERVICES: A specific activity performed by a qualified person(s) which requires training and/or specialized study.

PROPERTY OWNER: The owner of the property subject to the proposed land separation, or his/her duly authorized representative (such authorization shall be provided in writing).

PUBLIC AND QUASI-PUBLIC BUILDING AND GROUNDS: This definition is intended to include, but not be limited to, any one (1) or more of the following uses, including grounds and accessory buildings necessary for their uses:

1. Churches, places of worship, parish houses and convents.
2. Public or semi-public parks, playgrounds, and recreational areas when authorized or operated by a governmental authority, school, or religious institution.
3. Nursery schools, elementary schools, high schools, colleges, or universities.
4. Public libraries and museums.
5. Not-for-profit fire, ambulance, and public-safety buildings.
6. Administrative office buildings and related facilities operated by public agencies.
7. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes for adults, or homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
8. Day care centers approved by the New York State Department of Social Services.

PUBLIC UTILITY USE: An installation used by a public utility to supply electric, gas, water, cable television, telephone, or other utility service. Included are such facilities as electric unit substations, high voltage transmission lines, pump stations, water towers, and telephone substations. Utility distribution facilities servicing customers directly are considered customary accessory uses, not utility facilities.

RECORD DRAWINGS: Drawings submitted upon the completion of subdivision and prior to dedication and Certificate of Occupancy.

RECREATION AND AMUSEMENT, INDOOR: Includes, but is not limited to, such uses as bowling alley, theater, table tennis, pool hall, skating rink, gymnasium, swimming pools, hobby workshop and similar places of indoor commercial recreation. Also included under this definition are pinball and video arcades which operate or offer, for the amusement, patronage, or recreation of the public, three (3) or more coin controlled amusement devices, including the types commonly known as pinball, video games, and football.

RECREATION AND AMUSEMENT, OUTDOOR: Includes, but is not limited to, golf driving range, if not accessory to a golf course, pitch and putt golf course, miniature golf course, outdoor amusement park, hunting preserve, trap, skeet, shooting, and archery range, skating rink, tennis court, recreation stadium, race tracks, and go-cart tracks.

RECREATION AREA: Recreation area is the sum of all open or covered areas used for recreation purposes.

RECREATIONAL VEHICLE: A vehicle type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic types are: travel trailer, camping trailer, truck trailer, and motor home.

REPAIR: Replacement or renewal, excluding additions, of any part of a building, structure, device, or equipment with like or similar materials or parts for the purpose of maintenance of such building, structure, device or equipment.

RESEARCH LABORATORY: An establishment or other facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

RESERVATION FOR HIGHWAY PURPOSES: A strip of land between the existing right-of-way line and the future right-of-way line of a highway as determined by the agency having jurisdictional responsibility over the maintenance and construction of the highway. Where a reservation is required, the front lot line shall be considered to be coincident with the future right-of-way line, with front setbacks and other necessary lot measurements being measured from the future right-of-way line. Where there is no requirement for a "reservation for highway purposes," the front lot line shall be considered to be coincident with the existing right-of-way line, with front setbacks and any other necessary lot measurements being measured from the existing right-of-way line.

RESIDENTIAL CLUSTER DEVELOPMENT: A subdivision plat or plats, approved pursuant to Section 278 of the New York State Town Law, to provide an alternative permitted method for the layout configuration and design of lots, buildings, and structures, roads, utility lines, and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands.

RESIDENTIAL CONVERSION: The conversion of the use of a building from non-residential to residential use or the structural alteration of an existing residential structure to increase the number of residential units in the structure.

RESTAURANT: Premises, however designated, at which food and beverages are sold for consumption largely on premises by patrons seated within a building or elsewhere on the premises. The term restaurant shall not include fast-food eating establishment.

RESUBDIVISION: A change in an approved or filed subdivision plat if such change affects any street layout or any change of a lot line. The same procedures shall be followed for a resubdivision as for a subdivision.

RETAIL BUSINESS: A commercial activity characterized by the direct on-premises sale of goods and services to the ultimate consumer, including on-premise manufacturing, processing, and preparation customarily associated with department stores, food markets, and similar establishments.

RETAIL FUEL OUTLET: Any establishment that sells gasoline, diesel, kerosene, propane, or similar fuels to the public. This includes service stations, convenience stores, car washes, or any other facility that sells fuels.

RIDING STABLE: Any use housing animal livestock, such as horses, and providing such livestock to the public for riding on a pay per use or fixed fee basis.

RIGHT OF WAY: Land set aside for use as a street, alley, or other means of travel.

RIGHT-OF-WAY LINE: The line determining the street or highway limit of public ownership. For the purposes of this zoning law, the right-of-way line and the street line shall have the same meaning.

ROADSIDE STAND: A structure, which shall not exceed 100 square feet, where products grown or produced on the premises by the operator of the roadside stand may be sold and purchased.

ROLLING STOCK: The vehicles used in a transit system, including buses, rail cars, tractor trailers, etc.

RUBBISH: Household trash or store trash consisting of things such as barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, rubber tires, lumber, stone, brick, and other building materials or any and all other tangible personal property no longer intended or no longer in condition for ordinary use.

SATELLITE DISH ANTENNA: Shall mean a combination of: 1) an antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources; and 2) a low noise amplifier whose purpose is to carry signals into the interior of the building.

SENIOR HOUSING: A residential development owned by a public agency or private nonprofit sponsor in which dwelling units are exclusively provided for elderly persons, aged 62 or older, and other members of the households which they head.

SEQR: State Environmental Quality Review - part of the Environmental Conservation Law applicable to land development per 6NYCRR Part 617.

SETBACK: The horizontal distance between the street line, rear or side lines of the lot and the front, rear, or side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from street lines to building lines are defined as "front setbacks". Setbacks from side lot lines are "side setbacks". Setbacks from rear lot lines are "rear setbacks".

SEXUAL ACTIVITY: Includes the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breasts; or sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or masturbation, actual or simulated; or excretory functions as part of or in connection with any of the foregoing activity.

SEXUALLY ORIENTED BUSINESS: Any commercial activity which sells, rents, shows, exhibits, or makes available for sale, rent, showing, or exhibition, any material or entertainment distinguished or characterized by an emphasis on depicting or description of anatomical areas or of sexual activity and shall include but not be limited to: adult arcades, adult markets, adult motion picture theaters, adult theaters, adult video rental/sale stores, and electronic production and/or distribution.

SHOPPING CENTER: A group of stores, shops, and similar establishments occupying adjoining structures or two (2) or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

SIGHT DISTANCE: The maximum extent of unobstructed vision along a street from a vehicle located at any given point on the street.

SIGN: Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others.

SIGN, DIRECTIONAL: A permanent sign which is designed for the purpose of directing vehicular or pedestrian traffic to the location of an activity or business. A logo or advertising is not permitted.

SIGN, FREE-STANDING: A self supporting sign not attached to any building, wall, or fence, but in a fixed location. This definition includes pole signs, pylon signs, and masonry wall-type signs.

SIGN, NON-COMMERCIAL SPEECH: A sign which contains a message that is not related to any business purpose, but which expresses an opinion, political message, or other non-commercial statement.

SIGN, OFF PREMISE: A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

SIGN, ON PREMISE DIRECTIONAL: A sign on the premises where a business or profession is conducted or a commodity or service sold or offered that is provided for the convenience of the general public for the purposes of identifying parking areas, fire zones, entrances and exits and the like.

SIGN, OUTDOOR ADVERTISING: A sign which is visible from a public right of way, neighboring property, or parking area, and contains an advertising message relating to a business.

SIGN, VISUALLY DISTRACTING: Any sign that in whole or in part revolves, moves, flashes or blinks, or appears to be in motion or contains banners, pennants, ribbons, streamers, spinners, or revolving devices.

SIGN, WALL: A sign that is painted on or is attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than 15 inches from the face of such wall.

SIGN, WINDOW: Any sign affixed to the inside of a window or door, or a sign placed within a building so as to be plainly visible and legible through a window or door. Small signs incorporated into a window display of merchandise and measuring no more than 100 square inches shall not be considered window signs.

SIGN SURFACE AREA: The area defined by the frame or edge of the sign. Where there is no geometric frame or edge of the sign, the area shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines the said sign. Supports, uprights, or structures on which any sign is supported shall not be included in the sign area unless it/they are an integral part of the sign.

SITE PLAN: A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this zoning law, which shows the arrangement, layout, and design of the proposed use of a single parcel of land as shown on said plan.

SITE PLAN REVIEW: A review and approval process, conducted by the Town Planning Board, whereby Site Plans are reviewed utilizing criteria stated in this zoning law. The Planning Board recommends the subject to the Town Board for approval.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade.

SPDES: New State Pollutant Discharge Elimination System - program authorized by the New York State Environmental Conservation Law issuing permits for stormwater discharges from construction activities.

SPDES GENERAL PERMIT: SPDES General Permit for Construction Activities (GP-02-01) issued January 8, 2003 (or latest revision), pursuant to Article 17, Titles 7, 8 and Article 70 of the New York State Environmental Conservation Law, authorizing stormwater discharges from construction activities.

SPECIAL PERMIT USES: An authorization of a particular land use within a zoning district which is permitted by the zoning law, subject to requirements imposed by said zoning law to assure that the proposed use is in harmony with the zoning of the district in which it is located and will not adversely affect the neighborhood if such requirements are met.

STABLES, COMMERCIAL: Premises on which two or more horses not the property of the proprietor are boarded, or on which horses are maintained commercially for hire, exhibition, or sale. Any establishment where horses are kept for riding, training, driving, or stable for compensation or incidental to the operation of any club, ranch, or similar establishment.

STABLES, PRIVATE: Premises on which is maintained not more than one horse not owned by the proprietor, and including horses of the proprietor not maintained for commercial purposes and is accessory to a farm or dwelling.

STORAGE BUSINESS: A structure or structures in which materials, goods, or equipment are stored, including self-storage operations with separate storage units having individual external access, for storage of personal property. Self-storage operations with several separate structures shall all be considered together to form one primary structure.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP): A plan prepared by a licensed professional in conformance with the requirements of SPDES General Permit, for the control of erosion, sedimentation, water quality and water quantity of stormwater runoff during and after construction activities.

STORY: The portion of the building other than the cellar which lies between the surface of the floor and surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling or roof next above it.

STREAM CENTERLINE: The mid-point between the mean high water mark on each bank of the adjacent portion of river, stream, creek, or tributary.

STREET: Any existing public or private way open to general public use which affords the principal means of access to abutting properties and is shown on a plan approved by the Town Board and/or on a map filed in the office of the County Clerk.

STREET LINE: The dividing line between a street and the abutting lot.

STREET PAVEMENT: The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH: The right-of-way measured at right angles to the centerline of the street.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. For example, structures include buildings, mobile homes, walls, fences, signs, sheds, billboards and poster panels, docks, and/or similar construction types.

SUBDIVIDER: The owner(s) of the land from which the proposed subdivision is being created, or their agents.

SUBDIVISION: Division of land into lots that is not considered a land separation as defined herein. Subdivisions shall include, but are not limited to the division of land into five or more lots in a three year period, or division into any number of lots when such lots: (1) do not front on an existing public street, or (2) require the extension of municipal facilities. This definition shall apply when land is divided for the purpose, whether immediate or future, of transfer of ownership or development, and shall include re-subdivision. Once the division of land is determined to be a subdivision, the Town of Attica Subdivision Regulations in this Zoning Law (Article 17) shall apply to all such lots, including any previous lots divided within the prior three year time period, regardless of whether said lots have been sold singly or collectively.

The three year period shall commence running upon the final approval by the Town Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets shall not be included within this definition nor subject to said subdivision regulations.

Once a subdivision has been created, any subsequent division of lots from the original tract of land, irrespective of when such division(s) occurs, shall be subject to review as a subdivision, unless such proposed lot(s) are greater than one-half mile from any point on the boundary lines of a lot(s) created by a previous subdivision.

SUBDIVISION, MAJOR: A subdivision that requires the extension or significant modification of municipal facilities.

SUBDIVISION, MINOR: A subdivision that does not require the extension or significant modification of municipal facilities.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the assessed value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored before the damage occurred.

SUPERINTENDNET OF HIGHWAYS: Highway Superintendent of the Town of Attica.

SWIMMING POOL: Any artificial pool or structure made of concrete, masonry, metal, or other impervious material used for or intended to be used for swimming or bathing whether installed or maintained in or above the ground and having a depth at any point greater than two (2) feet. For purposes of this definition, Swimming Pool does not include natural or artificial ponds which have dirt and/or gravel sides and bottoms.

TAVERN: Any establishment, licensed by the State of New York, which engages in the sale for on-premise consumption of alcoholic and non-alcoholic beverage(s).

TELECOMMUNICATIONS TOWER: A structure on which transmitting and/or receiving antenna are located. This includes but is not limited to freestanding towers, guyed towers, monopoles, and similar structures. It is a structure intended for transmitting and/or receiving telecommunications but excluding those exclusively for governmental purposes including but not limited to fire, police, or other dispatch communications or exclusively for private radio and television reception and private citizens' bands, amateur radio, and other similar communications.

TEMPORARY USE: An activity or use conducted for a specified limited period of time, not exceeding six (6) months within any twelve (12) month period. This term shall include those uses incidental to construction projects, festival tents/refreshment stands, temporary real estate sales offices incidental to a subdivision project, and similar uses.

TOTAL HOLDINGS MAP: A map of the contiguous parcels, including the land to be developed, owned by a person applying for development approval.

TOWER: Includes any structure, including dish antennae, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio frequency signals, such as, but not limited to broadcast, short-wave, citizens band, cellular telephone, FM or television signals or wind-driven devices such as energy converters and wind speed and/or direction indicators.

TOWN: The Town of Attica.

TOWN ATTORNEY: The designated attorney for the Town of Attica.

TOWN BOARD: The Town Board of the Town of Attica.

TOWN ENGINEER: A licensed professional engineer retained by the Town on a consulting or full-time basis.

TOWNHOUSE: An independent single family dwelling unit within a multiple-family dwelling sharing a minimum of one (1) and a maximum of two (2) common party walls with adjoining dwelling units and having private entrances and exits to exterior yards independent of such other dwelling units.

TOWN LAW: The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

TRAILER, CAMPING: A folding structure mounted on wheels and designed for limited travel recreation and vacation use only.

TRAILER, TRAVEL: A vehicular, portable structure built on a chassis, designed as a temporary one-family dwelling for travel, recreation, and vacation purposes.

UNTREATED LUMBER: Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

USE: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

VARIANCE: A variance is any departure from the strict letter of these regulations granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.

VARIANCE, AREA: 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 applicable standards. The Zoning Board of Appeals shall have the power to grant area variances.

VARIANCE, USE: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise prohibited by the applicable standards. The Zoning Board of Appeals shall have the power to grant use variances, when the applicable zoning regulations and restrictions have caused unnecessary hardship and meet specific criteria for the granting of use variances.

VETERINARIAN CLINIC: A building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not also provide long term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis.

WATER DEPENDENT USE: Land uses, structures, and/or economic activities that would not exist without a waterfront location.

WATER ENHANCED USES: Land uses that receive added value or importance because of proximity to a shoreline, often functioning as support services for water uses and water dependent uses.

WETLAND: An area of land that is characterized by hydrophytic vegetation, saturated soils, or periodic inundation as delineated by the New York State Department of Environmental Conservation or the National Wetlands Inventory prepared by the U.S. Fish and Wildlife Service.

WHOLESALE BUSINESS: Establishments engaged in the sale of commodities in quantity, usually for resale or business use, chiefly to retailers, other businesses, industries, and institutions.

WIND ENERGY CONVERSION SYSTEM (WECS): Any mechanism designed for the purpose of converting wind energy into electrical energy. **Commercial:** A WECS that is the prime use on a parcel of land and supplies electrical power for off-site use. **Non-commercial:** A WECS that is incidental and subordinate to another use on the same parcel and supplies electrical power for on-site use, except that when a parcel on which a non-commercial WECS is installed, also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by the company to the parcel for on-site use, as long as no net revenue is produced by such excess electrical power.

WINDMILL: An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein. (See also, SETBACK)

YARD, FRONT: The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front line.

YARD, REAR: An open space extended across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory building and open porches.

YARD, SIDE: An open space on the lot with a principal building between the principal building and the side line of the lot extending through from the front of the yard to the rear yard, into which space there shall be no extension of building parts other than two (2) feet for rain water leaders, window sills, and other such fixtures and open steps.

YARD SALE: The temporary displaying of household items and clothing for sale on a yard, porch, or in a barn or garage. No yard sale shall continue at the same location in excess of three weeks per year, after which time the provisions of Home Occupation shall be met. This term shall include garage sales, barn sales, porch sales, and sales similar in nature.

ZONING BOARD OF APPEALS: The Zoning Board of Appeals of the Town of Attica as provided for in Article 9 of this zoning law.

ZONING LAW: The officially adopted Zoning Law of the Town of Attica together with all amendments thereto.

ZONING OFFICER: The official designated to administer and enforce this zoning law by granting or denying zoning permits in accordance with its provisions.

ZONING PERMIT: A document issued by the Zoning Officer authorizing the use of lots and structures, uses of land and structures, and the characteristics of the uses in conformity with this zoning law.

ARTICLE 3: PERMITS AND PROCEDURES

300 PERMITS REQUIRED

- A. No use or structure shall be established, erected, demolished, nor land developed until a Zoning Permit has been issued by the Zoning Officer, who shall issue such permits in accordance with regulations in the zoning law. A Building Permit may also be required pursuant to the NYS Uniform Fire Prevention and Building Code.
- B. A Zoning Permit shall not be required for customary agricultural uses, or for structures for which a Building Permit is not required, except that a Zoning Permit shall be required prior to changing the principal use of a property. Such uses and structures shall comply with all other requirements herein.

310 ZONING PERMIT FOR TYPES OF USES

Under the terms of this zoning law, Zoning Permits may be issued pursuant to the following procedures:

- A. Permitted Use – A Zoning Permit for a permitted use may be issued by the Zoning Officer on his own authority.
- B. Site Plan Approval – A Zoning Permit for a permitted use, other than a one or two family dwelling, agriculture use, or an accessory use associated with a one or two family dwelling or agriculture use, may be issued by the Zoning Officer after site plan approval from the Town Planning Board as more fully described in Article 15 of this zoning law.
- C. Special Permit Uses – A Zoning Permit for a Special use permit use may be issued by the Zoning Officer after Special use permit approval by the Town Board and site plan approval from the Town Planning Board as more fully described in Article 14 of this zoning law.
- D. Zoning Permit After a Request for Variance – A Zoning Permit for a use or structure which requires a variance may be issued by the Zoning Officer after receiving a copy of the Zoning Board of Appeals decision with regard to the appeal as more fully described in Article 9 of this zoning law.

320 APPLICATION PROCEDURE AND REQUIRED INFORMATION

- A. Application - Application for a zoning permit shall be made with the Zoning Officer on forms approved by the Town Board. Forms shall be made available at the Offices of the Zoning Officer and the Town Clerk.

B. Information-

1. All information on the application form shall be completed.
2. In addition, either sketch maps or site plans shall be submitted with applications as specified below.
 - a. Sketch Map - Two (2) copies of a sketch map are required with all applications for a zoning permit for one or two family dwellings, their customary accessory uses, or farm use. The sketch map shall be drawn to scale and show the dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway location, natural water courses, ponds, surface drainage patterns and location of existing or proposed easements; or
 - b. Site Plan - Four (4) copies of a site plan are required with applications for all other uses. The requirements and procedures for site plan approval are contained in Article 15 of this zoning law.

C. Approval of Water and Sewage Disposal System – Evidence of approval of the water supply and the sewage disposal system plans by the Wyoming County Health Department or its agent, or design plans signed by a licensed engineer, shall be submitted at the time of applications. Applications lacking such information shall not be accepted.

D. Evidence of Property Ownership or Intent to Purchase – Copies of deeds, titles, purchase agreements, or other proof of ownership or intent to purchase shall be attached to an application before it will be accepted.

E. Licenses – Any use currently licensed by Federal, State, County or Town Agencies and already operating within the Town shall present evidence of currently valid licenses before any expansion permits are considered.

F. Fee – The appropriate non-refundable fee established by the Town Board in its fee structure shall be collected at the time of application. This fee structure shall be filed and posted at the Office of the Town Clerk.

330 ZONING PERMIT GRANTED

When all requirements of this zoning law have been met and all required Town Board, Planning Board and Zoning Board of Appeals approvals have been obtained, the Zoning Officer shall issue a Zoning Permit. The Zoning Officer shall file one copy of the approved permit in his office.

340 TERMINATION OF PERMIT

- A. Permits issued pursuant to this Article shall expire in twelve (12) months.
- B. The Zoning Officer may grant an extension for time of completion and include any conditions or requirements deemed necessary or desirable. Applicants shall justify the need for the proposed extension. Unless such an extension is requested and approved, further work as described in the canceled permit shall not proceed until a new permit has been obtained.
- C. If a project is not initiated within one (1) year of the issuance of the permit, the permit issued shall be considered null and void, and a new application shall be required in order to obtain a new permit.

350 CERTIFICATE OF COMPLIANCE

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance shall have been issued therefore by the Zoning Officer stating that the proposed use of the building or land conforms to the requirements of this zoning law. A Certificate of Compliance shall not be granted unless a Certificate of Occupancy has been issued pursuant to the NYS Uniform Fire Prevention and Building Code.
- B. Failure to obtain a Certificate of Compliance shall be a violation of this zoning law and punishable in accord with the provisions specified in Article 1 of this zoning law.
- C. Within seven (7) days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the Zoning Officer stating that such action has been completed. Within fifteen (15) days of the receipt of this letter, the Zoning Officer shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this zoning law. If the Zoning Officer determines that said building or use complies with the provisions herein, he shall issue a Certificate of Compliance.

If it is determined that the provisions specified herein are not fully complied with, the Zoning Officer shall specify the violations and the terms and conditions for remedying these violations. A Certificate of Compliance shall not be used until such violations are corrected.

- D. No non-conforming building or use shall be maintained, renewed, changed or extended without a Certificate of Compliance having first been issued by the

Zoning Officer. The Certificate of Compliance shall state specifically wherein the non-conforming use differs from the provisions of this zoning law.

ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF LAND USE DISTRICTS

400 ESTABLISHMENT OF DISTRICTS

The Town of Attica is hereby divided into zoning districts as hereinafter set forth and as the same may be, from time to time, amended.

- A-R Agricultural-Residential District**
- B-1 General Business District**
- I-1 Industrial District**

410 ZONING MAP

- A. There shall exist only one (1) official zoning map which shall be kept in the Office of the Town Clerk, and it shall indicate that it is the official zoning map of the Town of Attica, its date of adoption and the dates of amendments thereto shall be noted. Said zoning map shall show the boundaries of the zoning districts herein established, and which together with all explanatory matter thereon. Said zoning map is hereby adopted by reference and declared to be part of this zoning law.
- B. Said zoning map shall be on material suitable for reproduction. Copies of this map, which may from time to time be published and sold, would be accurate only as of the date of their printing and shall bear words to that effect.
- C. Changes made in zoning district boundaries, or other matters portrayed on the zoning map under the provisions set forth herein, shall be permanently affixed to the zoning map promptly after an amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. No amendment to this zoning law, which involved matters portrayed on the zoning map, shall become effective until such change and entry has been made on said zoning map and has been attested to by the Town Clerk.

420 INTERPRETATION OF DISTRICT BOUNDARIES

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

- A. District boundaries indicated as approximately following the center lines of streets or highways shall be construed as following such center lines.

- B. District boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. District boundaries indicated as being approximately parallel to the center lines or right-of-way lines of streets or highways shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said zoning map.
- D. District boundaries indicated as approximately following a stream, lake or other body of water shall be construed to follow the center lines of such stream or other body of water.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- F. Where physical or cultural features on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsection A through E above, the Zoning Officer shall render his own interpretation.

430 APPLICATION OF REGULATIONS

The regulations set by this zoning law shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided.

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered which:
 1. Exceeds the height limitation for any structure within a specified district;
 2. Accommodates or houses a greater number of dwelling units than is permitted in the specified zoning district;
 3. Occupies greater percentage of lot area than is permitted in the specified zoning district; or
 4. Has narrower or smaller setbacks or other open spaces than herein required; or
 5. In any other manner is contrary to the provisions of this zoning law.
- C. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying

with the regulations set forth herein, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as provided in this zoning law.

- D. No yard or lot existing at the time of enactment of this zoning law shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this zoning law shall meet or exceed the minimum requirements established herein.

ARTICLE 5: AGRICULTURAL-RESIDENTIAL DISTRICT (A-R)

500 PURPOSE

The purpose of the A-R Agricultural-Residential District is to protect agricultural lands and uses from incompatible uses and development; to maintain an open rural character of the community; to assure compatible types and densities of rural development; to provide for low density, rural development on lands where public water and sanitary sewer services do not exist and are not envisioned in the near future; and to protect the natural environment.

510 PERMITTED PRINCIPAL USES (A-R District)

- A. One-Family Dwellings
- B. Two-family Dwellings
- C. Agriculture/Farming
- D. Commercial Greenhouses and Nurseries
- E. Manufactured (Mobile) Homes – Subject to the Manufactured Home regulations set forth in Article 8 of this zoning law.
- F. Public/Quasi-Public Buildings and Grounds
- G. Public Parks and Playgrounds

520 PERMITTED ACCESSORY USES (A-R District)

A. Garages and Carports – One (1) private detached garage or carport with a maximum capacity of one thousand two hundred (1,200) square feet for the parking of motor vehicles or storage of property belonging to the residents of the premises. Detached garages shall be located to the rear of the front building line of the principal building and may be located in a side yard with a minimum side yard setback of twenty-five (25) feet.

B. Accessory Residential Structures – Customary accessory structures serving residential uses including, but not limited to, private swimming pools, storage buildings, greenhouses, pet shelters, and fireplaces.

C. Manufactured (Mobile) Homes – One mobile/manufactured home may be placed on a lot used for agriculture/farming provided that the mobile/manufactured home is used for the living quarters of one full-time, agricultural employee of the property owner and the employee’s family.

The mobile/manufactured home shall not be located closer than one hundred (100) feet to the principal building and shall conform to the lot line set back requirements for this district enumerated in Schedule II contained herein.

D. Home Occupations– Subject to the home occupations regulations set forth in Article 14 of this zoning law.

E. Bed and Breakfast Establishments – Subject to the Bed and Breakfast Establishment regulations set forth in Article 8 of this zoning law.

F. Roadside Stands – Roadside stands, subject to the following restrictions:

1. The stand shall be set back not less than fifteen (15) feet from the edge of the pavement or road.

G. Accessory Farm Buildings– Customary farm accessory buildings for the storage of products or equipment in accordance with the provisions of these zoning regulations.

H. Farm Animals– The keeping, breeding, and raising of farm animals in association with a residential use, subject to the following restrictions:

1. No stable, similar animal housing or confining areas shall be allowed on lots of less than two (2) acres.
2. No structure housing such animals shall be located closer than fifty (50) feet to any street or property line.

- I. Fences – Subject to the Fence regulations set forth in Article 8 of this zoning law.
- J. Signs – Subject to the Sign regulations set forth in Article 11 of this zoning law.
- K. Miscellaneous – other accessory uses not specifically enumerated herein may be permitted provided that such uses are clearly accessory to the permitted principal use and consistent with the purpose and intent of this zone district and these zoning regulations.

530 USES REQUIRING A SPECIAL USE PERMIT (A-R District)

The following uses subject to the Special Use permit regulations contained in Article 14 of this zoning law:

- A. Home Occupation
- B. Farm Markets
- C. Stables and Riding Academies
- D. Kennels (housing four (4) or more adult dogs)
- E. Animal Waste Management Systems
- F. Motor Vehicle Service Stations
- G. Manufactured (Mobile) Home Parks
- H. Ponds
- I. Campgrounds
- J. Farm Labor Housing
- K. Essential Services and Utilities
- L. Cemeteries
- M. Civic and Social Clubs
- N. Air Strips
- O. Alternative Energy Services

540 DIMENSIONAL SPECIFICATIONS (A-R District)

All structures shall comply with the specifications for minimum lot size, minimum lot line setbacks, maximum building height, maximum lot coverage, and minimum floor area set forth in Schedule II contained herein.

Substandard lots which are held in single and separate ownership when this zoning law becomes effective are entitled to an exception as of right to the minimum lot size and road frontage requirements only, without having to apply to the Zoning Board of Appeals for a variance. This exception does not entitle a landowner to a variance with respect to other nonconformities with zoning regulations.

ARTICLE 6: GENERAL BUSINESS DISTRICT (B-1)

600 PURPOSE

The purpose of the B-1 General Business District is to provide locations where groups of establishments may be appropriately located to serve frequent commercial and personal service needs of a majority of the residents within convenient traveling distance.

610 PERMITTED PRINCIPAL USES (B-1 District)

1. Retail business establishments which are clearly of a community service characteristic such as, but not limited to the following:
 - a. Stores selling groceries, meats, baked goods and other such food items.
 - b. Drugstores.
 - c. Stationary, tobacco, newspaper and confectionary stores.
 - d. Clothing, variety and general merchandise stores.
 - e. Hardware, appliance, radio and television sales and service.
 - f. Restaurants.
 - g. Building supply and farm equipment stores.
 - h. Electrical, heating, plumbing or woodworking shops.
 - i. New or used automobile sales.
 - j. Contractor's yard.
 - k. Stores selling Autoparts
 - l. Stores selling hardware, lumber and other such home improvement items

2. Personal service establishments which are clearly of a community service character such as, but not limited to, the following:
 - a. Barber and beauty shops.
 - b. Shoe repair and fix-it shops.
 - c. Dry cleaning stores and Laundromats.

- d. Business and professional offices, including but not limited to, medical, real estate and insurance offices, and banks.
 - e. Hotels and motels.
3. Other business uses which, in the opinion of the Town Board, are similar in nature and scale to those permitted above.
 4. Upon the approval of the Town Board a principal building may contain a combination of residential and business uses, provided that such residential uses are accessory to the business constructed and located elsewhere than on the street frontage of the ground floor, and having minimum habitable area as required by this law.

620 PERMITTED ACCESSORY USES (B-1 District)

1. Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.
2. Off-street parking, loading and unloading facilities, signs, fences and landscaping subject to the provisions herein.

630 USES REQUIRING A SPECIAL USE PERMIT (B-1 District)

1. Essential services, excluding power plants, maintenance buildings and storage yards.
2. Motor vehicle service stations and public garages.

640 DIMENSIONAL SPECIFICATIONS (B-1 District)

All structures shall comply with the specifications for minimum lot size, minimum lot line setbacks, maximum building height, maximum lot coverage, and minimum floor area set forth in the Schedule II contained herein.

ARTICLE 7: INDUSTRIAL DISTRICT (I-1)

700 PURPOSE

The purpose of the I-1 Industrial District is to provide for the establishment of industrial uses essential to the development of a balanced economic base, to create local job opportunities in an industrial environment and to regulate such development so that it will not be detrimental or hazardous to the surrounding community and to the general health, safety and well-being of the Town of Attica.

710 PERMITTED PRINCIPAL USES (I-1 District)

1. Any use of light industrial or agri-industrial nature is permitted which involves only the processing, assembly or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause:
 - a. Dissemination of dust, smoke, smog, observable gas, fumes or odor, or other atmospheric pollution, objectionable noise, glare or vibration that will be evident beyond the property line.
 - b. Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site of the use.
2. The following uses are indicative of those which are intended to be permitted:
 - a. Manufacture of machinery such as cash registers, sewing machines, typewriters, calculators and other office machine.
 - b. Fabrication of metal products such as baby carriages, bicycles, metal foil, tin, aluminum, gold, et cetera, metal furniture, musical instruments, sheet metal products and toys.
 - c. Fabrication of paper products such as bags, book bindings, boxes and packaging material, office supply and toys.
 - d. Fabrication of wood products such as bolts, boxes, cabinets and woodworking, furniture and toys.
 - e. Food and associated industries such as bakeries, bottling of food and beverages, food and cereal mixing and milling, food processing, food sundry manufacturing, ice cream manufacturing and manufacturing of spirituous liquor.
 - f. The warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of fuel for resale is specifically excluded from the intent of the above.
3. Office buildings for executive, engineering and administrative purposes.
4. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabricating incidental thereto.
5. The manufacturing and processing of pharmaceutical and cosmetic products.
6. Contractor's offices, building supply and storage yards.
7. Farm and garden implement stores.
8. Truck garden nursery, farm produce sales.
9. Other uses which in the opinion of the Planning Board are similar in nature and scale to those permitted above.
10. Commercial storage building for rent.

720 PERMITTED ACCESSORY USES (I-1 District)

1. Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises.
2. Off-street parking, loading and unloading facilities and signs, fences and landscaping subject to the provisions herein.

730 USES REQUIRING A SPECIAL USE PERMIT (I-1 District)

1. Essential services, excluding power plants.
2. Windmills or wind generators.
3. Motor vehicle services and auto repair shops.
4. Commercial excavation operations.

740 OTHER PROVISIONS AND REQUIREMENTS

1. Residential uses shall be prohibited in this district, except for a caretakers residence or site.
2. All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets and adjacent off-storage parking areas by fencing, landscaping or other appropriate measures.
3. All uses permitted in this district shall set aside not less than twenty (20) percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purpose.
4. Each use in this district shall provide truck loading and unloading areas in an amount sufficient to permit the transfer of goods and products in other than a public street.
5. Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.
6. Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from a property line.
7. All proposals for rezoning to industrial use shall comply with the following requirements:
 - a. The proposed rezoning shall be consistent with the goals and objectives of the Town Land Use Plan.
 - b. The Town Board shall determine that the street system serving the proposed industrial use is adequate to carry the anticipated traffic flow and that the use will not create a burden or nuisance for adjoining property owners.

- c. The Town Board shall determine that the physical character of the site proposed for rezoning to industrial use is adequate to accommodate the proposed use.
- d. The review and approval of site plans, the application of development standards and the regulations pertaining to water supply, sewage disposal and storm drainage shall conform with the appropriate requirements and procedures set forth in this Law.

ARTICLE 8: ADDITIONAL REGULATIONS APPLICABLE TO PERMITTED PRINCIPAL AND ACCESSORY USES

800 ACCESS CONTROL

In order to encourage the sound development of street frontage, the following special regulations shall apply to all non-residential buildings and uses:

- A. Each separate use, grouping of attached buildings or groupings of permitted uses shall not have more than two (2) points of access.
- B. The use of common access points by two or more permitted uses shall be encouraged by the Town Planning Board during Site Plan Review in order to reduce the number and closeness of access points along the streets and to encourage the fronting of significant traffic generating uses upon a parallel access street and not directly upon a primary road.
- C. Access points for industrial uses shall not be less than twenty-four (24) feet nor more than forty (40) feet in width. All other access points shall not be less than twenty (20) feet nor more than thirty (30) feet in width.

805 ALTERNATE ENERGY SYSTEMS

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany alternate energy systems.

- A. Towers – All wind energy towers shall be located so as to allow an open zone around the tower on the owner's property and of a radius at least equal to the height of the tower.
- B. Collection/Storage – All energy collection/storage facilities and appurtenant electrical equipment shall cause no undue interference or noise, or glare.
- C. Windmill Blades – Windmill blades shall clear the ground at their lowest point by at least twenty (20) feet.

- D. Height Exemption: The height limitations of this zoning law shall not apply to wind energy towers or solar collectors provided that such structures are erected only to such height necessary to accomplish the purpose for which they are intended, and that such structures do not obstruct solar access to neighboring properties.

810 BED AND BREAKFAST ESTABLISHMENTS

Bed and Breakfast Establishments is a permitted accessory use in the A-R Agriculture-Residential, and B-1 General Business Districts provided that the following standards and provisions are maintained:

- A. The building proposed for occupancy as a bed and breakfast establishment shall contain no more than four lodging rooms for hire.
- B. The operator of the bed and breakfast establishment shall reside on the premises.
- C. The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations.
- D. The use of out buildings detached from the principal dwelling shall not be used for the purpose of a bed and breakfast establishment.
- E. A minimum of one (1) off-street parking space shall be provided for each rentable unit, in addition to the two (2) spaces required for a single family dwelling. No such parking space shall be located in the front yard area and each space shall not be less than nine by twenty (9x20) feet.
- F. The dwelling may display a sign not to exceed two by two (2x2) feet in size.
- G. No bed and breakfast establishment shall be permitted where access is provided by a shared driveway.
- H. No bed and breakfast establishment shall be permitted in an individual manufactured home or manufactured housing park.
- I. Each rentable unit in a bed and breakfast establishment shall have a working smoke detector and Carbon Monoxide detector.
- J. Such uses shall comply in full with the Wyoming County Sanitary Code and the New York State Uniform Fire Prevention and Building Code.

815 CLEAR VIEW OF INTERSECTING STREETS

No obstruction to view in excess of four feet in height, measured perpendicular from the street grade, shall be maintained on the premises in the angle formed by intersecting streets (and on the main structure thereon) so as to interfere with the view of traffic approaching the intersection within the distance of seventy-five (75) feet measured along the center lines of each street from the intersection thereof.

820 FENCES

- A. Before a fence shall be erected, altered or reconstructed a zoning permit must be obtained from the Zoning Officer. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all streets, property lot lines, and yards.
- B. Any fence erected along a lot line shall be set back from six (6) inches from the lot line and neither the fence itself nor any supporting accessory components thereof shall encroach upon the adjoining properties.
- C. All fencing shall be constructed so that the finished side faces outward from the premises with the backers and/or supports facing inward toward the property owner's side of the fence. Obnoxious and/or objectionable colors, images or language shall not be painted or affixed to the outward side of any fence and shall not be directed at neighboring properties for any reason. Advertisement of products and/or services shall not be painted or affixed to a fence subject to the Sign regulations set forth in Article 11 of this zoning law.
- D. Plant material and fences may be planted, erected, altered or reconstructed to a height not to exceed two (2) feet above ground level when located within twenty-five (25) feet of the street line.
- E. Plant material and fences may be planted, erected, altered or reconstructed to a height not to exceed six (6) feet above ground level when located more than twenty-five (25) feet from the street line.
- F. Fences erected, altered or reconstructed for the purposes of retaining earth shall be exempt from the provisions of these fence regulations with the exception of the building permit and site plan requirements.
- G. Plan material and fences erected, altered or reconstructed in connection with the agricultural use of property shall be exempted from the provisions of these fence regulations so long as the fences do not adversely affect the public safety.

825 HABITATION, SIZE AND WIDTH OF DWELLINGS

- A. All residential habitation shall be in residential dwellings as defined in these regulations.
- B. No basement sited independently of a structure shall be used exclusively as a dwelling.
- C. The minimum gross habitable floor area shall not be less than nine hundred (900) square feet for any one-story dwelling and 1,200 for any two-story dwelling.
- D. The minimum width of a dwelling, at its narrowest dimension, not including porches or patios, shall be twenty (20) feet.
- E. The construction and installation of all structures and appurtenant utilities shall conform to provisions of the NYS Uniform Fire Prevention and Building Code and all other applicable standards.
- F. An accessory storage building or garage must be constructed for any minimum-sized dwelling without a basement.
- G. Driveway must accommodate emergency vehicles as follows:
 - 1. Twelve foot wide minimum.
 - 2. Twelve foot high minimum clearance.
 - 3. Any bridge must have a minimum weight-bearing capacity of 20 tons.
 - 4. Must accommodate a thirty-five foot long truck.
 - a. If the house setback exceeds 500 feet, the distance must be indicated by a two-sided roadside sign.

830 HOME OCCUPATIONS

- A. Purpose and intent – Recognizing the fact that many residents of the Town of Attica currently maintain home occupations and home businesses, or may choose to do so at some point in the future, the town has determined to provide a mechanism for permitting such uses, subject to appropriate review and the implementation of mitigation measures where appropriate.

The Town Board recognizes that the residents historically have operated small businesses from their homes which provide services to the community and finds that these businesses have not impacted negatively on the appearance and character of these agricultural and residential zones. Conversely, the town recognizes that

unrestricted use of residential properties for nonresidential purposes carries with it the potential for conflicts with and detrimental impacts on the purposes and character of the areas zoned for residential and agricultural uses. In the Board's judgment, it finds that in order to maintain the economic viability of the town, to maintain the rural quality of life and in the interest of the welfare of the residents, home occupations and home businesses should be permitted.

In order to further the benefits of home occupations while mitigating the potential detrimental off-site impacts of home occupations, the town has enacted these regulations.

- B. Required procedures – Site plan review required by the Town Planning Board. No public hearing shall be required, unless the Town Planning Board determines that there is a need to hold such a hearing. The site plan must show the location of the business, including floor plans indicating the portion of the principal and accessory buildings to be used for the business, the location of any vehicles and equipment to be parked outdoors, and any outdoor areas proposed for storage or display of goods or supplies. The Town Planning Board will give a recommendation to the Town Board which will make the final decision on issuing the Special Use Permit. See §1430 regarding Home Occupation Special Use Permits.

835 MANUFACTURED (MOBILE) HOME

Manufactured homes shall be permitted for the principal use as single-family dwellings in the A-R Agricultural-Residential District provided that such homes meet all requirements applicable to single-family dwellings in said District and satisfy the following regulations:

- A. Construction and Safety Standards – Manufactured homes shall comply with the current Construction and Safety Standards established by the United States Department of Housing and Urban Development (HUD).
- B. Minimum Size Requirement – Manufactured homes shall have a minimum floor area of nine hundred (900) square feet and a minimum width of twelve (12) feet exclusive of any porches, additions, or other extensions.
- C. Foundation Requirements – All manufactured homes shall be set upon a foundation constructed of concrete blocks, a minimum width of ten (10) inches, or an equivalent strength poured-in-place concrete foundation. Concrete blocks shall be either mortared or block-bound into place and shall be constructed on poured-in-place footers. Foundations shall run the entire perimeter of manufactured homes and shall entirely enclose the underside of such homes. Foundations shall not exceed a maximum height of forty-eight (48) inches above grade at any point.

If a basement is installed under a manufactured home, it shall have a minimum height clearance of seven (7) feet and it shall be a full basement with a floor area equal to the floor area of the manufactured home.

- D. Accessory Storage Building Requirement – A detached storage building with a floor area of not less than two hundred (200) square feet shall be constructed on the lot if a full basement is not constructed under the manufactured home in accordance with paragraph C above.
- E. Exterior Material – Manufactured homes shall be covered with a material customarily used on the exterior of site-built residential buildings. Such homes shall have a roof composed of a material customarily used on site-built residential dwellings, such as fiberglass, shake, asphalt or tile, which shall be installed onto a surface appropriately pitched for the materials used.
- F. Additions – Additions that are constructed which attach to a manufactured home shall comply with the Building Code and shall be of type and scale of attached additions approved by the manufacturer of the manufactured home.
- G. Removal – No more than one manufactured home shall be located on any lot at any time. Manufactured homes no longer used as dwellings shall be removed from lots within one month from the time they cease to be used as dwellings.

840 NON-CONFORMING USES

APPLICABILITY: Lots, structures, uses of land characteristic of uses which lawfully existed at the time of the enactment of this zoning law and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions:

- A. Enlargement or Intensification – No nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of this zoning law. Nonconforming uses may not increase their intensity by increasing the number of people working at a nonconforming business.
- B. Relocation – A nonconforming use may not be moved, in whole or in part, to any other portion of the lot or parcel of land occupied by such nonconforming use.
- C. Modification – A nonconforming use shall not be changed to any other nonconforming use. A nonconforming use shall not be changed to any other use within the same use category without prior approval by the Zoning Board of Appeals and then only to a use which, as determined by the Zoning Board of Appeals, is of the same or more restricted nature.

- D. Discontinuance – If a nonconforming use is discontinued for a period of 12 (twelve) consecutive months, it shall not be renewed, and any subsequent use on that premises shall conform to the regulations of the district in which it is located.

845 NON-CONFORMING STRUCTURES

- A. Additions or alterations – A nonconforming structure shall not be added to or enlarged in any manner unless such nonconforming structure is made to conform to all the regulations of the district in which it is located. A nonconforming structure shall not be altered except to create a conforming structure.
- B. Repairs – A nonconforming structure shall be maintained so as not to constitute a danger to the safety, health or general welfare of the public. No structural alterations shall be made to a nonconforming structure except those that are required to keep a nonconforming structure in sound condition.
- C. Discontinuance – A nonconforming use shall be deemed discontinued if the structure has been vacant for a period of 12 (twelve) months or if there is a clear intent expressed on the part of the owner to abandon the nonconforming structure. If such a use is discontinued, it shall not be reestablished and any future use shall be in conformity with the provisions of this zoning law.
- D. Restoration – A nonconforming structure damaged by fire, wind, explosion or other causes to the extent of 50% or more of its replacement value at the time of such damage shall not be repaired or rebuilt without obtaining the proper variances from the Zoning Board of Appeals.

850 EXCAVATION AS PART OF SITE PREPARATION

Except as provided in Article 14, nothing contained herein shall prohibit the excavation of sand, gravel, shale, topsoil, or similar material from a lot preparing it for construction of a building for which a building permit has been issued or to move such material from one part of a premises to another part of the same premises when such excavation or removal is clearly incidental to the approved building construction and/or site development and necessary for improving the property for a use permitted in the zoning district in which the property is located. No such material may, however, be sold for export from the site. Provision shall be made to restore an effective cover crop to any area of land from which topsoil has been removed or covered within the first growing season following the start of such operation.

855 WATER SUPPLY AND SEWAGE DISPOSAL

No person shall undertake to construct any new building or structure intended for human occupancy, whether principal or an accessory structure, within the Town of Attica without first meeting the requirements for a system or facilities for both a potable water supply and the separate disposal of sewage, domestic or trade wastes in

accordance with the applicable regulations as provided by the Wyoming County Health Department and the New York State Departments of Health and Environmental Conservation.

860 SANITARY LANDFILLS AND DISPOSAL AREAS OR FACILITIES

No dump, landfill or other sanitary disposal area or facility shall be permitted within the Town of Attica except where owned or leased and operated by the Town of Attica itself or on a contract basis.

865 STORAGE OF BUILDING MATERIALS

No building materials of any kind shall be stored unhoued on any premises in any district, except during construction of a structure to be erected on the premises upon which said materials are stored for a period of not more than one year from the date of commencement of such storage.

870 STRIPPING OF TOP SOIL

The stripping and sale of topsoil shall not be permitted except to the extent necessary to accommodate the construction occurring on the parcels from which topsoil is removed.

875 SWIMMING POOLS

Private swimming pools shall be permitted in any District provided that there is an existing residence on said lot and the following regulations are complied with.

A. Setbacks

1. Outdoor swimming pools shall be located in the rear or side yards and shall conform to the minimum setback requirements for an accessory structure in the district. Aprons and decks, which are accessory to a pool, shall not be within the minimum setback area specified in the Schedule for accessory uses (Schedule II).

ARTICLE 9: ADMINISTRATION AND ENFORCEMENT

900 ENFORCEMENT

The duty of administering and enforcing the provisions of this zoning law is hereby conferred upon the Zoning Officer, who shall be appointed by the Town Board and shall carry out any directives from the Board relative to the duties of the position set forth below. The Zoning Officer shall receive such compensation as the Town Board shall determine.

905 DUTIES AND PROCEDURES OF THE ZONING OFFICER

- A. It shall be the duty of the Zoning Officer or his duly authorized assistants to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this zoning law. In the fulfillment of their duties, the Zoning Officer or his authorized assistants may enter any premise or building during reasonable hours in the course of his duties in accordance with State Law after due written notice has been given.
- B. If the Zoning Officer shall find that any of the provisions of this zoning law are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and order the action to correct it. In his efforts to attain compliance the Zoning Officer shall have the authority to order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work; or discontinuance of any illegal work being done. On the serving of notice by the Zoning Officer to the owner of any property violating any of the provisions of this zoning law, the Certificate of Compliance for such building or use shall be held null and void. A new Certificate of Compliance shall be required for any further use of such building or premises.
- C. It shall be the duty of the Zoning Officer to issue permits and certificates to applicants who fully comply with the provisions of this zoning law.
- D. The Zoning Officer shall maintain a permanent and current record of all applications for permits and certificates, his action upon same, any conditions relating thereto, and any other matters considered and action taken by him. Such records shall form a part of the records of his office and shall be available for use by Town Officials and for inspection by the public. The records to be maintained shall include the following:
 - 1. Application File – An individual permanent file for each application for a permit or certificate provided for by this zoning law shall be established at the time of the application is made. Said file shall

contain one (1) copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees and the like; as appropriate, one (1) copy of any resolutions or actions of the Town Board, Planning Board or Zoning Board of Appeals in acting on the application; and the date the permit or certificate applied for was issued or denied.

2. Monthly Report – The Zoning Officer shall prepare a monthly report for the Town Board. Said report shall cite all actions taken by the Zoning Officer, including all referrals made by him; all permits and certificates issued and denied; all complaints of violation received and all violations found by him, and the action taken by him consequent thereon; and the time spent and mileage used. The Zoning Officer shall also provide the Planning Board with one copy of said monthly report.

- E. Whenever the Zoning Officer denies a permit or certificate he shall, in writing, inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.
- F. The Zoning Officer shall maintain a current list and a map showing the variances and special use permits to determine if discontinuance or destruction, or change in use or vacancy has taken place.
- G. The Zoning Officer shall maintain a current list and a map showing the variances and special use permits to determine if the conditions and safeguards placed on variances and special use permits are being complied with.
- H. Upon approval of a special use permit by the Town Planning Board and after receiving written direction from the Town Planning Board, the Zoning Officer shall issue a zoning permit. Upon approval of a variance by the Zoning Board of Appeals, the Zoning Officer shall be empowered to issue the necessary zoning permit with the specific conditions to be imposed.
- I. The Zoning Officer shall be authorized and empowered to issue appearance tickets pursuant to the New York State Criminal Procedure Law.

910 CREATION, APPOINTMENT AND ORGANIZATION OF PLANNING BOARD

- A. Pursuant to the provisions of the Town Law applicable thereto, the Town Board shall appoint a Planning Board consisting of the number of members and for the term of years set forth in Section 271 of the Town Law. In making such appointments, the Town Board may require Planning Board members to complete training and continuing education courses in accordance with any local

requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training.

- B. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause and may provide by Local Law for removal after public hearing, of any Planning Board member for noncompliance with minimum requirements relating to meeting attendance and training as established by the Town Board by zoning law.
- C. The Planning Board shall establish such rules and regulations as are required by law and the provisions herein for the transaction of their business, and may amend, modify and repeal the same from time to time.
- D. In accordance with General Municipal Law, Section 980, a member of the Planning Board having a conflict of interest shall abstain from any discussion or voting on that matter.
- E. The Town Board may select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.

915 POWERS AND DUTIES OF THE PLANNING BOARD

The Planning Board shall have the following powers and duties:

- A. To review and recommend revisions to the comprehensive plan for the development of the Town as provided under Section 272-A of Town Law and/or Town Board Resolution at such time as the Town Board adopts a Comprehensive Plan.
- B. To review and comment on all proposed zoning amendments and to make investigations, maps, reports and recommendations relating to the planning and development of the Town as it deems desirable. This shall include but not be limited to changes in boundaries of districts, recommended changes in the provisions of this zoning law, other land use and development matters of importance to the Planning Board, and to act on any matter lawfully referred to it by the Town Board.
- C. To review Site Plans as authorized by New York State Town Law and prescribed in Article 15 of this zoning law.
- D. To review applications for Special Use Permits for recommendations to the Town Board, if necessary, as outlined in Article 14 of this zoning law.
- E. To review proposals regarding the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Town Board.

- F. To review and provide advisory reports as specified by this zoning law.
- G. To make referrals to other Town Departments, Boards and/or Officials to request advisory opinions to assist the Town Board in making decisions which affect the development of the Town.
- H. All such powers and duties are conferred upon Town Planning Boards and subject to the limitation set forth in Sections 272, 272-A, 274, 274-A, 276, 277, 278 and 281 of the New York State Town Law, as the same may be amended, modified, or changed from time-to-time, or any sections subsequently adopted pertaining to Planning Boards.

920 PLANNING BOARD OFFICE

The Office of the Town Clerk shall be the Office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by the Town Law of the State of New York. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.

925 CREATION, APPOINTMENT AND ORGANIZATION OF THE ZONING BOARD OF APPEALS

- A. A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members appointed by the Town Board, who shall also designate a Chairman. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals. Of the members of the Board, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years from and after his appointment. Their successors shall be appointed for the term of five (5) years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Town Board by appointment for the length of the unexpired term.
- B. In making such appointments, the Town Board may require Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training.
- C. The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause and may provide by local law for removal, after public hearing, of any Board of Appeals member for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by Local Law.

- D. The Zoning Board of Appeals shall establish such rules and regulations as are required by State and Local Laws for the transaction of their business and may amend, modify and repeal the same from time-to-time.

930 POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS

The Board of Appeals shall have all the powers and duties prescribed by Chapter 62, Section 267, of the Town Law of the State of New York and by this zoning law which are more particularly specified as follows:

A. Appeals for Administrative Review, Interpretation and Determinations –

1. The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, interpretation or determination made by an administrative officer or body in the enforcement of this zoning law.
2. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion out to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

935 PERMITTED ACTIONS ON AREA OR USE VARIANCES

A. Area Variances –

1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Administrative Official charged with the enforcement of such zoning law or Local Law, or in conjunction with an application for Site Plan Review or subdivision approval, to grant area variances as defined herein.
2. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - a) Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance;

- b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - c) Whether the requested area variance is substantial;
 - d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
3. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Use Variances

- 1. The Board of Appeals, on appeal from the decision or determination of the Administrative Official charged with the enforcement of this zoning law, shall have the power to grant use variances, as defined herein.
- 2. No such use variance shall be granted by a Board of Appeals without showing by applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under the Zoning Regulations for the particular district where the property is located:
 - a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - d) The alleged hardship has not been self-created.

3. The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- C. Imposition of Conditions – The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this zoning law and shall be imposed for the purpose of minimizing any adverse impact that such variance may have on the neighborhood or community.

940 PROCEDURES FOR APPEALS AND VARIANCES

A. Variance Procedures –

1. The applicant may arrange an informal discussion with the Board of Appeals to determine any and all of the data to be included in the application.
2. All applications for variances shall be made in quadruplicate to the Zoning Officer on forms provided by the Zoning Officer and shall be accompanied by plans and supporting documents to sufficiently describe the proposal. All applications shall refer to the specific provision of the law involved and establish the details of why the variance should be granted. The Board of Appeals may request additional information it deems necessary in order to act on the application.
3. The Zoning Officer, after determining that an application is in property form, shall transmit copies of the application and all supporting documents to the Board of Appeals for action thereon.
4. Use Variance Within Agricultural District – Where an application for a use variance involved land lying within certain distances prescribed in Section 283-A of Town Law, an agricultural data statement shall be prepared and proper notice thereof given to all affected property owners.
5. Public Hearing on Appeal –
 - a) The Board of Appeals shall fix a reasonable time for the public hearing of the appeal, variance, or other matter referred to it and give public notice of such hearing by publication in a paper of

general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

- b) The Board of Appeals shall also, at least seven (7) days prior to the date of the hearing, give notice in writing by certified mail to all property owners within two hundred (200) feet of the property to be affected by said appeal or to all property owners of contiguous land or properties adjoining said property to be affected, the Town Planning Board, and other interested property owners as may be designated by the Board of Appeals.
6. Referral to County Planning Board – A copy of the complete variance application and supporting documents shall also be transmitted to the County Planning Board for review when required either under Article 12-B, Sections 239-I and –M of the General Municipal Law, or Section 283-A of the New York State Town Law.
7. Time of Decision - The Board of Appeals shall decide upon the appeal or variance within sixty-two (62) days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
8. Filing of Decision and Notice – The decision of the Board of Appeals on the appeal shall be filed in the Office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
9. The Zoning Officer shall, upon receipt of the notice of approval and upon application by the applicant, issue the appropriate zoning permit or such other approval permitted by the variance, subject to all conditions imposed by the Zoning Board of Appeals.

B. Appeals Procedures

1. An appeal, including any request for an interpretation or determination, and specifying the grounds for the appeal, shall be filed with the officer, or body, from whom the appeal is taken and with the Board of Appeals. All appeals and applications shall be made to the Board of Appeals within sixty (60) days of the date on which the order, requirement, decision or determination appealed from was rendered and shall be on forms prescribed by the Board.

2. Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town.
3. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official.
4. The officer from whom the appeal is taken shall, within thirty (30) days of the filing of the appeal, transmit all papers constituting the record upon which the appeal is taken to the Board of Appeals.
5. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
6. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matters referred to it and give public notice such hearing by publication in a newspaper of general circulation in the Town at least five (5) days prior to the date thereof. The cost of sending or publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the Zoning Board of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
7. The Board of Appeals shall render a decision on each appeal within sixty-two (62) days of the close of the public hearing on said matter. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the board.
8. Any action by the Board of Appeals shall be stated in writing and communicated to the person bringing the appeal within five (5) business days after the decision has been made.

945 MEETINGS, RECORDS AND GENERAL PROCEDURES

- A. All meetings of the Board of Appeals shall be held at the call of the Chairperson and at such other times as such Board may determine.

- B. Meetings of such Board of Appeals shall be open to the public to the extent provided in Article Seven of the Public Officers Law.
- C. All votes of the Zoning board of Appeals shall be taken by roll call. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- D. In accordance with General Municipal Law, Section 980, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- E. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings, provided that funds for such services are made available by the Town Board.
- F. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance.
- G. The Town Board may provide for compensation to be paid to experts, clerks and a secretary and provided for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose.
- H. The Zoning Board of Appeals shall make factual record of all its proceedings, including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the Secretary of the Board.
- I. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the Office of the Town Clerk within five (5) business days and shall be a public record.
- J. Rehearing's – Whenever the Zoning Board of Appeals, after hearing all the evidence presented upon an application for appeals under the provisions of this zoning law, denies or rejects same, said Board shall refuse to hold further hearings on the same or substantially similar application for appeal by the same applicant, their successors or assigns, for a period of one (1) year, except and unless the Board shall find and determine from the information supplied in the request for a rehearing that changed conditions have occurred relating to the promotion of public health, safety, convenience, comfort, prosperity and general welfare and that a

reconsideration is justified. Such rehearing may be granted only upon the favorable vote of a majority of the Board plus one (1).

950 BOARD OF APPEALS OFFICE

The Office of the Town Clerk shall be the office of the Board of Appeals. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by Section 267 of the Town Law of the State of New York. The Board of Appeals shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official action.

955 LAPSE OF AUTHORIZATION

Any variance or modification of this zoning law authorized by the Board of Appeals shall be automatically revoked unless a zoning permit, conforming to all the conditions and requirements established by the Board of Appeals and construction commenced within one (1) year of such date of approval.

960 VIOLATION OF CONDITIONS OR RESTRICTIONS

Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance, or a modification of regulations shall constitute a violation. Such violation may constitute the basis for revocation of the variance or modification or for imposing penalties and other applicable remedies.

965 ARTICLE SEVENTY-EIGHT (78) PROCEEDING

- A. Application to Supreme Court by Aggrieved Persons – Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department or board of the Town, may apply to the Supreme Court for review by a proceeding under Article Seventy-Eight (78) of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the Board in the Office of the Town Clerk or in the office designated by resolution of the Town Board. The court may take evidence of appoint a referee to take such evidence as it may direct and report the same with his or her findings of fact and conclusions of law, if it shall appear that testimony is necessary for the property disposition of the matter. The court, at special term, shall itself dispose of the cause on the merits, determining all questions which may be presented for determination.
- B. Costs of Appeal – Costs shall not be allowed against the Board of Appeals unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

- C. Preference of Appeal to Court – All issues in any proceeding under this Section shall have preference over all other civil actions and proceedings.
- D. Power of court – If, upon the hearing at a special term of the Supreme Court, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may specify the decision brought up for review.

970 STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)

- A. The State Environmental Quality Review (SEQR) Act required that local governments examine the environmental impact of all actions they permit, fund or construct. Article 6 and Part 617 of Title 6 of the New York Code of Rules and Regulations (SEQR Regulations) are hereby adopted by reference.
- B. As soon as possible after the Town received a zoning application it must do the following:
 - 1. Determine whether the action is subject or SEQR. If the action is a Type II action, the agency has no further responsibilities under SEQR.
 - 2. Determine whether the action involves a Federal agency. If the action involved a Federal agency, the provisions contained in Section 617.15 of the SEQR Regulations apply.
 - 3. Determine whether the action may involve one or more other agencies.
 - 4. Make a preliminary classification of the proposed action as Type I or Unlisted using the information available and comparing it to the thresholds set forth in Section 617.4 of the SEQR Regulations.
 - 5. If the proposed action is a Type I or Unlisted action, determine if the proposed action is located in an agricultural district and, if so, comply with the provisions of subdivision (4) of Section 305 of Article 25-AA of the Agriculture and Markets Law, if applicable.
- C. All Type I actions shall require the submission and review of a full Environmental Assessment Form to determine the environmental significance of the proposed action.
- D. Unlisted actions shall require the submission and review of a short Environmental Assessment Form to determine the environmental significance of the proposed action. The Town may require the submission of a full Environmental Assessment

Form for the proposed Unlisted actions if the short Environmental Assessment Form would not provide sufficient information on which to make a determination of environmental significance of the proposed action.

- E. The Town may waive the requirement of the submission of an Environmental Assessment Form if a draft Environmental Impact Statement has been prepared and submitted. The draft Environmental Impact Statement may be treated as an Environmental Assessment Form for the purposes of determining environmental significance.
- F. If more than one agency is involved, the Town shall comply with Section 617.6 of the SEQR regulations for the purposes of determining what agency shall serve as lead agency.
- G. For zoning action review by the Town in which the Town is the only agency involved, the following bodies shall serve as the lead agency for the following types of actions.

Zoning Text Amendments	Town Board
Zoning District Amendments	Town Board
Special Use Permits	Town Board
Variances	Zoning Board of Appeals

- H. If in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement. Review, notice and action on the Environmental Impact Statement shall be conducted in accord with Sections 617.9 through 617.11 of the SEQR Regulations.
- I. The local lead agency shall make a written determination of environmental significance for all Type I and Unlisted actions in accordance with the provisions set forth in Section 617.6 of the SEQR Regulations.
- J. The local lead agency shall maintain files that are open for public inspection of all notices of proposed actions, environmental assessment forms, draft and final environmental impact statements, and written determination.

Driveway must accommodate emergency vehicles as follows:

- Twelve foot wide minimum.
- Twelve foot high minimum clearance.
- Any bridge must have a minimum weight-bearing capacity of 20 tons.
- Must accommodate a thirty-five foot long truck.

If the house setback exceeds 500 feet, the distance must be indicated by a two-sided roadside sign.

ARTICLE 10: SATELLITE DISH ANTENNAE

1000 PURPOSE

This section is intended to provide the minimum level of control necessary to accomplish the health, safety and aesthetic objectives of the town.

- A. Antennae smaller than one (1) meter (39.37 inches) in diameter in Agricultural-Residential Districts and smaller than two (2) meters (78.74 inches) in diameter in General Business Districts or Industrial Districts shall not be subject to these regulations.
- B. All parabolic antennae larger than one (1) meter (39.37 inches) in diameter in Agricultural-Residential Districts and larger than two (2) meters (78.74 inches) in diameter in General Business Districts or Industrial Districts shall be located in rear or side yards, except they may be placed in a front yard if a 200 foot setback from the front lot line can be obtained.

ARTICLE 11: SIGNS

1100 PURPOSE

The purpose of this zoning law is to provide comprehensive time, place, and manner restrictions on signage including, but not limited to, controls on size, height, quantity, location, spacing, shape, lighting, motion, design, and appearance to promote community aesthetics, traffic safety, economic development, and the protection of property values.

1101 SIGN PERMIT REQUIRED

A sign permit is required for all outdoor advertising signs except for those signs specifically exempted below.

All signs erected before this zoning law goes into effect are required to apply for applicable sign permits, but are exempted from the fee for such permit.

1102 PERMITTED SIGNS

Signs are permitted in all districts as accessory structures or uses conditioned on a sign permit being issued and subject to the following conditions:

1. Dimensions – In all districts, no free-standing sign shall have a surface area that exceeds thirty-two (32) square feet per face. In all Districts, no wall sign shall have a surface area that exceeds fifteen percent (15%) of the surface area of the wall on which the sign is attached or displayed. The total combined surface area of wall signs attached or displayed on buildings containing more than one occupant shall not exceed fifteen percent (15%) of the surface area of the wall on which the sign or signs are attached or displayed.
2. Number of Permitted Signs – Each permitted business or use on a premises may have either one (1) freestanding sign or one (1) wall sign for each permitted business or use except that in the Business and Industrial Districts each permitted business or use may have both one (1) freestanding sign and one (1) wall sign. Freestanding signs may be one-sided or two-sided.
 - a) Exception for Motor Vehicle Service Stations
 - I. In addition to the above permitted sign, motor vehicle service stations shall be permitted to have one (1) freestanding or pylon sign setting forth the name of the station for the principal products sold on the premises, including special company or brand name, insignia or emblem, provided that the area of such sign shall not exceed thirty-six (36) square feet per face. Such signs shall be erected no less than ten (10) feet above the ground nor more than twenty-five (25) feet above the ground as measured to the bottom of the sign.
 - II. Motor vehicle service stations may also exhibit one (1) temporary sign specifically setting forth special seasonal servicing of motor vehicles, provided that the area of such sign does not exceed seven (7) square feet per face.
3. Lot Line Setback – All permanent and temporary free standing signs shall be situated on the premises within the property line and shall have a minimum lot line set back of fifteen (15) feet.

1103 PROHIBITED SIGNS

The following signs are prohibited:

1. Off Premise Signs – No sign shall be used to attract attention to an object, product, place, activity, institution, organization or business not available or located on the premises on which the sign is located except that temporary signs erected by or for not-for-profit organizations such as churches, civic groups, youth organizations and the like to advertise or promote community-wide special events,

suppers, banquets, benefits, fundraising sales and similar functions may be located off the premises subject to the permission of the property owner.

2. Visually-Distracting Signs – No sign shall be illuminated by or contain a flashing, intermittent, rotating or moving light or lights. In no event shall any illuminated sign or lighting device be placed so as to permit the beams and illumination there from to be directed upon a public road or street, sidewalk or adjacent premises so as to cause glare or reflections that may constitute a traffic hazard or nuisance.
3. No sign shall be installed that moves or revolves or has parts that move or revolve or that contains pennants, ribbons, streamers, spinners or other moving or fluttering devices intended to draw attention to the sign through their movement.
4. Signs in Public Road Rights-of-way – No sign shall be installed or placed in the right-of-way of any public road or street.
5. Roof Signs – No signs, except such directional devices as maybe required by the Federal Aviation Agency, shall be placed, inscribed or supported upon the roof or above the highest part of the roofline of any structure.
6. Signs Obstructing Line of Site – No sign shall create a traffic hazard by obstructing the view at any road or street intersection.
7. Signs resembling Traffic Devices – No sign shall through color, shape, or other features resemble traffic control devices.
8. Non-Conforming Signs – No sign shall be erected or installed that does not conform to the requirements of these regulations.

1104 EXEMPT SIGNS

The following signs are exempt from permit requirements:

1. Historical or Memorial Signs – Historical markers, tablets and statues, memorial signs or plaques; emblems installed by governmental agencies, religious or not-for-profit organizations not exceeding an area of six (6) square feet per face.
2. On-premise Directional Signs – On-premise directional signs for the convenience of the general public, identifying parking areas, fire zones, entrances and exits and similar such signs, not exceeding an area of four (4) square feet per face and not exceeding a height of four (4) feet as measured to the bottom of the sign.
3. Non-Illuminated Warning Signs – Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding an area of two (2) square feet per face.

4. Residential Number Signs – Number and name plates identifying residents situated within the property line and not exceeding an area of one and one-half (1 ½) square foot.

1105 NON-OPERATIONAL SIGNS

No signs or advertising shall remain on the premises of a non-operational business more than 30 days after the business has closed. A 30 day extension may be granted by the Zoning Enforcement Officer. The Zoning Enforcement Officer may allow a sign structure without advertising messages to remain in place where appropriate and may be useable by a subsequent business.

1106 NON-CONFORMING SIGNS

All existing signs that are legal at the time of the enactment of these regulations, but do not conform hereto shall be allowed to remain as long as they are properly maintained and their use remains current. Any non-conforming sign replaced for any cause shall conform to these regulations.

1107 PROCEDURE FOR OBTAINING A SIGN PERMIT

Except as otherwise provided, no person shall erect, alter, or relocate any sign without first obtaining a permit from the Zoning Officer. Subsequent to this initial application, no permit shall be required to repaint or repair a sign.

1. Application Procedure – Application shall be made to the Town Board on the form prescribed and provided by the Town of Attica, accompanied by the required fee, and shall contain the following information:
 - a) Identification – Name, address and telephone number of:
 - I. Applicant,
 - II. Owner of the property; and
 - III. Contractor installing the sign.
 - b) Location – Location of the building, structure or land upon which the sign now exists or is to be erected.
 - c) Signage – if a new sign is to be erected, elevation and plan drawings, to scale shall be included. In addition, a full description of the placement and appearance of the proposed sign shall be included and shall address the following:
 - I. Location – Location on the premises, specifically, its position in relation to adjacent buildings, structures, and property lines.
 - II. Illumination – The method of illumination, if any, and the position of lighting or other extraneous devices;

III. Design – Graphic design including symbols, letters, material and colors;

IV. Message – The visual message, text, copy or content of the sign.

d) Property Owner's Permission – The owner's written consent or a copy of the agreement made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner of the property.

2. Permit

a) Upon the filing of a completed application for a sign permit and the payment of the required fee, the Planning Board shall examine the plans, specifications, and other information submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all of the requirements of these sign regulations, the Planning Board shall then, within ten (10) working days of receiving the application, issue a permit for the erection of the proposed sign, or for the alterations of an existing sign. The issuance of the permit shall not excuse the applicant from conforming to the other laws, rules, and regulations of the Town of Attica.

b) If the erection of the sign authorized under any such permit has not commenced within six (6) months from the date of issuance, the permit shall become null and void, but may be renewed for good cause within thirty (30) days prior to expiration for an additional six (6) months, upon payment of one-half (1/2) of the original fee.

3. Permit Fee – Fees for the sign permits shall be fixed by the Town Board and listed in fee schedule.

1108 APPEALS AND VARIANCES

Applications for appeals and variances shall follow the appropriate procedures outlined in the Zoning Law.

1109 NUMBER AND TYPE OF ALLOWABLE SIGNS

1. FREE STANDING SIGNS - One free-standing sign is allowed per lot.

i. Size: Free-standing signs shall have two sides, which are parallel to each other and not more than ten inches apart. The maximum allowable size for a free-standing sign shall be 16 square feet.

ii. Height: The bottom of the free-standing sign shall not restrict the visibility of vehicles entering or exiting any intersection or driveway, Town or State highway or private road. The maximum

allowable height for a free-standing sign shall be no more than eight feet.

- iii. Setback: Free-standing signs and their associated support structures shall be set back at least three feet from the inner edge of sidewalks; where sidewalks do not exist, the setback shall be setback at least 10 feet from the edge of the pavement or roadway and at least 15 feet from all lot lines.

2. FLUSH-MOUNTED SIGNS

- i. Number: If there is no free-standing sign on the lot, then two flush-mounted signs per establishment are allowed on the building where the advertised activity exists. If there is a free-standing sign on the lot, then each establishment is allowed one flush-mounted sign on the building where the advertised activity exists.
- ii. In addition, one sign, no more than 3 square feet, may be permitted at the rear entrance of each establishment on a lot, provided that:
 - 1. The rear entrance is a direct access from a parking lot which is located in the rear yard;
 - 2. The rear entrance is in addition to a front or side entrance; and
 - 3. The sign is mounted directly on or near the rear door to the establishment which it advertises.
- iii. Size: The maximum allowable size of flush-mounted signs shall be no more than 5% of the façade area of the building to which such sign shall be mounted. These signs shall protrude no more than 6 inches from the wall when mounted.

1110 LOCATION OF SIGNS

No sign as identified in this section shall be attached to, placed upon, nor painted upon utility poles, rocks, or other natural features.

Flush-mounted signs shall be mounted in traditional locations which “fit” with the architectural design of buildings.

No sign may be placed on the roof of any building or structure.

1111 SIGN REMOVAL

Any sign that is non-conforming or non-operational can be removed by the Town and the cost of removal will be incurred by the property owner.

1112 LIGHTING AND LANDSCAPING SIGNS

Lighting of signs shall be done to prevent glare off-site, into the sky or onto adjoining properties, roads or highways. Ground mounted signs shall be landscaped. All fixtures on signs shall be of a color and material that enhances the sign and blends in with the surroundings.

1113 OTHER TYPES OF SIGNS

- i. Subdivision or Housing Projects: Subdivisions or housing projects are permitted one free standing sign for identification purposes which shall not exceed 8 square feet.
- ii. Gas Station Signs: Gasoline price signs shall be confined to the pump island and to a single free standing sign.
- iii. Auction, Sale, or Special Event Signs: The signs shall be no more than 6 square feet in area, shall be removed by promoter of such events or sales, and shall not be displayed for longer than 14 days.
- iv. Contractor's Signs and Real Estate Signs: One such sign advertising the sale or lease of real estate or the advertisement of services may be displayed on the premises and shall be removed immediately upon the completion of the project, or the sale or lease of the real estate. Such signs shall be no larger than 3 square feet if mounted by metal stands to the ground. If a sandwich board sign is used, it shall be subject to the provision in this section regarding such signs.
- v. Sandwich Board Signs: A sandwich board sign is allowed to be displayed on a daily basis to identify a promotional sale, event or advertisement of services on the premises in which such is being conducted. No sandwich board sign shall be left outside during non-business hours nor will it be allowed to block the public way while being displayed.
- vi. Professional and Home Office Signs: Signs identifying a professional office or home occupation situated within the property line and not exceeding an area of one (1) square foot per face.
- vii. For Sale (Private Owner): Private owner merchandise sale signs for yard and garage sales and auctions with a surface area not exceeding four (4) square feet and temporary business window signs and posters. Such signs and posters shall not be displayed in excess of 45 calendar days.
- viii. For Sale (Real Estate): "For Sale" and "For Rent" real estate signs. Such signs shall not exceed an area of six (6) square feet per face except in the B-1 General Business and I-1 Industrial Districts in

which such signs shall not exceed an area of 32 square feet per face.

- ix. Signs Identifying Contractors, Engineers or Architects Working on the Premises: Signs Identifying Contractors, Engineers or Architects Working on the Premises not to exceed an area of 12 square feet per face.
- x. Event Signs: Temporary signs advertising or promoting community-wide events or erected by and for non-for profit organizations such as churches, civic groups, youth organizations and the like to advertise suppers, banquets, benefits, fundraising sales and similar functions. Said signs shall be displayed for a period not exceeding forty-five (45) days and shall be removed immediately following said event.
- xi. Political Posters and Non-Commercial Speech Signs: Political signs are temporary signs that support or oppose any political candidate, issue, referendum or party. Political signs shall be placed on private property, shall not obstruct or impair vision or traffic in any manner or create a hazard to the health and welfare of the general public, may be erected for a period not to exceed sixty (60) days in any calendar year, and shall be removed within seven (7) days after an election.

1114 MAINTENANCE OF SIGNS AND REMOVAL OF DETERIORATED OR ABANDONED SIGNS

All signs and sign structures shall be maintained in good repair and condition. Signs and their supporting structures that are no longer in use, that have been abandoned or that have deteriorated due to lack of adequate maintenance shall be removed by the owner, lessee or user thereof, the permit holder or the owner, lessee or user of the premises upon which said sign is located within 60 days of notification by the Zoning Officer, except that deteriorated signs may be repaired rather than removed provided such repair occurs within the same 60 day time period.

Article 12: OUTDOOR FURNACES

1200 PURPOSE

Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly the production of offensive odors and potential health effects of uncontrolled emissions. This chapter is intended to ensure that

outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town.

1210 PERMIT REQUIRED

No person shall cause, allow or maintain the use of an outdoor furnace within the Town of Attica without first having obtained a permit from the Zoning Officer. Application for permit shall be made to the Zoning Officer on the forms provided.

1220 EXISTING OUTDOOR FURNACES

Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain, provided that the owner applies for and receives a permit from the Town Zoning Officer within one year of such effective date; provided, however, that upon the effective date of this chapter all the provisions hereof, shall immediately apply to existing outdoor furnaces. If the owner of an existing outdoor furnace does not receive a permit within one year of the effective date of this chapter, the outdoor furnace shall be removed. "Existing" or "in existence" means that the outdoor furnace is in place on the site. No replacement of an outdoor furnace will be allowed without full compliance with the requirements herein.

1230 SPECIFIC REQUIREMENTS

- A. Minimum lot size. Outdoor furnaces shall be permitted only on lots of 3 (three) acres or more.
- B. Setbacks. Outdoor furnaces shall be set back not less than 50 feet from the nearest lot line and must be within 50 feet of the house that it serves, permitted in the rear yard only and at least 100 feet from the nearest neighboring residence.
- C. Months of operation. Outdoor furnaces shall be operated only between October 1 and April 30.
- D. Spark arrestors. All outdoor furnaces, will maintain properly functioning spark arrestors.
- E. Stack location. The stack must be 2 feet higher than the peak of the residence and a minimum of 20 feet above the ground.
- F. The only fuels allowed shall be those listed fuels recommended by the manufacturer. The following are prohibited: Trash, plastics, gasoline, rubber, mayslitha, and household garbage, material treated with petroleum products (particle board, railroad ties, and pressure treated wood), leaves, paper products and cardboard.
- G. Lighter fluids, gasoline or chemicals to start the furnace are prohibited.

- H. The unit must be located with due consideration to the prevailing wind direction.
- I. Users must follow manufacturers written instructions for recommended loading times and amounts.
- J. Must be UL and EPA listed.

1240 SUSPENSION OF PERMIT

- A. A permit issued pursuant to this chapter may be suspended as the Zoning Officer may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Attica if any of the following conditions occurs:
 - 1. Emissions from the outdoor furnace exhibit greater than 20% opacity (six minute average), except for one continuous six-minute period per hour of not more than 27% opacity, which shall be determined as provided in 6 NYCRR 227-1.3(b).
 - 2. Malodorous air contaminants from the outdoor furnace are detectable outside the property of the person on whose land the outdoor furnace is located;
 - 3. The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;
 - 4. The emissions from the outdoor furnace cause damage to vegetation or property; or
 - 5. The emissions from the outdoor furnace are or may be harmful to human or animal health.
- B. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which has previously resulted in suspension of a permit, shall be considered a new violation of this chapter subject to the penalties provided in §1260 hereof.

1250 WAIVERS

Where the Zoning Board of Appeals finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of this chapter or of jeopardizing the health, safety or welfare of the public.

In varying any regulations, the Zoning Board of Appeals may impose such conditions and requirements, as it deems reasonable and prudent. The Zoning Board of Appeals will hold a public hearing as part of its review. If the Zoning Board of Appeals grants the waiver, a permit shall be issued for the outdoor furnace. If the Zoning Board of Appeals denies the waiver, the outdoor furnace must either be brought into compliance with this chapter or removed. If the Zoning Board of Appeals does not take any action with respect to the waiver application within 60 days from its receipt, the application shall be deemed denied.

In no event may any variance be given with respect to side and rear-line set backs or stack height, or lot sizes.

1260 PENALTIES FOR OFFENSES

Failure to comply with any of the provisions of this chapter shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$500 or imprisonment for a period of not more than 10 days, or both for the first offense. Any subsequent offense shall be punishable by a fine of not more than \$1,000 or imprisonment for a period of not more than 20 days, or both. In addition, any permit issued pursuant to this chapter shall be revoked upon conviction of a second offense and the subject outdoor furnace shall not be eligible for another permit. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor furnace is located until paid.

1270 EFFECT ON OTHER REGULATIONS

Nothing contained herein shall authorize or allow burning that is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection agency, New York State Department of Environmental Conservation, or any other federal, state regional or local agency. Outdoor furnaces, and any electrical, plumbing or other apparatus or device used in connection with an outdoor furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this chapter and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

Article 13: SMALL WIND ENERGY CONVERSION SYSTEMS

1300 See Local Law No. 2 of the year 2009 which is incorporated herein. (Schedule V).

ARTICLE 14: SPECIAL USE PERMIT REGULATIONS AND PROCEDURES

1400 GENERAL PROVISIONS

It is the intent of this zoning law to use Special Use Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Special uses possess unique characteristics requiring that each proposal for any such use shall be considered by the Town Board as an individual case.

1401 ADMINISTRATION

- A. The Town Board is authorized to review and grant Special use Permits, as provided for by this zoning law. The Town Planning Board may make a recommendation subject to the Town Board's final approval. Upon written directions of the Town Board, the Zoning Officer is hereby empowered to issue a special use permit as provided for by this zoning law.
- B. Uses permitted by special use permit shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the special use requirements and standards and all other applicable requirements and standards set forth in this zoning law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- C. A special use permit shall authorize only one particular special use. The special use permit shall expire if the use shall cease for more than one (1) year for any reason.
- D. No person shall be issued a special use permit for a property where there is an existing violation of this zoning law.

1402 GENERAL STANDARDS

- A. Upon application complying with the requirements of this zoning law, a special use permit may be approved by the Town Board and a zoning permit issued by the Zoning Officer in accordance the administrative procedures set forth herein. In granting a special use permit, the Town Board shall ensure compliance with the special use permit requirements set forth under the pertinent Section of this zoning law that specifically addresses the special use being considered as well as ensure compliance with the following general requirements.
 - 1. The proposed special use is consistent with the specific purposes set forth in this zoning law.

2. The proposed use will serve a community need or convenience and will not adversely affect public health, safety, and general welfare.
3. The location and size of the proposed use, the nature and intensity of the operations involved in or conducted in connection with the proposed use, the size of the site in relation to its proposed use and the location of the site with respect to existing or future streets giving access to the site are such that the proposed use will be in harmony with the existing or future characteristics of the neighborhood and will not discourage the appropriate development of adjacent land and buildings or impair the enjoyment or value thereof.
4. Operations in connection with the proposed use shall not be more objectionable to nearby properties by reason of dust, smoke, fumes, emission, odors, noise, vibrations, increased vehicular traffic or parking demand, lighting, unsightliness or other characteristics than would be the operations of any permitted use within the zoning district not requiring a special use permit.
5. The proposed use will be served adequately by essential public facilities and services such as highways, streets, (taking into account traffic generation), parking spaces, police and fire protection, storm sewers, water and sanitary sewers and schools. In areas not serviced by public storm sewers and/or sanitary sewers, adequate provisions must exist or be made for the collection and disposal of sewage and storm water runoff and any other liquid, solid or gaseous waste that the proposed use will generate.
6. The characteristics of the proposed use are not such that its proposed location would be unsuitably near a place of worship, school, public recreational area or park or other place of public assembly.
7. The natural characteristics of the site are such that the proposed use may be introduced on the site without undue disturbance or disruption of important natural features, system or processes, and without significant negative impact to groundwater and surface waters on and off the site.
8. Average levels of illumination for all building, landscaping and parking should not significantly exceed minimum levels necessary for safety and security lighting and should not unnecessarily encroach on adjacent properties. All lighting should be so arranged as to prevent direct glare onto any adjacent property or highway. (2) Pedestrian-scale lighting should be on fixtures not exceeding fifteen feet in height. These can be freestanding fixtures located along sidewalks. Luminaires without cut-offs are acceptable for pedestrian-level lights.

(3) Parking and circulation lighting fixtures should not exceed 25 feet in height and should be required to have ninety-degree cutoff-type luminaire(s) to prevent light above the fixture.

9. HVAC units, dumpsters and other service appurtenances should be kept to the rear of the front line of the main structure, be vegetatively or otherwise unobtrusively screened from view and be subject to Planning Board approval prior to the issuance of a special use permit.

1403 PROCEDURES

- A. Filing Application – All applications for special use permits shall be made in quadruplicate to the Zoning Officer on forms provided by him or her.
- B. Transmittal of Application – The Zoning Officer, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Town Board for approval, in accordance with the procedures specified below. Concurrently, the Zoning Officer shall transmit a copy of the complete application and supporting documents to the County Planning Board for review when such County Planning Board review is required pursuant to Article 12-B, Section 239-M of the General Municipal Law.
- C. Public Hearing –
 1. Prior to taking action on an application for a special use permit, the Town Board shall conduct a public hearing on the proposed request. Said hearing shall be conducted within sixty-two (62) days following the receipt of a complete application and supporting documents from the Zoning Officer.
 2. The Town Board shall mail a notice of the public hearing to the applicant at least ten (10) days prior to the date of the public hearing and shall also publish a public notice of such hearing in a newspaper of general circulation in the Town at least five (5) days prior to the date of the public hearing. Said notice shall include sufficient information so as to identify the property involved and the nature of the proposed action.
 3. If the application was referred to the County Planning Board subject to the County Planning Board review pursuant to Article 12-B, Section 239 of the General Municipal Law, the Town Board shall mail a notice of the public hearing to the County Planning Board at least ten (10) days prior to the date of the public hearing.

D. Town Board Decision –

1. The Town Board shall make written findings for each special use permit decision. The findings shall state the reasoning behind its decision, its basis, and the evidence relied.
2. The Town Board shall render its decision, either approving, approving with conditions, or denying the special use permit, within sixty-two (62) days after the public hearing unless an extension is mutually agreed upon by the Town Board and the applicant. If the application was transmitted to the County Planning Board pursuant to Article 12-B, Section 239-M of the General Municipal Law, the Town Planning Board shall not act within the first thirty (30) days following the referral of the application to the County Planning Board unless the County Planning Board provides a written reply to the Town within the thirty (30) day period.
3. The decision of the Town Board shall be filed in the office of the Town Clerk within five (5) business days after said decision is rendered and a copy provided to the Zoning Officer and a copy mailed to the applicant. If the application had been referred to the County Planning Board, the decision of the Town Board shall also be filed with the County Planning Board within thirty (30) days after the decision.

E. Imposition of Conditions – In approving an application, the Town Board may impose any reasonable modifications or conditions directly related to and incidental to the proposed special use permit it deems necessary to protect the health, safety or general welfare of the public.

F. Permit Approval – If an application is approved by the Town Board, the Zoning Officer shall be furnished with a copy of the approving resolution of the Town Board concurrent with the resolution being filed with the Town Clerk and he shall issue the zoning permit applied for in accordance with the conditions imposed by the Board.

G. Permit Disapproval – If any application is disapproved by the Town Board, the reasons for such denial shall be set forth in the Board resolution and a copy of such resolution shall be transmitted to the Zoning Officer. The Zoning Officer shall deny the zoning permit application accordingly by providing the applicant with a copy of the Board's resolution containing the reasons for disapproval.

H. Annual Compliance Inspection – The Zoning Officer may inspect the premises of a use authorized and approved with a special use permit not less than one time each calendar year. The inspection shall determine that the use is being operated

consistent with the terms and conditions established by the Town Board in approving the permit. If the Zoning Officer determines that the conditions are not in compliance with the permit, the Zoning Officer shall nullify the Special Use Permit and set forth the procedures and requirements for re-establishing the use. The use may not be operated until a new application is submitted and approved.

- I. Compliance with SEQR Requirements – The Town Board shall comply with the provisions of the State Environmental Quality Review Act (SEQR) under Article 8 of the Environmental Conservation Law and its implementing regulations when reviewing special use permits.
- J. Variances – Notwithstanding any provisions of the law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of the Zoning Officer.

1404 ADULT BOOKSTORES AND ADULT ENTERTAINMENT ESTABLISHMENTS

The Town Board may approve a Special Use Permit for adult bookstores and adult entertainment establishments provided that the standards and provisions specified below are maintained:

A. Purpose

- 1. In the execution of this regulation it is recognized that adult bookstores and adult entertainment establishments, due to their very nature, have serious objectionable characteristics. Several studies of adult book stores and adult entertainment establishments conducted by other New York State municipalities have documented the adverse secondary impacts associated with such uses. The studies reviewed included: “Adult Business Study” conducted by the Town and Village of Ellicottville, New York; “Secondary Effects Study of Adult Entertainment Uses” conducted by the Planning Board of the Village of Scotia, New York; “Adverse Secondary Impacts Associated with Adult Entertainment Uses” conducted by the City of Schenectady, New York; and finally, “Adult Entertainment Study” conducted by the City of New York Department of city Planning. Therefore special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood or land uses.
- 2. It is further declared that the location of adult bookstores or adult entertainment establishments in areas where youth may regularly

assemble, and the general atmosphere encompassing their operations, is of great concern to the Town of Attica.

3. These special regulations are intended to accomplish the primary purpose of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

B. General Regulations

1. Compliance with NYS Penal Law – The proposed use shall be operated in a manner that is consistent with the New York State Penal Law relating to exposure, obscenity or lewdness.
2. Setbacks –
 - a. An adult bookstore or adult entertainment establishment use shall not be operated within fifteen hundred (1,500) feet of:
 - i. A public park, municipal building or community center;
 - ii. Another adult bookstore or adult entertainment establishment.
 - b. An adult bookstore or adult entertainment establishment use shall not be operated within one (1) mile of:
 - i. A church, synagogue, temple, mosque or other place of worship;
 - ii. A public or private elementary or secondary school, day care, pre-school or other use of similar nature.
3. Method for Measuring Setback Distances – For the purpose of this zoning law, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structures as part of the premises where an adult bookstore or adult entertainment establishment is conducted, to the nearest property line of the premises of any of the uses specified in B. 1. And B. 2., identified above.
4. Density of Adult Uses – An adult bookstore or adult entertainment establishment shall not be operated in the same building, structure, or portion thereof, containing another adult bookstore or adult entertainment establishment. No more than one (1) of the adult uses as defined above shall be located on any lot or parcel of land.
5. Exterior Signage and Displays – No exterior sign shall contain any photographic or artistic representation of the human body.

6. Requirement to Block or Screen View From Exterior of Building – All adult bookstores or adult entertainment establishments shall be conducted in an enclosed building, regardless of location. All building openings, entries, windows, doors, etc., associated with an adult bookstore or adult entertainment establishment shall be located, covered or screened in such a manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property.
7. Prohibition Against Mixed Uses – No adult bookstore or adult entertainment use shall be established in any building which is used, in part, for residential purposes. No residential use shall be established in any building which contains an approved adult bookstore or adult entertainment use.

1405 AIRPORTS AND AIRSTRIPS

The Town Board may approve a special use permit for private airstrip provided the following standards and provisions are maintained:

- A. An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for special use permits set forth in Article 14 of this zoning law, the following statements and information:
 1. Name and address of the proponent.
 2. Classification of the proposed airport, such as commercial or restricted.
 3. Number and type of aircraft expected to be based at the airport initially and within five years.
 4. Whether an instrument approach procedure will be offered.
 5. Statement as to the anticipated number of daily flight operations.
 6. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
 7. A copy of the New York State Commissioner of Transportation's determination that the airport is in compliance with the provisions of Section 249 of the New York State Business Law.
 8. A site plan of a scale no smaller than one inch equals one hundred feet (1" = 100') and in accord with the site plan requirements set forth in Article 15 of this zoning law.

9. An area map at a scale of no less than one inch equals five hundred feet (1" = 500') showing:
 - a. Distances to power lines, or other possible obstructions, within two thousand (2,000) feet of the ends of runways shall be accurately plotted.
 - b. Properties within five hundred (500) feet shall be plotted and owners identified by name.
- B. The Town Board may, at its discretion, exclude from the requirement of paragraphs above, any private airport established, constructed or maintained by an individual on his property for his personal or hobby use; provided however, that the following conditions are met:
 1. The average number of hours that the airport is in use each week does not exceed twelve hours.
 2. The individual owns no more than three planes none of which is designed to accommodate more than six persons, including the pilot.
 3. The airport is not utilized for any industrial or commercial purposes.
 4. The Town Board may, at its discretion, require the applicant to submit proof that the requirements of Section 249 of the general Business Law are otherwise complied with, depending on the proposed airports proximity to highways and other airports.
- C. The Town Board, in considering a request for a special use permit or the extension of a permit to operate an airstrip, may impose any conditions it deems necessary to protect the health, safety and public welfare of the Town.

1406 ANIMAL WASTE MANAGEMENT SYSTEM

The Town Board may approve a Special Use Permit for Animal Waste Management Systems (AWMS) provided the standards and provisions specified below are followed.

A. Standards

1. The owner or operator of said farm must follow all rules and regulations set forth by Confined Animal Feedlot Operation (CAFO). (Environmental Protection Agency CAFO Rules and Regulations).

B. Procedures

1. All applications for special use permits for animal waste management systems shall be submitted to the Town Board for review and approval. The Town Board shall not consider an application for establishing an animal management storage system unless the proposal and engineered design has been reviewed by the National Resource Conservation Service (NRCS) or a qualified engineer and a letter to that effect is transmitted as part of the application for the special permit.
2. The Town Board may request periodic and random inspections of the system and operation plan. Any monitoring required by the Board will be to assure compliance with standards and conditions of the permits. Costs of such inspections and monitoring shall be borne by the owner.
3. The special permit issued shall become null and void if the system is operated in a manner which is contrary to any of the conditions or the provisions for either the issuance of the permit or the operations plan.

1407 CAMPGROUNDS

The Town Board may approve a special use permit for camping grounds in the Town of Attica provided that the following standards and provisions are maintained:

- A. Use Restrictions – Camping grounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation and recreation purposes. No permanent external appurtenances such as carports, cabanas or patios may be attached to any travel trailer or other vehicular accommodation parked in a camping ground. The removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.
- B. Tract Size – Minimum site area: Ten (10) acres.
- C. Lot Size – Minimum sizes for individual campsites: twenty-five (25) feet by eighty (80) feet to accommodate areas with travel trailers and campers; and twenty-five (25) feet by fifty (50) feet for areas to be occupied exclusively with tents.
- D. Density – Not more than ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.

E. Entrances and Exits –

1. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Road curbs shall have a minimum radius of fifty (50) feet and shall be designed for “Drive-through” campsite parking.
2. A camping ground shall be so located that that no entrance or exits from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street.

F. Natural Features – Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or to the health or safety of the occupants. Natural vegetation shall be retained wherever possible. The site shall not be exposed to objectionable smoke, noise, odors, or to other adverse influences, and no portion of the camping grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.

G. Accessory Buildings –

1. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions.
 - a) Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.
 - b) Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.

- c) The structures housing such facilities shall not be directly accessible from any public street, and shall only be accessible from a street within the camping ground.

H. Water Supply/ Sanitary Sewage Disposal – Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the Wyoming County Health Department, New York State Department of Health and/or Environmental Conservation, and shall receive approval from said agencies.

I. Interior Streets – Streets in camping grounds shall be private, but shall be constructed with a stabilized travel way and shall meet the following minimum stabilized travel way width requirement:

1. One Way with no parking on either side, 12 feet.
2. One Way with parking on one side, 24 feet.
3. Two Ways with no parking on either side, 24 feet.
4. Two Ways with parking on one side, 36 feet.
5. Two Ways with parking on both sides, 48 feet.

All roadways and public parking areas shall either be paved or dust treated. All tree limbs shall be trimmed back to allow emergency equipment.

J. Recreation Facilities – A minimum of eight (8) percent of the gross site area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area or utility site shall be counted as meeting recreational purposes.

K. Lighting and Walkways – Adequate lighting systems shall be provided for the camping ground. Pedestrian walkways shall be provided to lead to all parking areas, rest rooms or other service buildings. All walkways shall have adequate lighting.

L. Utilities – All utilities shall be underground.

M. Refuse collection and Disposal – Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each camp site. No camp site shall be situated further than one hundred (100) feet from a garbage receptacle. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.

N. Compliance with Sanitary Regulations – All sanitation standards promulgated by the State of New York, County of Wyoming, or the Town of Attica, shall be met.

O. Setbacks –

1. Campsites and buildings shall be set back not less than fifty (50) feet from any stream which carries water more than six (6) weeks per year.
2. No building, structure, travel trailer, camper, tent, motor home, or motor vehicles propelling or carrying the same may be located closer than within three hundred (300) feet of any residence or closer than one hundred (100) feet of any lot line.

1408 CEMETERIES

The Town Board may approve special use permits for cemeteries within the Town of Attica provided the following standards and provisions are maintained:

- A. Minimum site area: 20 contiguous acres.
- B. Minimum lot width: 200 feet.
- C. Mausoleums, caretaker's cottages, chapels, and storage facilities which are incidental to the cemetery shall be permitted as accessory uses provided that any such structure shall not be located closer than 75 feet to any lot line.
- D. No crematoria shall be permitted within or considered accessory to a cemetery.
- E. No interment shall be within fifty (50) feet of any street or lot line.
- F. Memorials and monuments may not exceed six (6) feet in height.
- G. Landscaping shall be provided suitable to screen the cemetery from view in so far as practicable.
- H. Off-street parking: A minimum of one (1) space for each two (2) acres.

1409 CIVIC AND SOCIAL CLUBS

The Town Board may approve special use permits for civic and social clubs within the Town of Attica provided the following standards and provisions are maintained:

- A. Minimum lot size: Two (2) acres.
- B. Minimum frontage: Two hundred (200) feet.

- C. Minimum lot line set back: Fifty (50) feet from side and rear lot lines and seventy-five (75) feet from road right-of-way.
- D. Minimum amount of off-street parking: Off-street parking must comply with the Building code.

1410 COMMUNICATION TOWERS

The Town Board of Attica may approve a special use permit for the creation and maintenance of communication towers within any zone district provided that the following standards and provisions are maintained.

A. Purpose

The purpose of these special use permit regulations is: to promote health, safety, and the general welfare of the residents of the Town of Attica; to provide standards for safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful sighting, visual impact assessment, and appropriate landscaping.

B. General Criteria

No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to a communication tower shall be authorized by the Town Board unless it finds that such communication tower:

1. Is necessary to meet current or expected demands for service;
2. Conforms with all applicable regulations promulgated by the Federal Communications commission, Federal Aviation Administration, and other federal agencies;
3. Is designed and constructed in a manner which minimizes the visual impact to the extent practical;
4. Complies with all other requirements of this Ordinance, unless expressly superseded herein;
5. Is the most appropriate site among those available within the technically feasible area for the location of a communication tower;
6. Is designed to accommodate future shared use by at least one (1) other telecommunication service provider. Any subsequent location of

telecommunication equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified Special permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

C. Co-Location

1. The Town of Attica prefers the shared use of towers to the construction of towers for individual use. Where shared use is not possible, consideration should be given to the location of antenna on pre-existing structures. Any Special Permit applications, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing communication tower or upon an existing structure.
2. Applicants shall present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities and the use of other pre-existing structures as an alternative to the construction of a new tower. Such report shall identify existing communication tower sites and structures exceeding seventy-five percent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
3. Applicants intending to share use of an existing tower shall document the intent of an existing tower owner to share use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use. Those costs may include but are not limited to, structural reinforcement, preventing transmission or receiver interference, additional site screening, and other change including real property acquisition or lease required to accommodate shared use.
4. Applicants proposing to build new towers shall submit a report demonstrating good faith efforts to secure shared use of existing towers as well as documenting capacity for future shared use of the proposed tower.

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

- a) The planned equipment would exceed the structural capacity of existing and approved communication towers or other structures, considering existing and planned use for those facilities;
- b) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
- c) Existing or approved communication towers or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
- d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
- e) The property owner of the existing communications tower or other structure refuses to allow such co-location.

D. Dimensional Standards

1. No more than one (1) communication tower shall be permitted on any single parcel of land.
2. The minimum lot size for a tower shall be sufficient to include the entire fall zone, regardless of whether the site is leased or owned in free.
3. The minimum setback of any tower part, including accessory facilities, from any property line for each communication tower shall be equal to the height of the tower to be erected.
4. A fall zone around any communication tower must have a radius at least equal to the height of the tower and any antennae(s) attached upon its zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the communication tower.
5. The frontage requirement of the zone district shall not apply, provided the communication tower is not proposed on a parcel to be partitioned specifically for the facility and provided the facility is not designed for occupancy by staff. In the absence of required frontage, an accessway for service vehicles, either through easement, lease or ownership shall be in accord with Paragraph G herein.

E. Lighting and Marking

Communication towers shall be marked and lighted, as appropriate, in order to comply with standards and requirements of any governmental agency with jurisdictional authority. Whenever possible, towers should be designed and sited so as to avoid the application of FAA lighting and painting requirements.

F. Appearance and Buffering

1. The use of any portion of a communication tower for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
2. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment, as determined by the Town Board. Any tower that is not subject to FAA marking, pursuant to Paragraph E herein, shall:
 - a) Have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Town Board or;
 - b) Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the Facility to perform its designed function.
3. Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
4. The Town Board may require the planting of deciduous or evergreen trees to insure adequate screening around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. The Town Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
5. Existing on-site vegetation shall be preserved to the maximum extent possible.

G. Access and Parking

1. An access road and sufficient off-street parking facilities shall be provided to assure adequate emergency and service access. Maximum use shall be made of existing roads. New right-of-ways established solely for access to communication towers must be at least twenty (20), but no more than thirty (30) feet wide. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
2. The road surface (driveways) shall be centered within rights-of-way and shall not comprise more than 60% of the width of the right-of-way.
3. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
4. Driveways or parking areas shall provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

H. Security

1. All commercial communication towers shall be completely enclosed by a fence, with suitable locking facilities, not less than eight (8) feet in height above ground level. The top foot of such fencing may, at the discretion of the Town Board in deference to the character of the neighborhood, be comprised of three-stands of barbed wire to discourage unauthorized access to the site.
2. Motion activated or staff activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
3. There shall be no permanent climbing pegs within fifteen (15) feet of the ground on any tower.
4. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

I. Engineering and Maintenance

1. Site plans for all communication towers must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
2. Every facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the Zoning Officer.
3. A safety analysis by a qualified professional must accompany any special permit application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.

J. Removal

1. In the event a communication tower becomes obsolete due to new technology, is no longer used for the purpose specified in the application, or the communication facility ceases operations for a period of twelve (12) consecutive months, such tower, structures or facilities shall be dismantled and removed from the site within one-hundred twenty (120) days of receipt of written notice from the Town and based upon the Town's declaration to the effect specified herein. Upon removal of said Facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
2. The Town Board may, as a condition of special use permit approval, require the applicant to provide a letter of credit, performance bond, or other financial guarantee, with the municipality as the assignee, to insure that funds will be available for the Town's use for removal of the communication tower and for property restoration, should the tower become obsolete or abandoned.
3. At time of modification of the Special Use Permit, the Town Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the communication tower and property restoration.

K. Site Plan Review

Site plan approval shall be required in accord with the site plan regulations set forth in this zoning law. The Town Planning Board may retain the services of a communications consultant to review the proposed site plans for a communication tower. All reasonable and necessary consultant costs incurred by the Town in the review of site plans and application documents shall be borne by the applicant, to the extent permitted by law.

L. Exceptions

The following communication towers are excepted from the provisions of this section:

1. Satellite dish antennae as regulated elsewhere in this zoning law.
2. Conventional television and radio antennae when used exclusively for private benefit and involving a structure with a height of less than fifteen (15) feet above existing grade, or if attached to a structure, less than fifteen (15) feet above the maximum height of the building.
3. Lawfully approved uses existing prior to the effective date of these regulations.

M. Time Limit

In consideration of a special use permit for the erection and maintenance of a communication tower, the Town Board may impose a specific time period for the operation of the use. Said time limit shall clearly stipulate the conditions imposed for granting the special use permit and the basis for the Town Board not to renew said permit for another specified time period.

1411 DRIVE-IN BUSINESS

The Town Board may approve a special use permit for a drive-in restaurant, pharmacy, etc. in the General Business district provided that the following standards and provisions are maintained:

- A. Application Requirements – The following information shall be submitted as part of the application for site plan approval and for a special use permit for a drive-in business, in addition to that information required in other sections of the zoning law.

1. The location and dimensions of all structures including buildings, screened trash areas, fencing and lighting (show direction and level of illumination).
 2. The locations and dimensions of all off-street parking areas and driveways.
 3. Proposed landscaping of site.
- B. Setback Requirements/Density Restrictions – All drive-in businesses shall be a minimum of 200 feet from other such businesses, which distances shall be computed as follows:
1. For such businesses on the same side of the street, 200 feet measured between the two (2) closest property lines.
 2. For such businesses on opposite sides of the street, 200 feet measured diagonally between the two closest property corners.
 3. For four-corner intersections, one (1) such business may be located on a diagonally opposite corner exclusive of the 200 foot distance requirement.
- C. Banks: Special Conditions – Banks with drive-in facilities shall be permitted provided that at least five (5) car length spaces are provided in the approach drive within the property line of the lot for each drive-in teller's window. Such spaces shall be exclusive of required off-street parking spaces.
- D. Refuse Storage – All drive-in businesses shall provide suitable storage of trash in areas which are so designated and constructed as to allow no view of the trash storage from the street, to prevent waste paper from blowing around the site or adjacent properties or public right-of-way and to permit safe, easy removal of trash by truck or hand.
- E. The minimum distance from any driveway to a property line shall be twenty (20) feet.
- F. The minimum distance between driveways on the site shall be fifty (50) feet measured from the two (2) closest driveway curbs.
- G. The minimum distance into the site from a street intersection shall be 30 feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.

- H. Drive-in businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.
- I. Exterior lighting proposed for the site shall be planned, erected and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source shall not be higher than twenty (20) feet.
- J. Sufficient landscaping and fencing shall be provided in order to minimize visual impacts and minimize conflicts with adjacent land uses.
- K. Water supply and sewage disposal systems shall be reviewed by the Wyoming County Health Department.
- L. Any outdoor eating area associated with a drive-in restaurant shall be maintained, landscaped and physically separated from any off-street parking area or driveway. Outdoor eating shall be allowed only if all parking and vehicular travel areas have a dust-free (paved) surface.

1412 ESSENTIAL SERVICES AND UTILITIES

The Town Board may approve a Special Use Permit for Essential Services in any zoning district provided that the following standards and provisions are maintained:

- A. Essential services and utilities may be allowed as special permit uses in all districts by the Town Board. The Town Board shall determine the following prior to approving a special use permit.
 1. Necessity of Site – The proposed installation in a specific location is necessary and convenient for the efficiency of the essential services or the satisfactory and convenient provision of service to the area in which the particular use is located.
 2. Building Design – The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
 3. Landscaping – Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
 4. Parking – Adequate off-street parking shall be provided.
 5. Underground Installation of Distribution System – All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground.

6. Underground Installation of Service Connections – All service connections from distribution lines to consumers shall be placed underground.
7. Security and Safety
 - a) Adequate and attractive fences and other safety devices will be provided.
 - b) All points of necessary access, or transformers, shall be placed in secure structures at ground level.
 - c) All major electrical transformer facilities or substations, if above ground, shall be secured by an outer and inner fence, each ten feet from each other at any point; also no transformer or associated switches shall be closer than 100 feet from any lot line.

1413 EXCAVATION OPERATIONS

The Town Board may issue Special Use Permits for excavation operations, including the extraction of sand and gravel and processing or other operations for the preparation of sand and gravel provided that the following condition and standards are observed:

- A. Tract Size – The minimum lot area for any such use shall be ten (10) acres.
- B. Setbacks – All buildings and excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property lines.
- C. Fencing – The Town Planning Board may require fencing or some similarly effective barrier six (6) feet in height where excavations exceed a depth of four (4) feet.
- D. Removal of Structures – All buildings and structures used in such operations shall be dismantled and removed within twelve (12) months following the termination of the operations; shall be made at the expense of the operator; and shall be a condition of approval of the Special Use Permit.
- E. Maintenance of Structures and Plants – All buildings, structures, and plants used for processing of excavated materials shall be maintained so as to assure that such buildings, structures and plants shall not become dangerously dilapidated.
- F. Maintenance of Equipment – All equipment used for the excavation of sand and gravel and processing thereof shall be constructed, maintained, and operated in such a manner to eliminate, as far as practicable, noises and vibrations and dust

conditions which are injurious or substantially annoying to all persons living in the vicinity.

- G. Hours of Operation – All operations shall be conducted between the hours of seven (7) O'clock in the morning and six (6) O'clock in the evening Monday through Saturday and except in the case of public or private emergency or wherever any reasonable or necessary repairs to equipment are required to be made no operations shall be conducted on Sundays.
- H. Erosion - To minimize the amount of area left exposed to erosion during excavations, intermediate cover and seeding may be required as a condition of the approval of the Special Use Permit.
- I. Land Reclamation/Restoration – All land which has been excavated must be rehabilitated within one (1) year after the termination of operations in accordance with standards set and at the expense of the operator and shall be a condition of the approval of the Special Use Permit. It is further provided that where an excavation operation has lasted longer than one year, rehabilitation of land in accordance with standards set must be begun and completed within one (1) year's time. The Zoning Officer shall require the operator to cease excavation operations when the above standard is violated until the operator complies.
1. All excavations must be graded or back-filled.
 2. Excavations made to a water-producing depth shall be properly sloped to the water line with banks sodded or surfaced with solid of an equal quality to adjacent land area topsoil; such topsoil required under this section shall be planted with green, shrubs, legumes, or grasses upon the parts of such areas where re-vegetation is possible.
 3. excavation not made to a water producing depth must be graded or back-filled with non-noxious, non-flammable, non-combustible solid material and in a topographic character which will result in substantial general conformity to adjacent lands; such grading or back-filling shall be designed to minimize erosion and shall be surfaced with a soil equal in quality to that of adjacent land area and planted with trees, shrubs, legumes, or grasses upon the parts of such areas where re-vegetation is possible.
- J. Performance Guarantee – The Town Board may require a performance bond or some other financial guarantee that the conditions of the granting of the Special Use Permit are carried out.

1414 FARM LABOR HOUSING

The Town Board may approve a special use permit for farm labor housing provided that the following standards and provisions are maintained:

- A. The applicant shall obtain a Department of Health permit to operate a migrant farm worker housing facility and shall comply fully with all of the standards for such housing as specified in Chapter 1, Part 15, of the New York State Sanitary Code, Public Health Law 225 as amended.
- B. In situations in which the number of migrant farm workers to be housed in a farm labor housing is below the threshold requiring a Department of Health permit for operation of a migrant housing facility, the applicant shall fully comply with the standards as specified in Chapter 1, Part 15, of the New York State Sanitary Code, Public Health Law 225 as amended.
- C. The applicant shall fully comply with all applicable County and Town codes, local laws, ordinances, and regulations.
- D. Farm labor housing shall be regulated as if it were the principal dwelling on the parcel and must comply with the dimensional requirements of principal dwellings in the District in which said farm labor housing is located.
- E. Occupancy of farm labor housing shall be limited to employees and the family of employees of the property owner while employed in agricultural production on the property owner's farm. Rental of farm labor housing facilities for any other purpose is prohibited.
- F. The owner of the property on which farm labor housing is located must be actively and principally engaged in commercial agricultural production in the Town of Attica.
- G. State, County, and Town officials shall have access to farm labor housing at all reasonable times.
- H. Failure of the applicant to comply with any of the stipulations enumerated herein shall be cause for revocation of the special use permit after a duly noticed hearing before the Town Board.
- I. The applicant shall maintain order; assume responsibility for the day-to-day operations, maintenance of the camp and the conduct of camp employees. The applicant shall appoint an agent who is a resident of the Town of Attica who shall assume the responsibility of the owner in the owner's absence for the day-to-day operations, maintenance of the camp and the conduct of

camp employees. The applicant shall provide the Town Clerk in writing with the name, address, and telephone number of his agent.

1415 FARM MARKETS

The Town Board may approve special use permits for farm markets provided the following standards and provisions are maintained:

- A. Such structures shall not exceed 2,000 square feet.
- B. Such structures shall conform to the minimum setback requirements for accessory buildings in the District in which they are situated.
- C. Sufficient land area shall be provided to accommodate off-street parking for not less than three (3) vehicles.

1416 GOLF COURSE

The Town Board may approve a Special Use Permit for golf courses provided that the following standards and provisions are maintained:

- A. Any golf course shall consist of tees, greens and grass fairways within a minimum distance of fifty (50) yards between each tee and green. There shall be no more than an average of one (1) hole for each two (2) gross site acres in the total tract.
- B. A practice driving range shall be permitted only where accessory and incidental to a golf course, provided that there shall be no more than one (1) driving tee for each acre in the total tract and no artificial lighting shall be allowed.
- C. There shall be no more than one (1) accessory clubhouse or other building designed to provide lockers, enclosed eating facilities without takeout privileges and shop for sale of golf equipment.
- D. An accessory building for the storage and maintenance of equipment and machinery used in connection with a golf course may be permitted.
- E. No building or structure shall in any case exceed two and one-half (2 ½) stories or thirty five (35) feet, including fences and lighting standards.
- F. No artificial illumination installed for the purpose of allowing nighttime use of golf course or accessory driving range shall be permitted.
- G. No bullhorns, loudspeakers or other means of sound amplification shall be permitted where such use will adversely affect adjacent properties.

- H. Front, side and rear yards shall not be less than one hundred (100) feet in depth.
- I. No parking or loading area shall be located either within a required side or rear yard nor within twenty-five (25) feet of the front property line.
- J. At least four (4) parking spaces per hole for the golf course and one (1) space per driving range tee if a driving range exists shall be provided on-site.

1417 GROCERY STORE, MEAT MARKET, BAKED GOODS STORE

The Town Board may approve a special use permit for grocery stores, meat markets, and baked goods stores provided that the following standards and provisions are maintained:

- A. No merchandise shall be displayed or sold from any setback area or sidewalk.
- B. Minimum lot size-2 acres.
- C. Minimum frontage-250 feet.
- D. Minimum lot line set back; Both buildings and parking lots shall be setback at least seventy-five (75) feet from front lot line and fifty (50) feet from the side and rear lot lines.
- E. Parking lots shall be designed and/or fences installed or screening materials planted so as to prevent the headlights of motor vehicles using the parking lot from shining on adjacent lots.
- F. Lighting and Signage-Illuminated signs and other lights shall be controlled and arranged so as to not shine onto any adjacent property or roadway.
- G. Public Address System:-No exterior public address system shall be permitted except where such system is inaudible at any property line.

1418 JUNK YARDS, AUTO WRECKING AND DISMANTLING YARDS

The Town Board may approve a special use permit for a junkyard, auto wrecking and dismantling yard provided the following standards and provisions are maintained:

- A. The provision of the State Junkyard Law (General Municipal Law, Section 136, as amended) are hereby adopted by reference and shall apply to all junk yards as defined in this zoning law. The expansion or alteration of existing junk yards shall also be governed by the provisions of this section.
- B. Minimum Dimensional Requirements:

Minimum Lot Size – 10 acres

Maximum Lot Size – 15 acres

Maximum Lot Width – 300 feet

Minimum Front, Side, and Rear Setbacks – 100 feet.

- C. A junk yard shall be completely surrounded with a fence (or screen) at least eight feet in height which completely screens the junk yard from public view and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be present. Such fence shall be erected no nearer than the required setback.
- D. All junk stored or deposited by the operator shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of business.
- E. All vehicles or engines stored in the yard shall first be drained of any oil, gasoline, or other fluids. Such fluids shall be safely stored and disposed of off-site.
- F. There shall be no storage or stockpiling of tires or batteries except within an enclosed building.
- G. Direct sales to the general public shall be confined to an enclosed building located on the site, except for the sale of reconditioned motor vehicles. Said motor vehicles may be displayed in a defined area outside of the fenced junkyard portion but on the subject parcel. The display area must be paved or stoned to provide a stable hard surface. A minimum area of two hundred (200) square feet shall be required for each motor vehicles displayed for sale.
- H. No motor vehicle or dismantled parts may be stored within one hundred (100) feet of the bed of a stream carrying water on an average of six (6) months of the year.
- I. Off-street parking shall be in accordance with Section 3000 of these regulations.

1419 KENNELS (COMMERCIAL AND PRIVATE)

The Town Board may approve a special use permit for kennels provided that the following standards and provisions are maintained:

- A. Minimum Dimensional Requirements:
- B. Minimum Lot Size – 5 acres
- C. Minimum Lot Width – 300 feet

- D. Buffer – Adequate landscaping or fencing shall be provided to create a visual sound and smell buffer between such facilities and adjacent properties.
- E. Setback – Shelters for animals within kennels shall not be closer than one hundred (100) feet to any street or property line. No outdoor area enclosed by fences for the use of animals shall be permitted within a front yard. Fenced areas shall be setback not less than one hundred (100) feet from any side or rear property line.
- F. Waste Disposal – Adequate provisions shall be made for disposing of animal waste.
- G. Sheltering Animals at Night – All animals shall be kept within a totally enclosed building between 8pm and 6am.
- H. Noise and Odor – Noise and odors shall not become a nuisance to adjacent property owners.

1420 MANUFACTURED HOME PARK

The Town Board may approve a special use permit for manufactured home parks provided that the following standards and provisions are maintained:

- A. Tract Size – The minimum site area of proposed manufactured home parks shall not be less than fifty (50) acres.
- B. Lot Size and Frontage – Individual manufactured home lots shall have an area of not less than 10,000 square feet. Each individual lot shall front on an interior park roadway and have a minimum width of 75 feet.
- C. Setbacks for Individual Manufactured Home Lots Within the Park
 - Minimum Front Setback – 25 feet
 - Minimum Side Setback – 20 feet
 - Minimum Rear Setback – 10 feet
- D. Setbacks from Streets and Property Abutting Park – The minimum setbacks of every manufactured home, building or other structure in a park from the nearest public street line shall be eighty (80) feet, and from every other lot line of the park shall be fifty (50) feet.
- E. One Manufactured Home Per Lot – Not more than one (1) manufactured home shall be located on any one (1) individual lot. Every manufactured home within a park shall be located on a manufactured home lot shown on the approval site plan for said park.

- F. Accessory Buildings for Individual Lots – At least one (1) framed service building shall be constructed in each manufactured home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tool, and materials shall be stored within said building when they are not in use. No more than one (1) accessory building shall be permitted on any individual manufactured home lot.
- G. Parking – Each individual lot shall have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the manufactured home by a paved sidewalk having a minimum width of thirty-six (36) inches.
- H. Storage of Other Vehicles, Trailers, Boats, Etc. – No boats, campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles shall be parked or stored at any place within a manufactured home park except in areas designated and approved for such storage as part of the site plan approval.
- I. Interior Streets
1. Every travel lane and parking lane within a manufactured home park shall have a minimum pavement width of twenty-four (24) feet and each roadway shall have a minimum right-of-way width of fifty (50) feet. If cul-de-sacs exist, they shall have a minimum diameter of eighty (80) feet.
 2. Each roadway shall be named and noted upon signs at each roadway intersection. Each manufactured home lot shall be assigned a permanent number which shall be noted on the manufactured home lot in a location clearly visible from the roadway.
- J. Water Distribution System and Fire Flow – A complete water distribution system approved by the Wyoming County Health Department and other appropriate agencies, including a water-service pipe for each manufactured home lot and appropriately spaced fire hydrants, shall be installed.
- K. Sanitary Sewer System – A public sanitary sewage disposal system approved by the Wyoming County Health Department and other appropriate agencies shall be installed, including a sewer connection for each manufactured home lot.
- L. Utilities – All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- M. Street Lighting – Appropriate street lighting shall be installed on interior roadways with the minimum number of lights being one at each intersection with interior

roadways or with abutting public roads, and at least every two hundred (200) feet where such intersections are more than two hundred (200) feet apart.

- N. Sidewalks – Pedestrian walkways shall be provided along at least one side of all interior streets and shall be a minimum of five (5) feet in width.
- O. Landscaping and Screening – A landscape plan shall be prepared and carried out which will assure the Town Planning board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary. The landscaping and screening must be maintained in good condition. The park owner/operator shall be responsible for providing and paying the cost of such maintenance and for all necessary upkeep.
- P. Prerequisites for Locating Manufactured Homes – No manufactured home shall be located on a manufactured home lot until the roadways, sanitary sewage disposal system, water supply system, storm drainage system, street lighting, landscaping, recreation areas, framed service buildings, and accessory vehicular storage buildings serving the manufactured home park have been installed in accordance with the approved site plan for the park.
- Q. Fuel Tanks – All fuel tanks used for heating within a manufactured home park, including all fuel tanks used for heating within individual homes, shall be installed in accordance with NFPA standards.
- R. Recreational Area – Every manufactured home park shall have a recreational area or open space area for use by the occupants of the park. Such areas shall be as centrally located as the topography and design of the park permit. Such areas shall not be less than one (1) acre for the first 20 manufactured home lots, with an additional 1,000 square feet provided for each additional manufactured home lot established thereafter.
- S. Refuse and Recycling Collection and Disposal – The park owner/operator shall provide for the regular collection and disposal of garbage, trash, and rubbish for all residents of the park.
- T. Skirting – Each manufactured home shall be enclosed at the bottom with a fire resistant skirt or enclosure within thirty days after the placement of the home on the lot.
- U. Enclosures and Additions – No enclosure or addition, with the exception of carports, door porches, and patios, shall be constructed on, added to, or attached to the exterior of any manufactured home.
- V. Prerequisites for Sale of Manufactured Homes – No manufactured home shall be offered for sale, displayed for sale, or sold within a park unless such manufactured

home is located on an individual manufactured home lot and is connected to electric, sewer and water services.

- W. Interior Roadway Maintenance – Every roadway with a manufactured home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner/operator shall be responsible for providing and paying the cost of such maintenance and for all necessary snow removal.
- X. Sale of Lots Prohibited – Any sale of a manufactured home lot or lots, or a portion of a manufactured home park, other than the entire manufactured home park, as shown on the plan of such park approved by the town, shall thereupon immediately invalidate the special use permit for such park approved by the Town Planning Board. Any use of any of the premises within the manufactured home park other than as a manufactured home park shall thereupon immediately invalidate the special use permit of such park approved by the Town Planning Board.
- Y. Home Occupations and Home Base Businesses Prohibited – Home occupations and home based businesses shall not be permitted in any individual manufactured home located within a park.

1421 MOTOR VEHICLE SALES/FARM EQUIPMENT SALES

The Town Board may approve a special use permit for the sales of motor vehicles and farm equipment provided that the following standards and provisions are maintained:

- A. Building Requirements – Such sales shall be conducted in a fully enclosed building located on the same lot, and having a building area of not less than 5,000 square feet devoted to the sales and services of automobiles or farm equipment; or
- B. Exceptions to Building Requirements – The sale of new and/or used automobiles or farm equipment may be carried on in an unenclosed area provided that:
 - 1. Such unenclosed area shall be dust-free, shall be suitably drained, and shall be maintained in a neat and orderly manner. The area must be paved or stoned to provide a stable hard surface.
 - 2. All exterior illumination shall be approved by the Town Planning board and shall be shielded from the view of all surrounding properties and streets.
 - 3. Suitable landscaping and/or fencing of such unenclosed area shall be required.

4. No establishment for the sale of new and used automobiles or farm equipment shall be opened, conducted, or maintained except as provided above. None of the provisions of this section, however, shall be deemed to prohibit the continuance of the present use of any property for the sale of new and used automobiles or farm equipment, provided that any such continued use shall be subject to all of the provisions of this section. Plans for any changes required to bring about such conformance shall be submitted to and approved by the Town Board before any such change shall be made. The Town Board may approve, modify or disapprove such plans and may impose reasonable and appropriate conditions to such approval so that the spirit of this zoning law shall be observed.

C. Lot Size, Setback, Area Specifications

1. Minimum Specifications:

Front Setback: 50 Feet
Rear Setback: 30 Feet
Side Setback: 30 Feet

Lot Width: 300 Feet
Lot Size: 300,000 sq. ft.

2. No motor vehicles or farm equipment shall be displayed for sale or rent within 50 feet of any property line.

D. Prohibition of Fuel Sales – No retail sale of fuels shall occur on the site at any time.

E. Signs – All signage shall comply with Article 11 of these zoning regulations.

F. Exterior Lighting – No exterior light source shall be erected in excess of 50 feet above the ground surface and all lighting shall be placed to eliminate the casting of direct light or glare upon adjacent properties.

1422 MOTOR VEHICLE SERVICE STATIONS AND AUTO REPAIR SHOPS

The Town Board may approve a special use permit for motor vehicles service stations and motor vehicle repair provided that the following standards and conditions are maintained:

- A. Site Plan Review – Site plan approval shall be required in accord with the site plan requirements set forth in Article 15 this zoning law.
- B. Buffer and Screening – Such uses shall be screened from adjacent uses by a buffer area not less than ten (10) feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the

Town Board, will be adequate to prevent the transmission of headlight glare across the district boundary line. The Town Planning Board may make a recommendation subject to the Town Board's final approval, the Town Board shall determine on an individual case basis how close to the right-of-way the landscaped buffer shall be required to be installed. Such buffer screen shall have a minimum height of six (6) feet above the ground. If said shrubbery becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer shall direct the property owner to replace said shrubs.

- C. Paved Surface – The entire area of the site traveled by motor vehicles shall be hard surfaced.
- D. Exterior Repair Work and Storage Prohibited – All repairs of motor vehicles, except for minor servicing, shall be performed in a fully enclosed building. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- E. Sale of Food and Household Items – Motor vehicle service stations may include facilities for the sale of food, household items, and convenience merchandise, provided that the sale of such items takes place entirely within an enclosed building.
- F. Commercial Parking Prohibited – No commercial parking shall be allowed on the premises of a motor vehicle service station or auto repair shop.
- G. Sale of Accessory Goods – Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products maybe displayed on the respective island if provided for in a suitable stand or rack.
- H. Setbacks
 - 1. No building or structure, including gasoline pump or automotive service appliances, shall be erected within fifty (50) feet of any street line.
 - 2. No driveway shall be closer than fifty (50) feet to the intersection of two street lines, or within twenty (20) feet of an adjacent lot line.
 - 3. No motor vehicle service station or auto repair shop and no driveway to any such use shall be established within two hundred (200) feet of any school, church, park, playground, public library, or any place of public assembly designed for occupancy by fifty (50) persons or more, regardless of the district where the subject premises are located. For the purposes of this Section, the distance shall be measured along the

street line on the side of the street where such use is proposed or such driveway would cross.

- I. Display of Vehicles – Limitations – No motor vehicle service station or auto repair shop may display more than four (4) unregistered vehicles for sale or repair outside of an enclosed building at any one time. All licensed motor vehicles being serviced or repaired shall be stored in a neat, orderly manner.
- J. Driveway Limitations – No motor vehicle service station or auto repair shop shall have more than two (2) driveways on any public street fronting the site. The driveway width on any street shall not exceed one third of the total site frontage on each street.

1423 MULTIPLE FAMILY DWELLINGS

The Town Board may approve a special use permit for multiple-family dwelling development provided that the following standards and provisions are maintained:

A. The maximum gross density shall not exceed eight (8) dwelling units per acre.

B. Minimum Habitable Floor Area Requirements:

1.	Townhouse units with two bedrooms or less:	850 square feet
2.	Townhouse units with three bedrooms or more:	1,000 square feet
3.	Efficiency Apartment unit:	450 square feet
4.	Apartment unit with one bedroom:	550 square feet
5.	Apartment unit with two bedrooms:	700 square feet
6.	Apartment unit with three bedrooms:	900 square feet

C. Unit Distribution

- 1. No more than thirty (30) percent of the total units within a multiple-family dwelling development shall be three (3) or more bedroom units.
- 2. No more than thirty (30) percent of the total units within a multiple family dwelling development shall be efficiency units.

D. Setback Requirements

- 1. Front Setback – The minimum front setback from any public street shall be 50 feet.
- 2. Side and Rear Setbacks – The side and rear setbacks shall be 30 feet from all other lot lines.

3. Separation - Minimum distance between buildings in a multiple family dwelling development shall be 60 feet.
 4. Line of Sight – Direct line of site visibility from one building to another shall not be less than one hundred (100) feet.
 5. Interior Setback – Every building shall have a minimum setback of twenty (20) feet from all interior roads, driveways and parking areas.
 6. Open Space – a strip of land at least six (6) feet in width surrounding each building shall be kept completely open except for foundation plantings of less than six (6) feet in height.
 7. Courtyards – Courtyards bounded on three sides by the wings of a single building or by the walls of separate buildings shall have a minimum court width of two (2) feet for each one (1) foot in height of the tallest adjacent building.
- E. No exterior wall shall exceed one hundred (100) feet in length unless there is a lateral offset of at least eight (8) feet in its alignment not less frequently than along each one hundred (100) feet of length of such exterior wall.
- F. Stairways – All stairways to the second floor or higher shall be located inside the building.
- G. Access to public road
1. All multiple-family dwelling developments shall have direct access to public roads.
 2. If there are more than twelve (12) dwelling units in a multiple-family development, direct access shall be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
 3. If there are more than fifty (50) dwelling units in a multiple-family development, or if in the opinion of the Town Planning Board the location or topography of the site indicates the need for additional access, the Town Planning board may require such additional access as a condition of special use permit approval.
- H. Requirements for off-street parking as provided in Schedule III of this zoning law shall be met, except that the location of off-street parking lots may be modified to conform to the approved site plan, provided that such lots shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking areas to all living units each parking area is intended to serve.

I. Off-street parking shall be provided in the amount of two (2) spaces for each unit.

J. The aggregate of lot coverage of multiple-family dwelling development shall not exceed thirty (30) percent of the total lot area.

K. Services

1. Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities.
2. There shall be a minimum common storage area in each building for bicycles, perambulators and similar type equipment of forty (40) square feet in area, a minimum of five (5) feet in height and not less than four (4) feet in width per dwelling unit.
3. Sufficient laundry, drying, garbage pick-up and other utility areas shall be provided and shall be located with a view both to convenience and to minimizing the detrimental effect on the aesthetic character of the building(s) and shall be enclosed and shielded from view by fencing, walls, shrubbery of at least six (6) feet in height around the perimeter. Fencing and walls shall be not more than fifty (50) percent open on the vertical surface.

L. Recreation, open space, maintenance

1. Multiple family dwelling complexes shall be designed to create usable private open space. A minimum of ten (10) percent of the total tract area, exclusive of the required setback areas, buffer strip and parking areas shall be designated for common recreational purposes.
2. No recreational area shall be less than ten thousand (10,000) square feet in area nor less than one hundred (100) feet in width. Areas designated for recreation purposes shall be approved by the Town Planning Board.
3. Multiple family dwelling complexes shall be attractively shrubbed and properly maintained. Open space adjacent to, around, or between driveways, parking areas, structures or other required improvements shall be graded and seeded to provide a thick stand of grass or other plant material.

M. Utilities

1. All public utility, electric, gas, cable television and telephone lines shall be installed underground.

2. Multiple family developments shall follow Wyoming County Health Department Regulation.

1424 PINBALL AND VIDEO GAME ARCADES

The Town Board may approve special use permits for pinball and video game arcades provided the following standards and provisions are maintained:

- A. Pinball and video games arcades shall not be permitted as home occupations.
- B. Arcades shall be closed between the hours of 12am midnight and 8am.
- C. No one under the age of sixteen (16) shall be permitted in an arcade while school is in session.
- D. An owner or responsible person over the age of eighteen (18) shall be on the premises during all hours of operation.

1425 PONDS

The Town Board may approve special use permits for ponds provided the following standards and provisions are maintained:

- A. No pond shall be constructed until the Town Planning Board has conducted a site plan review and has approved said site plan and recommended same to the Town Board. The Town Board may request further review by the Natural Resources Conservation Service.
- B. All ponds shall be designed to National Resources Conservation Standards and shall be constructed to conform to the following conditions:
 1. Minimum lot size: Four (4) acres.
 2. Maximum pond size: Ten percent (10%) of lot area, bur no greater than five (5) acres of surface area.
 3. Minimum front lot line setback: Three hundred fifty (350) feet.
 4. Minimum side and rear lot line setbacks: One hundred (100) feet.
 5. Minimum street line set back: One hundred (100) feet.
 6. Minimum setback from any building - The minimum setback from any building, including the applicant's: One hundred (100) feet.

7. Maximum side slope – The maximum slope for at least twenty (20) feet from the waterline in both directions (into and out of the water): Three to one (3:1).
8. Lifesaving Station – Install at least one (1) lifesaving station for each four hundred (400) linear feet of shoreline.
9. Warning Signs – Erect at least two (2) warning signs stating the maximum water depth.
10. Maintenance – Maintain at least annually to prevent the pond from becoming unsightly or objectionable.

1426 PLANNED RESIDENTIAL DEVELOPMENT

The Town Board may approve a special use permit for a Planned Residential Development provided that the following standards and provisions are maintained.

A. Purpose

The purpose of the planned residential development regulations is to achieve the following:

1. Provide a maximum choice of housing environment and type, occupancy, tenure (e.g. cooperatives, individual ownership, condominium, leasing) lot sizes, and common facilities.
2. Provide more useable open space and recreation areas.
3. Provide a development pattern that preserves the natural topography and geologic features, scenic vistas, and trees and prevents the disruption of natural drainage patterns.

B. General Requirements

1. Permitted Uses – Planned residential developments shall be allowed for residential purposes and customary accessory uses only. Customary accessory uses shall include recreational and community activity centers.
2. Permitted Types of Dwelling Units – The planned residential development may include single-family dwellings, two-family dwellings, townhouse and apartments exclusively or in combination.

3. Minimum Project Area – The minimum project area for a planned residential development shall be ten acres of contiguous land.
4. Project Ownership – the land for the planned residential development may be owned or controlled by a single person or by a group of individuals or public or private corporations. The approved project shall be binding on the project land and owner(s).
5. Density – the number of dwelling units shall in no case exceed the number that could be permitted, in the judgment of the Town Planning Board, if the land were to be subdivided into lots conforming to the minimum lot size and density requirements of the district or districts in which such land is situated and conforming to all other applicable requirements.
6. Open Space – Open space shall be set aside and developed for the common use and enjoyment of all residents of the planned residential development. Open space shall comprise a minimum of twenty-five percent (25%) of the total land area of the development. For the purposes of calculation, streets, sidewalks, or land lying within ten (10) feet of any dwelling shall not be considered as open space. Common areas maintained privately shall be covenanted, subject to the review and approval of the Town Planning board, to insure that such areas shall be maintained in a manner specified in the covenant.
7. Other Requirements – The Town Board shall require such additional standards as are applicable to the proposed site and any development thereon at the Town Board deems appropriate.

1427 RECREATION AND AMUSEMENT ESTABLISHMENTS (INDOOR)

The Town Board may approve a special use permit for indoor recreational and amusement uses provided that the following standards and provisions are maintained.

A. Prohibited Uses

1. Video Games – No activity permitted by this section shall authorize the installation, maintenance or operation of or cause to be installed, maintained or operated more than five (5) freestanding, coin-operated video games.
2. Restaurants, Cafes, Coffee Shops – Nothing in this section shall be construed as authorizing as a special permitted use or accessory use the installation, operation or maintenance of a food service facility

commonly referred to as a restaurant, lunch room, coffee shop, bar or tavern.

1428 RECREATION AND AMUSEMENT ESTABLISHMENTS (OUTDOOR)

The Town Board may approve special use permits for outdoor recreational and amusement uses provided the following standards and provisions are maintained:

- A. Public Address Systems – No public-address system shall be permitted except where such system is inaudible at any property line.
- B. Lighting and Signage – Illuminated signs and other lights shall be controlled and arranged so as not to shine on to any adjacent residential property or adjacent highway or road.
- C. Buffers – Visual and noise buffering shall be provided to the satisfaction of the Town Board. Such buffering shall include a minimum of a twenty-foot-wide perimeter vegetative buffer along all side and rear lot lines, but may include additional vegetative buffering, fencing, earthen berms, other material or some combination thereof, as determined necessary by the Town Board to mitigate off-site impacts associated with the subject use.
- D. Minimum Lot Size – The minimum lot size shall be 5 acres.
- E. Building Setback Requirements – No building shall be located within one hundred (100) feet of any property line.

1429 STABLES OR RIDING ACADEMIES

The Town Board may approve a special use permit for the use of land and buildings for stables for the commercial boarding of horses or riding academies provided that the following standards and provisions are maintained:

- A. No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Town Planning Board which shall make a recommendation to the Town Board for final approval and permits have been issued by all governmental agencies involved.
- B. The permitted use may include any of the following:
 - 1. Storage of horse vans for conveying or vanning of horses as may be accessory to the principal use.
 - 2. Sale or rental of horses for use by the public by the hour, day, month or year.

3. Rides on horses by the public.
 4. Rental of horse vans.
 5. Riding lessons to the public.
 6. Sale of horse supplies and/or equipment.
- C. The land devoted to this use shall not be less than ten (10) contiguous acres.
- D. One principal single family dwelling may be located on the land devoted to this use provided that it complies with the requirements of these zoning regulations. The land area on which the principal single family dwelling is located (minimum lot size districts) shall not be considered as part of the land “devoted to this use” as set forth in paragraph C above.
- E. The number of horses that may be boarded and/or trained at such property shall not exceed 25 horses for the first 10 acres of land devoted to this use, plus one horse for each additional half acre of land available for such purpose.
- F. The stable shall be located not less than 100 feet from any boundary line. The storage of manure shall be located on land not less than 200 feet from any boundary line. The Town Board may require manure storage areas to be screened and/or buffered from adjacent areas.
- G. Any riding ring shall be at least 50 feet from any boundary line.
- H. Accessory buildings such as barns (not housing horses), sheds and the like, may be located on the land devoted to this use provided that they are set back a minimum of fifty (50) feet from the street line and from each boundary, and provided further that they are not used for the storage of manure.
- I. Structures on the land devoted to this use (not including the principal dwelling) shall not be in the aggregate cover more than five percent of the area of the land devoted to this use.
- J. No structure shall exceed 35 feet in height.
- K. Suitable and adequate off-street parking shall be provided in accordance with the requirements established by the Town Board.
- L. Exterior lighting shall be permitted only to the extent necessary to prevent injury to the public and shall be so installed and arranged as to reflect light away from the adjoining streets and prevent any nuisance to adjoining property.

- M. Exterior loudspeakers shall be installed or used on the premises so as to minimize potential nuisances to adjacent properties.

1430 HOME OCCUPATIONS

The Town Board may approve a special use permit for home based businesses provided that the following standards are satisfied:

- A. Permitted Locations – Home based businesses are permitted within a single-dwelling unit, or in a building or structure accessory to a dwelling unit, with frontage along any State, County, or Town Road that is not designated for “seasonal use.” Access may not be provided by a private road. No more than one (1) home based business shall be permitted on each property.
- B. Required Procedures – Special use permit and site plan review required from the Town Board.
- C. Limitations or Thresholds – Recognizing that the primary purposes of residential and agricultural districts is not the accommodation of business uses, the burden of proof in demonstrating compliance with these regulations in order to develop and maintain a home based business shall be upon the applicant. The applicant shall bear the burden of satisfactorily demonstrating that the home based business will conform with the following standards:
1. Lot Size – The minimum required lot size for a home based business is two (2) acres.
 2. Extent of Use – The total gross floor area of the home based business in an accessory building shall not exceed five thousand (5,000) square feet in area.
 3. Neighborhood Character – The appearance of the property shall not be altered and the occupation within the residence shall not be conducted in a manner that would cause the premises to differ significantly from other properties in the neighborhood either by the use of lighting or by the emission of noises, odors or vibrations. All accessory buildings shall be of a building type that is consistent with the appearance of the principal dwelling and the surrounding area or neighborhood.
 4. Employees on Site – No more than one (1) employee or assistant in addition to the members of the family occupying such dwelling may be engaged on the premises in the home occupation at any given time. One other partner, principal or professional may be employed on site.
 5. Hours of Operation – The home based business shall be conducted in such a manner that the majority of the clients, customers and others

coming to do business at the site of the home based business, shall arrive and depart between the hours of 7:00 am and 9:00 pm.

6. Outdoor Storage-Materials and Equipment – Materials and equipment actively used in connection with the home occupation shall be stored indoors to the extent practicable. Where such storage cannot be reasonably provided, the materials and equipment shall be screened from public rights-of-way and neighboring properties by intervening landforms, fencing and/or vegetation through all seasons of the year and stored in a manner such that they do not pose a nuisance to adjacent property owners. No outdoor storage of materials or equipment shall be permitted in the front yard of the premises or less than fifty (50) feet from any property boundary.
7. Commercial Vehicles – Not more than two (2) commercial vehicles may be used in connection with the home based business. No such vehicles shall be parked in the required front or side yards of the property.
8. Construction Vehicles and Equipment – Not more than two (2) construction vehicles or pieces of construction equipment may be used in connection with the home based business. No such vehicles shall be parked in the required front or side yards of the property. Additional commercial vehicles may be stored in an enclosed structure.
9. Signage – One sign, not to exceed four (4) square feet in area per side, shall be permitted to identify the home occupation. No sign shall have more than two printed sides. This sign may not be animated and may be illuminated only during business hours.
10. Parking – The need for parking generated by the home based business shall be met on-site and not in the required front yard. The off-street parking for the home based business shall be in addition to the parking requirements for the residence.
11. Number of clients – The home occupation shall be conducted in such a manner that any one (1) time the maximum number of clients, customers and other at the site of the home occupation is not greater than four (4) persons.
12. Deliveries and Shipping – No more than ten (10) pickups or deliveries per week, other than regular mail, commercial mail service and overnight delivery service, shall be permitted. All pickups and deliveries shall occur between the hours of 7am and 9pm.

1431 MOTOR VEHICLE RACE TRACKS

The Town Board may approve a special use permit for automobile race tracks provided the following standards and provisions are maintained:

- A. Public Address Systems – No public-address system shall be permitted except where such system is inaudible at any property line.
- B. Lighting and Signage – Illuminated signs and other lights shall be controlled and arranged so as not to shine on to any adjacent residential property or adjacent highway or road.
- C. Buffers – Visual and noise buffering shall be provided to the satisfaction of the Town Board. Such buffering shall include a minimum of a twenty-foot-wide perimeter vegetative buffer along all side and rear lot lines, but may include additional vegetative buffering, fencing, earthen berms, other materials or some combination thereof, as determined necessary by the Town Board to mitigate off-site impacts associated with the subject use.
- D. Minimum Lot Size – The minimum lot size shall be 30 acres.
- E. Building Setback Requirements – No building shall be located within one hundred (100) feet of any property line. No race track shall be located within 300 feet of any property line.
- F. Running Time – Running time shall be 12pm to 11pm. Special hours to be approved by the Attica Town Board.

ARTICLE 15: SITE PLAN REVIEW

1500 PURPOSE

The intent of this section is to set forth additional general standards applying to certain uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of these zoning regulations.

1510 USES REQUIRING SITE PLAN REVIEW

The following uses are exempt from site plan review except as noted:

- A. Single-family dwellings and their permitted accessory uses are exempted from site plan review.

- B. Two-family dwellings and their permitted accessory uses are exempted from site plan review.
- C. Agricultural uses and their permitted accessory uses are exempted from site plan review.
- D. Planned Residential Development is subject to site plan review.

All applications for zoning permits, zoning variances and special use permits are subject to site plan review and shall be accompanied by a site plan except for the uses specifically exempted as noted above. No zoning permit shall be issued until all the requirements of this Article and all other applicable provisions of these zoning regulations have been met.

1520 PROCEDURE

- A. Pre-application Conference – A pre-application conference may be held between the Town Planning Board and applicant to review the basic site design concept and to determine the information to be submitted with the site plan.
- B. Filing of Application
 - 1. The application shall be made to the Town Planning Board by filing it with the Zoning Officer. The Zoning Officer shall present it to the Town Board and to the Town Planning Board at its next regularly scheduled meeting. The Planning Board, upon review of the application shall determine if the application is complete. If the application is incomplete, the Town Board and/or Town Planning Board shall return it to the applicant and inform the applicant of its deficiencies. If the application is complete, the Town Board and Town Planning Board will review the application and render a decision in accordance with paragraph C or D below. The applicant should attend the Town Board meeting to answer questions the Board may have about the application.
 - 2. If County Planning Board review is required pursuant to Article 12-B, Section 239-M of the General Municipal Law, the Town Board and/ or Town Planning Board shall transmit a copy of the site plan to the County Planning Department as soon as possible after determining that the application is complete. The Town Board shall not act within the first thirty (30) days following the referral of the site plan to the County Planning Board unless the County Planning Board provides a written reply to the Town within the thirty (30) day period.
- C. Review and Decision With No Public Hearing – Within sixty-two (62) days of receipt of the complete application, the Town Board shall render a decision to

approve, approve with conditions, or deny the site plan unless the Town Board determines to conduct a public hearing pursuant to paragraph D below or unless an extension is mutually agreed upon by the Town Board and the applicant. If no public hearing is conducted and if the Town Board does not render a decision with the allotted sixty-two (62) day period or within the extension period to which the parties have mutually agreed, the site plan shall be considered approved. The Town Board shall transmit its decisions to the Zoning Officer.

D. Review and Decision With Public Hearing

1. The Town Planning Board may conduct a public hearing on the site plan at the Town Planning Board's discretion. If a public hearing is considered desirable by a majority of the Town Planning Board, such public hearing shall be conducted within sixty-two (62) days of the receipt of the completed application.
2. The Town Planning Board shall mail notice of the public hearing to the applicant at least ten (10) days prior to the date of the hearing and shall also publish a public notice in the official newspaper of the Town at least five (5) days prior to the date of such hearing. If the site plan was referred to the County Planning Board for review pursuant to Article 12-B, Section 239, the Town Planning Board shall also mail a notice of the public hearing to the County Planning Board at least ten (10) days prior to the date of the public hearing.
3. If a public hearing is held, the Town Planning Board shall render a decision on the site plan within sixty-two (62) days after the public hearing unless an extension is mutually agreed upon by the Town Board, Town Planning Board and the applicant. If the Town Planning Board does not render a decision within the allotted sixty-two (62) day period or within the extension period to which the parties have mutually agreed, the site plan shall be considered approved. The Town Planning Board shall transmit its decisions/recommendations to the Town Board and Zoning Officer.

E. Disposition of Written Record – A full written record of the Town Board and/or Town Planning Board minutes and decisions together with all documents pertaining to the Site Plan Review shall be prepared and filed in the Office of the Town Clerk within five (5) business days after such decision is rendered. A copy of the decision and, if disapproved, the reasons for disapproval shall be mailed to the applicant. If the site plan was referred to the County Planning Board for review, a copy of the decision shall also be filed with the County Planning Board within thirty (30) days after the decision.

F. Variiances – Notwithstanding any provisions of law to the contrary, where a proposed site plan contains one or more features which do not comply with the

zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision or determination of the Zoning Officer.

1530 SITE PLAN REVIEW ELEMENTS

An application for site plan approval shall be made in writing to the Zoning Officer and shall include or be accompanied by information drawn from the following list of review elements. Town Board and/or Town Planning Board may require additional information, if necessary, to complete its review.

A. Review Elements

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 and bodies of water.
5. Location of any slopes of five percent (5%) or greater.
6. Existing and proposed grading and drainage.
7. Location, proposed use, and height of all buildings and site improvements including culverts, drains, retaining walls and fences.
8. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
9. Location of outdoor storage, if any.
10. Description of the method of sewage disposal and location of the facilities.
11. Identification of water source; if well, locate on drawing.
12. Location, size and design and construction materials of all proposed signs.
13. Location and proposed development of all buffer areas, including existing vegetation cover.

14. Location and design of outdoor lighting.
15. General landscaping plan.
16. Proof of ownership.
17. Estimated project construction schedule.

B. Additional Review Elements

As necessary, the Town Board and/or Town Planning Board may require the following:

1. Provision for pedestrian access, if necessary.
2. Location of fire lanes and hydrants.
3. Designation of the amount of building area proposed for retail sales or similar commercial activity.
4. Topography with contours.
5. Drainage study.
6. Erosion and sediment control plan.
7. Exterior materials.
8. Other elements integral to the proposed development as considered necessary by the Planning Board.

C. Additional Review Elements for Animal Waste Management Systems/Manure Storage Facilities

1. Will follow CAFO regulations.

1540 SITE PLAN REVIEW CRITERIA

The Town Planning Board shall apply the following criteria in its review of the site plan. The Town Planning Board may forward the site plan with its recommendations to the Town Board only if it determines that the proposed development substantially complies with the review criteria.

- A. Vehicular Access and Circulation – Vehicular traffic access and circulation including intersections, road widths, pavement surfaces, dividers and traffic controls shall be adequate for the volume of traffic anticipated to prevent traffic

circulation problems. Private roads shall be designed to conform to existing public access and rights-of-way.

- B. Pedestrian Access and Circulation - Pedestrian traffic access and circulation walkway structures, control of intersections with vehicular traffic shall be adequate and convenient for the volume of anticipated pedestrian traffic.
- C. Off-Street Parking and Loading – Off-street parking and loading facilities shall be sufficient to accommodate the anticipated number of vehicles requiring parking space or utilizing the loading facilities. The location, arrangement, and appearance of off-street parking and loading facilities shall be such so as to minimize adverse impacts on surrounding properties.
- D. Design, Size, Arrangement, and Location - The design, size, arrangement and location of buildings lighting, and signage shall be compatible within the site and compatible with surrounding sites.
- E. Views and Vistas – Significant view and vistas from adjoining properties shall not be eliminated or substantially reduced, to the extent practicable, due to the height, bulk or orientation of proposed structures on the site.
- F. Grading and Drainage – Grading and Drainage facilities shall be adequate to remove storm water without displacing the water on to neighboring properties and without causing ponding, flooding, and/or soil erosion on the site where structures, roadways and landscaping are located.
- G. Water Supply – The water supply shall be adequate to meet anticipated water needs.
- H. Sewage Disposal – The sewage disposal system shall be adequate to dispose of the volume of sewage anticipated to be generated without environmental degradation.
- I. Existing Trees – Existing trees shall be preserved and integrated into the landscape to the extent practicably possible.
- J. Open and Recreational Space – The amount of useable open space and play areas on sites which apartment complexes or other multiple family dwellings are proposed shall be adequate for the informal recreational needs for the number of persons anticipated to live in the apartments or other multiple family dwellings.
- K. Site and Noise Buffers – The site shall have adequate sight and noise buffers and/or screening to protect adjacent and neighboring properties from noise, glare, unsightliness or nuisances arising from the site. Trees, shrubs, and other landscaping constituting a visual and/or noise buffer shall adequately screen the view and muffle noise between the site and adjoining properties.

- L. Solar Access – The proposed development shall not encroach on the solar access of adjacent or neighboring properties.
- M. Fire Lanes and Other Emergency Zones – Fire lanes and other emergency zones shall be adequate to accommodate fire and emergency vehicles and apparatus. Fire hydrants shall be sufficient in number and shall be properly located to allow for appropriate fire suppression.
- N. Refuse Storage – On-site refuse storage shall be adequate to accommodate the volumes and type of refuse and recyclable materials anticipated to be generated on the site without environmental degradation.
- O. Rear of Site Use and Access – The site plan shall take into consideration the possible future productive use of the rear of the site and the potential need to access it in the future.

1550 CONSULTANT REVIEW

The Town Board and Town Planning Board may consult with the Zoning Officer, Fire Commissioners, Highway Departments, County Planning Department and other local county officials, in addition to representatives of federal and state agencies including, but not limited to the Soil Conservation Service, the State Department of Transportation of the State Environmental Conservation.

Reasonable costs incurred by the Town for consultation fees, legal fees or other extraordinary expenses associated with the review of a proposed site plan shall be charged to the applicant in accordance with the fee schedule. (Schedule 4).

1560 ACTION ON SITE PLAN

A. Approval/Disapproval

The Planning Board shall forward its recommendations to the Town Board, and the Town Board may:

1. Approve the Site Plan;
2. Approve the Site Plan with modifications; or,
3. Disapprove the Site Plan.

B. Imposition of Conditions/Restrictions – The Town Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed Site Plan. Upon Site Plan approval, any such conditions must be met in connection with the issuance of applicable permits.

- C. Issuance of Zoning Permit – If the Town Board grants approval of the Site Plan, the Town Board shall direct the Town Board chairman to endorse its approval on the original plan and one copy of the site plan. Once signed, the Town Board shall forward the site plan to the Zoning Officer. The Zoning Officer shall issue a zoning permit to the applicant if the project conforms to all other applicable requirements and permits.
- D. Non-Issuance of Zoning Permit – If the Town Board disapproved the Site Plan, the Town shall so inform the Zoning Officer. The Zoning Officer shall deny a zoning permit to the applicant. The Town Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

1570 SUPPLEMENTAL REGULATIONS PERTAINING TO SITE PLAN APPROVAL

- A. Expiration of Site Plan Approval – Such site plan approval shall automatically terminate one (1) year after the same is granted unless work has begun on the project.
- B. Reimbursable Costs – Reasonable costs incurred by the Town for consultation fees or other extraordinary expenses associated with the review of a proposed site plan shall be charged to the applicant in accordance with the fee schedule.
- C. Performance Guarantee – As an alternative to the installation of required infrastructure and improvements, prior to approval by the Town Board, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Town Board or a Town Department designed by the Town Board to make such estimate, where such departmental estimate is deemed acceptable by the Town Board, shall be furnished to the Town by the property owner. Such security shall be provided to the Town pursuant to the provisions of subdivision nine of section two hundred seventy-seven of New York State Town Law.
- D. Inspection of Site Improvements – The Zoning Officer shall be responsible for the overall inspection of site improvements, including coordination with the Town Officials and Agencies, as appropriate.
- E. Integration of Site Plan Approval Procedure with Other Planning Board Approvals – Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedures or other requirements of this zoning law, the Town Board shall attempt to integrate, as appropriate, site plan review as required by this Section with the procedural and submission requirements for such other compliances. In any case, all state permits and local land use control approvals shall be procured prior to the issuance of a Zoning Permit for a development project.

- F. Conflicts With Other Land Use Regulations – If any conflicts exist between this site plan review procedure and other land use regulations of the Town, this Article shall control.

ARTICLE 16: REGULATING LAND SEPERATIONS

1600 PURPOSE

It is declared to be the policy of the Town of Attica to consider land separations as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that lots created by land separations shall be of such character that they can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace; that proper provision shall be made for drainage, water supply, wastewater treatment, and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties.

1610 PROCEDURE

Whenever any land separation is proposed, before any formal offer to sell any lots in such land separation,, or any other part thereof, is made, and before any contract for sale is executed by the property owner, the property owner shall submit a sketch plan and obtain written approval of such sketch plan in accordance with the procedures set forth in this Article. Before any land is transferred or any permit for the erection of a structure is issued for such land, final authorization of said land separation shall be obtained as set forth in this Article.

A. Submission of Sketch Plan

A property owner shall, prior to undertaking land separation, submit to the Clerk of the Planning Board at least seven days prior to any regular meeting of the Board, a completed application for and eight copies of a Sketch Plan of the proposed land separation. The Sketch Plan shall show: (1) The entire parcel being divided, proposed lot lines, and (2) Any existing easements, deed restrictions or covenants affecting the property. At that time, the property owner shall also pay the Land Separation fee established by separate resolution of the Town Board.

B. Discussion of Requirements and Classification

The property owner shall attend the meeting of the Planning Board to discuss his/her proposal as set forth in the Sketch Plan.

Classification of the Sketch Plan will be made at this time by the Planning Board as to whether the proposal qualifies as a land separation, or must be

processed as a subdivision. When it deems necessary for protection of the public health, safety and welfare, the Planning Board may require a land separation to be processed as a subdivision in compliance with the Subdivision Regulations (Article 17).

C. Planning Board Preliminary Decision

The Planning Board shall review the Sketch Plan to determine whether it meets the purpose of these regulations as set forth in §1600. Prior to rendering its preliminary decision, the Planning Board shall first complete the SEQR (State Environmental Quality Review) process. The Planning Board shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant into the proposal prior to submitting it for final authorization. When deemed necessary by the Planning Board, the applicant may be required to resubmit his/her revised proposal for review by the entire Planning Board prior to submitting it for final authorization. Once the Planning Board makes its preliminary decision/recommendation, the approval will be submitted to the Town Board for final authorization.

D. Final Authorization

Within 180 days of Planning Board approval, the property owner shall provide the Town Board Chairperson, or his/her designee, three prints of a property survey prepared by a NYS Licensed Land Surveyor for final authorization. This survey shall meet all the recommendations made by the Planning Board and/or Town Board relative to the sketch plan. Upon determination that the survey complies with the Planning and Town Board's recommendation, the Chairperson, or other duly designated Officer of the Town Board, will sign the application and provide the property owner with a copy of such application. Failure of the property owner to submit the required survey documentation to the Town Board Chairperson, or his/her designee, within the 180 day time period will render the Planning Board approval null and void.

E. Filing or Survey(s) with Wyoming County Clerk

Within sixty (60) days of obtaining final authorization from the Town Board Chairperson, or his/her designee, the property owner shall file the survey(s) at the Wyoming County Clerk's Office. Failure of the property owner to file such documentation with the Wyoming County Clerk within the specified time period will render both the Planning Board and Town Board's approval and final authorization null and void.

1620 WAIVERS OR MODIFICATIONS

Where the Town Board finds that special circumstances exist in a proposed Land Separation, it may waive or modify specific requirements of this zoning law, subject

to appropriate conditions, provided that such waiver or modification shall not have the effect of nullifying the intent and purpose of the Town of Attica Zoning Law, Comprehensive Plan, or any existing master plan and official map.

In granting said waivers or modifications, the Town Board may require such conditions as will, in its judgment, substantially secure the objectives of the standards or requirements so waived or modified.

1630 FEES

The Town of Attica has a Fee Schedule on file at the Town Clerk's Office. Copies of this Schedule are available and any fees due the Town must be paid in full before approvals are considered.

1640 VIOLATION AND PENALTY

- A. Any violation shall be deemed an offense punishable by a fine and/or imprisonment as set forth in Section 268 of NYS Town Law. Each and every week such violation continues shall be deemed a separate and distinct violation.
- B. It shall be further unlawful for any person to fail to comply with a written order of the Zoning Officer within the time fixed for compliance therewith.
- C. Appearance Ticket - The Zoning Officer may issue an appearance ticket to any person who fails to respond to a notice of violation and written order to correct the violation.
- D. The Zoning Officer may, with permission of the Town Board, engage the Town Attorney or any other attorney approved by the Town Board to initiate legal action to enforce provisions of this Law.
- E. In addition to the foregoing remedies, the Town of Attica and/or its appropriate officials and authorities may maintain an action for injunction to restrain, correct or abate any violation of this Law and/or maintain an action at law for damages sustained as a result of any violation of this Law and/or seek any other remedy permitted by law including Town Law Section 268. Damages shall include, but not be limited to, the legal fees and court costs expended or incurred by the Town as a result of any legal proceedings brought hereunder.

ARTICLE 17: LAND SUBDIVISION

1700 DECLARATION OF POLICY

The Planning Board of the Town of Attica is authorized and empowered to approve plans showing lots, with or without streets or highways, to approve the development of

entirely or partially undeveloped plats already filed in the Office of the County Clerk and to conditionally approve preliminary plats, within that part of the Town of Attica outside the limits of any incorporated village. It is declared to be the policy of the said Planning Board to consider land subdivision plats as a part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, wastewater treatment, and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenience system conforming to the Official Map, if such exists, and shall be of such width, grade, and location as to accommodate potential traffic, to facilitate fire protection, and to provide access of fire fighting equipment and other emergency vehicles; and that proper provision shall be made for open spaces, parks and playgrounds.

1701 PROCEDURE FOR FILING SUBDIVISION APPLICATION

Whenever any land separation, subdivision, or resubdivision of land is proposed, and before any contract for the sale of, or formal offer to sell any lots in such subdivision, land separation or resubdivision is made, and before any permit for the erection of a structure shall be granted, the Subdivider shall apply in writing for approval of such proposed land separation, subdivision or resubdivision in accordance with the following procedures.

As set forth in NYS Town Law Section 277, Subsection 3, the proposed lot(s) shall comply with the dimensional requirements of the Town of Attica Zoning Law. The proposed subdivision shall also comply with NYS Town Law Section 280-a.

- A. Submission of Sketch Plan** - A Subdivider shall, prior to subdividing or resubdividing land, submit to the Clerk of the Planning Board at least ten days prior to the regular meeting of the Board, ten copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of §1720, for the purpose of preliminary discussion.
- B. Discussion of Requirements** - The Subdivider shall attend the meeting of the Planning Board to discuss the applicability of these regulations including, but not limited to, those for street improvements, drainage, sewerage, water supply, and fire protection, as well as the availability of existing services, and other pertinent issues.
- C. Study of Sketch Plan and Classification Subdivision** - The Planning Board shall determine whether the Sketch Plan complies with the requirements and purposes of these regulations, and shall, where it deems it necessary, make specific recommendations in writing to be incorporated by the Subdivider. The Planning Board shall also classify the proposed subdivision as either a major or minor subdivision and determine if a preliminary plat shall be waived allowing the Subdivider to proceed directly to a final plat.

1702 PRELIMINARY PLAT

A. Application and Fee - Prior to the filing of an application for the approval of a Final Plat, the Subdivider shall file an application with the Clerk of the Planning Board for the approval of the Preliminary Plat (unless waived by the Planning Board) of the proposed subdivision, which application form shall be available at the Town Clerk's Office. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall comply with the requirements of §1724. The Preliminary Plat shall also comply with the requirements set forth in the provisions of Sections 276 and 277 of the NYS Town Law.

The application for approval of the Preliminary Plat shall be accompanied by a fee as specified in the fee schedule adopted by the Town Board. Such fee(s) shall be paid to the Town Clerk.

B. Number of Copies - Ten copies of the Preliminary Plat, in the form required by §1724, shall be filed with the Clerk of the Planning Board at the time of submission of the application for Preliminary Plat.

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

D. Receipt of a Complete Preliminary Plat - A preliminary plat shall not be considered complete until ten copies of the Preliminary Plat, accompanied by the required fee and all other data required by Article VI, Section 2 hereof, has been filed with the Clerk of the Planning Board and a negative declaration has been filed or until a notice of completion of the draft environmental impact statement (DEIS) has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time period for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

E. Subdivider to Attend Planning Board Meeting - The Subdivider shall attend all meetings of the Planning Board during which the Preliminary Plat is reviewed.

F. Study of Preliminary Plat - The Planning Board shall study the Practicability of the proposal set forth in the Preliminary Plat, taking into consideration the nature of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, storm water drainage, erosion and sediment control, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, current zoning regulations, together with any existing master plan and official map.

G. Planning Board as Lead Agency Under the State Environmental Quality Review Act; Public Hearing; Notice; Decision

1. Public Hearing on Preliminary Plats - The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act as follows:
 - a. If such board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within 62 days after receipt of a complete preliminary plat by the Clerk of the Planning Board, or
 - b. If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, a public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.
2. Public Hearing; Notice, Length - The hearing on the preliminary plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situate within five hundred (500) feet of the property which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing (for this purpose, the names and addresses of owners as shown on the latest official assessment records of the Town shall be used). The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
3. Decision - The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

- a. If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, such board shall make its decision within sixty-two days after the close of the public hearing, or
 - b. If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, a final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the preliminary plat. Within thirty days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.
4. Grounds for Decision - The grounds for a modification, if any, or the grounds for disapproval shall be stated in the resolution of the Planning Board, which shall be fully set forth in the minutes of the Planning Board meeting. Such resolution shall also state in writing any modifications it deems necessary for submission of the plat in final form.

H. Planning Board not as Lead Agency Under the State Environmental Quality Review Act; Public Hearing; Decision

1. Public Hearing on Preliminary Plats - The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the preliminary plat within sixty-two days after receipt of a complete preliminary plat by the Clerk of the Planning Board.
2. Public Hearing; Notice, Length - The hearing on the preliminary plat shall be advertised at least once in the Town's official newspaper as designated by the Town Board at least five days before such hearing is held independently of the hearing on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situate within five hundred (500) feet of the property which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing (for this

purpose, the names and addresses of owners as shown on the latest official assessment records of the Town shall be used). The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

3. **Decision** - The Planning Board shall by resolution approve, with or without modification, or disapprove such preliminary plat as follows:
 - a. If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the preliminary plat.
 - b. If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the preliminary plat within sixty-two days after the close of the public hearing on such preliminary plat or within thirty days of the adoption of findings by the lead agency, whichever period is longer.
4. **Grounds for Decision** - The grounds for a modification, if any, or the grounds for disapproval shall be stated in the resolution of the Planning Board, which shall be fully set forth in the minutes of the Planning Board meeting. Such resolution shall also state in writing any modifications it deems necessary for submission of the plat in final form.

I. Certification and Filing of Preliminary Plat in Town Clerk's Office - Within five business days of the adoption of the resolution granting approval of such preliminary plat, such plat shall be certified by the Clerk of the Planning Board as having been granted preliminary approval and a copy of the plat and resolution shall be filed in the Town Clerk's office. A copy of the resolution shall be mailed to the Subdivider.

J. Default Approval of Preliminary Plat - The time periods herein within which a Planning Board must take action on a preliminary plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the Subdivider and the Planning Board. In the event a Planning Board fails to take action on a preliminary plat within the time prescribed therefor after completion of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the Subdivider and the Planning Board, such

preliminary plat shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the preliminary plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

K. Filing of Decision on Preliminary Plat - Within five business days from the date of the adoption of the resolution approving the preliminary plat, the chairperson or other duly authorized member of the Planning board shall cause a copy of such resolution to be filed in the office of the Town Clerk.

L. Revocation of Approval of Preliminary Plat - Within six months of the approval of the preliminary plat the Subdivider must submit the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat may be revoked by the Planning Board.

1703 APPLICATION AND FEE

The Subdivider shall, within six months after the approval, or conditional approval, of the Preliminary Plat, file with the Clerk of the Planning Board an application for approval of the Final Plat, which application shall be available at the Town Clerk's Office. All applications for Final Plat approval shall be accompanied by the fee as specified in the fee schedule adopted by the Town Board. If the Final Plat is not submitted within six months after the approval, of conditional approval, of the Preliminary Plat, the Planning Board may refuse to approve the Final Plat and require the re-submission of the Preliminary Plat. Final plats may require further review under the State Environmental Quality Review Act.

1704 NUMBER OF COPIES

A Subdivider shall also submit with the application and fee, ten prints of the Final Plat in the form required by 1 the original and eight true copies of all offers of cession (eg. Easements, right-of-ways, etc. dedicated to the Town) covenants, and agreements and four prints of all construction drawings.

1705 WHEN OFFICIALLY SUBMITTED

The time of submission of the Final Plat shall be considered to be the date of which the application for the Final Plat, the required fee, and all other data required by §1704 and §1725, has been filed with the Clerk of the Planning Board.

1706 ENDORSEMENT OF STATE AND COUNTY AGENCIES

Applications for approval of plans for water and/or sewer facilities shall be filed by the Subdivider with all necessary Town, County and State agencies. Water and sewer facility proposals contained in the Final Plat shall be properly endorsed and approved by the Wyoming County Department of Health and/or the NYS Department of Environmental

Conservation. Such endorsements shall be secured by the Subdivider before submission of the Final Plat to the Clerk of the Planning Board.

1707 FINAL PLATS WHICH ARE IN SUBSTANTIAL AGREEMENT WITH APPROVED PRELIMINARY PLATS

When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this section, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two days of its receipt by the Clerk of the Planning Board.

1708 RECEIPT OF COMPLETE FINAL PLAT; WHEN NO PRELIMINARY PLAT IS REQUIRED TO BE SUBMITTED

When no preliminary plat is required to be submitted, a final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.

1709 FINAL PLATS; NOT IN SUBSTANTIAL AGREEMENT WITH APPROVED PRELIMINARY PLATS OR WHEN NO PRELIMINARY PLAT (MINOR SUBDIVISION) IS REQUIRED TO BE SUBMITTED

When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to §1702, or when no preliminary plat is required to be submitted and a final plat clearly marked “final plat is submitted conforming to the definition provided by this section the following shall apply:

1. Planning Board as Lead Agency; Public Hearing; Notice; Decision
 - a. Public Hearing on Final Plats - The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:
 - (1) If such board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat, or on a final plat when no preliminary plat is required to be submitted, shall be held within sixty-two days after the receipt of a complete final plat by the Clerk of the Planning Board; or

- (2) If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within sixty-two days following filing of the notice of completion.
- b. Public Hearing; Notice, Length - The hearing on the preliminary plat shall be advertised at least once in the Town's official newspaper as designated by the Town Board at least five days before such hearing is held independently of the hearing on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situate within five hundred (500) feet of the property which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing (for this purpose, the names and addresses of owners as shown on the latest official assessment records of the Town shall be used). The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
 - c. Decision - The Planning Board shall make its decision on the final plat as follows:
 - (1) If such board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within sixty-two days after the date of the public hearing; or
 - (2) If such board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the final plat. Within thirty days of the filing of the final environmental impact statement, the Planning Board shall issue

findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of the such plat.

- d. Grounds for Decision - The grounds for a modification, if any, or the grounds for disapproval shall be stated in the resolution of the Planning Board, which shall be fully set forth in the minutes of the Planning Board meeting.

2. Planning Board Not as Lead Agency; Public Hearing; Notice; Decision

- a. Public Hearing on Final Plat - The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement (DEIS), the Planning Board shall hold the public hearing on the final plat within sixty-two days after the receipt of a complete final plat by the Clerk of the Planning Board.
- b. Public Hearing; Notice, Length - The hearing on the preliminary plat shall be advertised at least once in the Town's official newspaper as designated by the Town Board at least five days before such hearing is held independently of the hearing on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board shall send, by regular mail, a copy of the notice of public hearing to all owners of property situate within five hundred (500) feet of the property which is the subject of the preliminary plat at least fourteen (14) days before the date of the hearing (for this purpose, the names and addresses of owners as shown on the latest official assessment records of the Town shall be used). The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened Board.
- c. Decision - The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat as follows:
 - (1) If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within sixty-two days after the close of the public hearing on the final plat.
 - (2) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within sixty-two days after the close of the public hearing on such final plat

or within thirty days of the adoption of findings by the lead agency, whichever period is longer.

- (3) The grounds for a modification, if any, or the grounds for disapproval shall be stated in the resolution of the Planning Board, which shall be fully set forth in the minutes of the Planning Board meeting.

1710 APPROVAL AND CERTIFICATION OF FINAL PLATS

1. Certification of Plat - Within five business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Clerk of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Clerk's office. A copy of the resolution shall be mailed to the Subdivider. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by the Chairperson or other duly authorized officer of the Planning Board and a copy of such signed plat shall be filed in the office of the Town Clerk.
2. Approval of Plat in Sections - In granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided and developed in two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to insure the orderly development of the plat be completed before said sections may be signed by the Chairperson or other duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the Planning Board.
3. Duration of Conditional Approval of Final Plat - Conditional approval of the final plat shall expire within one hundred eighty days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of ninety days each the time in which a conditionally approved plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

1711 DEFAULT APPROVAL OF FINAL PLAT

The time periods herein within which a Planning Board must take action on a final plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the Subdivider and the Planning Board. In the event a Planning Board fails to take action on a final plat within the time prescribed therefore after completion of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the Subdivider and the Planning Board, such final plat shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the final plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

1712 FILING OF DECISION ON FINAL PLAT IN TOWN CLERK'S OFFICE

Within five business days from the date of the adoption of the resolution approving the final plat, the Chairperson or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the Office of the Town Clerk.

1713 NOTICE TO WYOMING COUNTY PLANNING BOARD

The Clerk of the Planning Board shall refer all applicable preliminary and final plats to the Wyoming County Planning Board as provided for in Section 239-n of the General Municipal Law and as authorized by the Wyoming County Legislature.

1714 EXPIRATION OF APPROVAL

The Subdivider shall file in the Office of the County Clerk such approved final plat or a section of such plat within sixty-two days from the date of final approval, or such approval shall expire. The following shall constitute final approval: the signature of the Chairperson or other duly authorized officer of the Planning Board following final approval by the Planning Board of a plat as herein provided; or the approval by such board of the development of a plat or plats already filed in the Office of the County Clerk of the County in which such plat or plats are located if such plats are entirely or partially undeveloped; or the certificate of the Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action within the time herein provided. In the event the Subdivider shall file only a section of such approved plat in the Office of the County Clerk, the entire approved plat shall be filed within thirty days of the filing of such section with the Town Clerk in each town in which any portion of the land described in the plat is situated. Such section shall encompass at least ten per cent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Subdivision 2 of Section 265-a of NYS Town Law.

1715 SUBDIVISION ABANDONMENT

The owner of an approved subdivision may abandon such subdivision pursuant to the provisions of Section 560 of the Real Property Tax Law.

1716 REQUIRED IMPROVEMENTS

A. Improvements, Performance Bond or Other Security

1. Improvements - Before the Planning Board grants approval of the final plat, the Subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board and in conformity with all applicable regulations, or provide a performance bond or other security as provided in Subsection 2 of this Section.
2. Performance Bond or other Security
 - a. Furnishing of Performance Bond - As an alternative to the installation of infrastructure and improvements prior to Planning Board approval, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Planning Board or a Town department or officials designated by the Planning Board to make such estimate, where such estimate is deemed acceptable by the Planning Board, shall be furnished to the Town by the Subdivider.
 - b. Security Where Plat Approved in Sections - In the event that the Subdivider shall be authorized to file the approved plat in sections, as provided in §1710(2), approval of the plat may be granted upon the installation of the required improvements in the section of the plat filed in the Office of the County Clerk or the furnishing or security covering the cost of such improvements. The Subdivider shall not be permitted to begin construction in any other section until such plat has been filed in the Office of the County Clerk and the required improvements have been installed in such section or security covering the cost of such improvements is provided.
 - c. Form of Security - Any such security shall be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency and manner of execution, and shall be limited to: (1) a performance bond issued by a bonding or surety company; (2) the

deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in New York State; (3) an irrevocable letter of credit from a bank located and authorized to do business in New York State; (4) obligations of the United States of America; or (5) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the Town, such security shall be held in a Town account at a bank or trust company.

- d. Term of Security Agreement - Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three (3) years, provided, however, that the term of such performance bond or security agreement may be extended by the Planning Board with consent of the parties thereto. If the Planning Board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision does not necessitate all the improvements covered by such security, or that the required improvements have been installed as required by the Planning Board in sufficient amount to warrant reduction in the amount of said security in the Planning Board may, upon Town Board approval, modify its requirements for any or all such improvements, and the amount of such security shall therein be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Planning Board.
- e. Default of Security Agreement - In the event that any required improvements have not been installed as provided herein within the term of such security agreement, the Town Board may thereupon declare the said performance bond or security agreement to be in default and collect the sum remaining payable thereunder, and upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such security and as commensurate with the extend of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

B. Mapping of Completed Improvements - The required improvements shall not be considered to be completed until Record Drawings are submitted by the Subdivider's Design Professional and approved by the Town Engineer. If the Subdivider completes all required improvements according to §1716(A)(1) above, then said Record Drawings shall be submitted prior to endorsement of the Final Plat by the Chairperson or other duly authorized office of the Planning Board. However, if the Subdivider elects to provide a certified check, performance bond,

irrevocable letter of credit or other financial instrument as specified in §1716(A)(2) above, such financial instrument shall not be released until Record Drawings are submitted by the Subdivider's Design Professional and approved by the Town Engineer.

- C. Modification of Design of Improvements** - If at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by the Chairperson or other duly authorized member of the Planning Board, permit such modifications, provided they are within the intent of the Planning Board's prior approval and do not extend any waiver or constitute substantial alteration of any improvements required by the Planning Board. The Town Engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Board prior to its next regular meeting.
- D. Inspection of Improvements** - At least five days prior to commencing construction of required improvements, the Subdivider shall pay to the Town Clerk the inspection fee as specified in the fee schedule adopted by the Town Board, and shall notify the Town Board in writing of the time when he proposes to commence construction of such improvements so that the Town Board may cause proper inspection thereof.
- E. Proper Installation of Improvements** - If prior to the expiration date of the performance bond, Irrevocable letter of credit or other applicable financial instrument, the Town Engineer determines that any of the required improvements have not been constructed in accordance with plans and specifications filed by the Subdivider, he shall so report to the Town Board, Zoning Enforcement Officer, and Planning Board. The Town Board then shall notify the Subdivider and, if necessary the bonding company, bank or other financial institution involved, and take all necessary steps to preserve the Town's rights under the financial instrument.
- F. Default Under Previous Final Plat** - No pending Final Plat shall be approved by the Planning Board as long as the Subdivider is in default on a previously approved Final Plat.

1717 FILING OF APPROVED FINAL PLAT

- A. Final Approval and Filing** - Upon completion of the requirements of Section 3 and 4 herein, and entry of a notation to that effect upon the Final Plat, it shall be deemed finally approved. The Final Plat shall then be signed by the Chairperson or other duly authorized officer of the Planning Board, and forwarded to the Subdivider for filing at the County Clerk's Office. Any Final Plat not so filed within sixty days of the date after which it is so signed or otherwise considered approved by the

failure of the Planning Board to act as set forth in §1714, Subsection L, Shall become null and void.

- B. Final Plat Void if Revised After Approval** - No changes, erasures, modification(s), or revisions shall be made to any Final Plat after it has been approved by the Planning Board, and such approval has been endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such Final Plat is filed without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the Final Plat stricken from the records of the County Clerk.

1718 PUBLIC STREETS, RECREATION AREAS

- A. Public Acceptance of Streets** - The approval by the Planning Board and subsequent filing of the Final Plat at the County Clerk's Office shall not be deemed to constitute acceptance by the Town of any street, easement, or other open space shown on such Final Plat.

1. Cession or dedication of streets, highways or parks

- a. All streets, highways or parks shown on a filed or recorded plat are offered for dedication to the public unless the owner of the affected land, or the owner's agent, makes a notation on the plat to the contrary prior to final plat approval. Any street, highway or park shown of a filed or recorded plat shall be deemed to be private until such time as it has been formally accepted by a resolution of the Town Board, or until it has been condemned by the Town for use as a public street, highway or park.
- b. In the event that such approved plat is not filed or recorded prior to the expiration date of the plat approval, then such offer of dedication shall be deemed to be invalid, void and of no effect.

- B. Ownership and Maintenance of Recreation Areas** - When a park, playground, or other recreation area shall have been shown on a Final Plat, the approval of said Final Plat shall not constitute an acceptance by the Town of such area, and the Final Plat shall be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the Subdivider and the Town Board covering future deeding of title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

- C. Open Space.** All lands identified as having special resource value and/or not included in a cluster development as building lots shall be set aside as permanent open space.

1. Permanent open space set aside in a cluster subdivision shall be permanently preserved as required by this section.
 - a. Open space uses. Open space uses shall be preserved and maintained for agriculture, conservation of water, plant or wildlife habitat and recreation. Land preserved for agricultural purposes but not in active production will be mowed at least once annually at a time less likely to disrupt nesting birds. Uses shall be appropriate to the site. These uses may include but are not limited to passive and active recreation (including trail use), forestry and agriculture. When the primary intent of preserving open space parcels or any part thereof is the protection/buffering of natural resources such as aquifers, riparian corridors, freshwater wetlands, steep slopes, critical soils, historical resources, mature forests or wildlife habitats, open space uses shall be limited to those which are no more intensive than passive recreation for that portion of the open which warrants protection/buffering.
2. Notations on the Plat. Open space created by the use of subdivision/cluster development regulations must be clearly labeled on the final plat as to the use, ownership, management, method of preservation and rights, if any, of the owners of the subdivision to such land and the general public. The plat shall clearly show that the open space land is permanently reserved for open space purposes and shall not be platted for building lots. The plat shall also indicate the liber and page of all conservation easements or deed restrictions necessary to implement such reservations.
3. Preservation in perpetuity. A permanent conservation easement and/or other rights to property, including fee-simple interest, which have the minimum effect of prohibiting the development of the open space for residential, industrial or commercial use of such open space land pursuant to §247 of the General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town of Attica or to a qualified not-for-profit conservation organization as may be acceptable to the Town Board. Such conservation easement or other rights shall be reviewed by the Town Attorney and is required as a condition of final plat approval. Such conservation easement shall not be amendable to allow commercial, industrial or residential development and shall be recorded in the County of Wyoming Clerk's office prior to filling an approved open space subdivision final plat.

4. Ownership of open space land.

- a. Open space land may be owned in common by a home owner association (HOA), dedicated to the town, county or state governments, transferred to a non-profit organization acceptable to the Town Board, held in private ownership or held in such other ownership deemed adequate by the Town Board to fulfill the purposes of this law. The appropriate form of ownership shall be based on the purpose of the open space reservation stated pursuant to the open space subsection listed above.
- b. If the open space land is owned in common by an HOA, such HOA shall be established in accordance with the following and prior to the conveyance of the first lot of the subdivision.
 - i. The HOA shall comply with all applicable provisions of the General Business Law.
 - ii. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance and maintenance of the common open space, private roads and other common facilities.
 - iii. The open space restrictions must be in perpetuity.
 - iv. The HOA must be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities and private roads.
 - v. HOA property owners must pay their pro rata share of the costs in subsection 4. b. iv. above and the assessment levied by the HOA must be able to become a lien on the property.
 - vi. The HOA must be able to adjust the assessment to meet changing needs.
 - vii. The applicant shall make a conditional offer of dedication to the Town, binding on the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town at the discretion of the Town Board as recommended by the Town Planning Board, upon the failure of the property owner's association to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time or upon the failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.
 - viii. Ownership shall be structured such that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
 - ix. The Town Attorney shall find that the HOA documents presented satisfy conditions in subsections above and such other conditions

as the Town Board shall deem necessary as recommended by the Town Planning Board.

- x. Maintenance standards.
 - a Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to assure that the open space land does not detract from the character of the neighborhood. Such maintenance standards may include the obligation to mow open fields to maintain their scenic character.
 - b If the Town Board finds that the open space set aside is maintained in such a manner as to constitute a public nuisance, it may, upon 30 days' written notice to the owner, enter the premises for necessary maintenance. The cost of such maintenance by the Town shall be assessed ratably against the owner or, in the case of an HOA, the owners of properties within the development and shall, if unpaid, become a tax lien against the said properties.

1719 APPLICATION OF SECTION 278 OF NYS TOWN LAW

The Planning Board is hereby authorized, in its discretion, to approve Cluster Development simultaneously with the approval of a plat or plats or plans pursuant to this Local Law. Such discretion shall be exercised by the Planning Board in situations where it believes that application of Cluster Development is to the benefit of the Town. The purpose of Cluster Development is to enable and encourage feasibility of design and development of land in such a manner as to preserve the natural and scenic qualities of local land. Approval of Cluster Development shall be subject to the conditions set forth in Section 278 of NYS Town Law and this Local Law as follows:

- A. Applicable Zoning Districts** - Clustering shall be permitted only in those Zoning Districts where it is allowed under the Zoning Law.
- B. Permitted Number of Building Lots or Dwelling Units** - A Cluster Development shall result in a permitted number of building lots or dwelling units which shall not exceed the number that would be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Town's Zoning Law for the District or Districts in which such land is situated and all other applicable requirements. Where the plat falls into two or more contiguous Districts, however, the Planning Board may approve a Cluster Development representing the cumulative density as derived from the summing of all units allowed in all such Districts, and may authorize actual construction to take place in all or any portion of one or more of such districts.

C. Conditions on the Ownership, Use and Maintenance of Open Lands - The Planning Board as a requirement of plat approval may establish such conditions for the ownership, use and maintenance of such open lands shown on the plat as deemed necessary to assure the preservation of the natural and scenic qualities of such lands. Any such conditions shall be approved by the Town Board before the plat may be approved for filing.

D. Plat Requirements - The plat showing a Cluster Development may include areas in which structures may be located, height and spacing of buildings, open spaces and their landscaping, off street, open and enclosed parking places, streets, driveways, and other features required by the Planning Board. In case of a residential plat or plats, the dwelling units permitted may be, at the discretion of the Planning Board, un-detached, semi-attached, attached or multi-storied structures.

E. Procedures to be Followed for Cluster Development

1. A Subdivider may request the use of Clustering simultaneously with or subsequent to presentation of the Sketch Plan as provided in §1701. However, any such request subsequent to Preliminary Plat approval shall require a re-application for Sketch Plan review.
2. A Subdivider shall present along with his request for Clustering, a standard Sketch Plan consistent with the criteria established by this Land Subdivision Local Law including, but not limited to, streets being consisted with the Street Specifications, and lots being consistent with the Zoning Law.
3. If the application for Clustering results in a Final Plat showing land available for park, recreation, open space, or other municipal purposes, directly related to the Sketch Plan, then conditions as to ownership, use and maintenance of such lands necessary to assure the preservation of such lands for their intended purposes, shall be made by the Planning Board and subject to Town Board approval.
4. Upon a determination by the Planning Board that such Sketch Plan complies with the Clustering requirements set forth herein, a Preliminary Plat also meeting such requirements shall be presented to the Planning Board, and thereafter the Planning Board shall proceed in accordance with this Land Subdivision Local Law.
5. The proposed Cluster Development shall be subject to review at a public hearing or hearings as required by this Local Law for approval of plats.

6. On the filing of a Final Plat in the Office of the County Clerk, a copy shall be filed with the Town Clerk, who shall make appropriate notations and references thereto on the Town's Zoning Map.
7. The provisions of this Section shall not be deemed to authorize a change in the permissible use of lands as provided in the Town's Zoning Law.

1720 DEVELOPMENT REQUIREMENTS

A. General Conditions:

1. Land shall be suited for the purpose for which it is to be developed and the Subdivider's Engineer shall certify thereto such on the plans submitted for approval.
2. The Planning Board shall review a proposed development on the basis of its individual merit, from the perspective of preserving rural/agricultural land and shall consider its contribution to the Town.
3. The Subdivider shall strive to comply with standards of good planning and environmental conservation and adhere to the specification codes and other regulations and laws of the Town as well as rules of those agencies having jurisdiction over any particular phase of a development.
4. The Subdivider shall comply with the Town's Construction and Design Criteria Local Law.

B. Flood Land, State Regulated Wetland and Federal Regulated Wetlands - Land subject to flooding as determined by FEMA maps and land deemed by the Planning Board to be uninhabitable shall not be used for residential occupancy, nor for any other use as may involve danger to health, life or property or increase the flood hazard. Any such land within the area of the Plan shall be set aside for such uses as shall not be endangered by periodic or occasional inundation.

C. Rural/Agricultural Planning Guidelines - Subdividers are encouraged to employ the following general principles in the layout of proposed developments. These principles may serve as general guidelines in the assessment of the impact of the development on the rural/agricultural character of the Town.

1. Preserving Rural Character - A consideration used in the selection of subdivision locations should be the preservation of rural/agricultural open space areas in contiguous blocks of land to ensure the continuing feasibility of agriculture in the Town. The siting of developments

upwind from areas subject to dust, noise, smoke, odors or similar annoyances is considered desirable.

2. Compatibility with Adjacent Land Uses - Development plans which through lot layout, dwelling placement, landscaping and vegetative screening seek to avoid conflict with neighboring land uses will receive favorable consideration. Developments, which improve the view from the public roadway and blend into the existing natural landscape, are encouraged.
3. Protecting Natural Features - Whenever possible the development shall maintain the existing natural and scenic qualities of the locality. Environmentally sensitive lands and scenic vistas are to be protected. Individual lots, buildings, streets, drainage, utilities and parking areas shall be designed and situated to minimize alteration of existing grades and vegetation.

1721 DESIGN STANDARDS OF IMPROVEMENTS

A. Streets

1. Streets shall be of such width, grade and location to accommodate the prospective traffic, including school buses and emergency vehicles, to afford adequate light and air, and to facilitate fire protection.
2. Streets should not be less than four hundred (400) feet nor greater than twelve hundred (1,200) feet in length, with the optimum length being eight hundred (800) feet. Streets shall be designed to town standard and approved by the Town Highway Superintendant and Fire Marshall.
3. Lots abutting state highways shall not derive direct access to these highways, but shall have access to other streets or a parallel access road.
4. All streets shall be named subject to the approval of U.S. Postal Service, Wyoming County Emergency Dispatch Center and, State and County Law Enforcement Agencies. Street signs shall be placed at all intersections and other locations as required by the Superintendent of Highways at the Subdivider's expense.

B. Street Intersections

1. Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than seventy-five (75) degrees.

2. Streets entering opposite sides of another street shall be laid out either directly opposite one another or with a minimum off-set of one hundred twenty five (125) feet between their center lines.
3. Where a subdivision abuts or contains an existing street of inadequate right-of-way width, additional right-of-way width shall be required.
4. A clear sight triangle shall be provided at all intersections for a minimum radial distance of 30 feet from the intersection of right-of-way lines. Grading and landscaping within the clear sight triangle shall be designed or existing conditions modified as necessary to conform to this standard.

C. Cul-de-Sac Streets

1. Cul-de-sac streets, permanently designed as such, should not exceed twelve hundred (1,200) feet in length and shall terminate in an offset-tee turnaround to allow for effective snow removal and lot placement. Subdivider may propose the use of a residential cul-de-sac or residential offset cul-de-sac with approval from the Superintendent of Highways. In no instances shall a landscaped center island be permitted.
2. Temporary turnarounds shall be constructed wherever cul-de-sac streets or continuous streets are to be completed in sections. The Superintendent of Highways may waive the requirement to pave the temporary turnaround.

D. Blocks

1. The length, width and shape of blocks shall be determined with due regard to the following:
 - a. Provision of adequate building sites
 - b. Zoning requirements
 - c. Topography
 - d. Requirements for safe and convenient vehicular and pedestrian circulation and access
 - e. Utility service and the operation and maintenance of same
2. All blocks in a subdivision shall have a minimum length of at least five hundred (500) feet with a maximum length of twelve hundred (1,200) feet. Such blocks containing individual lots shall be at least two lot depths in width, except where reverse frontage may be

employed along major highways. Modifications of the above requirements are possible in commercial and industrial developments.

3. In large blocks with interior parks, in exceptionally long blocks, or where access to a school, shopping center, or other community facilities is necessary, a crosswalk with a minimum width six (6) feet in width shall be provided.

E. Driveways

1. Combined or common driveway curb cuts are encouraged when practical and at the discretion of the Planning Board.
2. Driveway width shall be a minimum of twelve (12) feet. Driveway layout shall provide accessibility to Emergency Vehicles. No structures, landscaping, utility appurtenances, fencing or other surface feature shall impede passage of vehicles for a minimum width of sixteen (16) feet, centered on the proposed driveway.
3. At the discretion of the Planning Board, layout and design of driveways is subject to the approval of the Fire Department with jurisdictional authority.
4. Driveways longer than five hundred (500) feet or serving more than a single residence shall provide a pull off area at driveway mid-point, or at an alternative location at the discretion of the Planning Board. Driveway width at pull off area shall be no less than twenty-five (25) feet wide and length no less than sixty (60) feet. The pull off area may be centered on the driveway centerline or offset.
5. Design and Construction of driveways shall conform to the requirements of the Superintendent of Highways.

F. Lot Size and Arrangement

1. No Subdivision of land with existing frontage on a public road shall result in any of the subdivided parcels not having direct access to a public road. Subdivisions of land shall also comply with NYS Town Law Section 280-a.
2. Whenever access to a subdivision can be had only across land in another municipality, the Planning Board may request assurance from the Town Attorney that access is legally established and from the Town Engineer that the access road is adequately improved or that a sufficient performance bond has been executed and filed with the Town Supervisor to assure construction of the access road.

3. In general, lot lines shall be laid out so as not to cross Town boundary lines or zoning district lines. Lot lines should be laid out so that side or rear lot lines follow the centerline of a stream or drainage way which may be within the subdivision.
4. Plats reviewed under the provisions of Section 278 of the Town Law shall result in a number of lots which shall not exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the applicable zoning ordinance. In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space, or other municipal purposes directly related to the plat, then the Planning Board may establish such conditions on the ownership, use, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.

G. Building Lines - The minimum building setbacks shall be controlled by the provisions set forth in the Zoning Law.

H. Utilities - Sewer, water, gas, electrical, street lighting or other public utility facilities proposed, shall be installed and maintained underground in all residential, commercial and industrial developments.

I. Easements

1. Easements shall be provided for all utilities of a width necessary for installation, repair and/or replacement of said utility. The depth, type, size and location of a utility in addition to soil conditions will be considered when establishing an easement width.
2. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.
3. No structure shall have its foundation built less than five (5) feet from any easement line.
4. Where a development is traversed by a watercourse, the applicant may provide to the Town at no cost a drainage easement or right-of-way conforming substantially with the line of such watercourse and of such width as will be adequate to preserve natural drainage and maintain the same.

J. Reservation and Dedication of Lands for Public Use

1. In reviewing subdivision plans, the Planning Board will consider the adequacy of existing or proposed community facilities to serve the additional dwellings proposed by the subdivision. The layout of the proposed subdivision shall be in general conformity with the features or developments proposed on the Comprehensive Plan in effect at the time of the submission of the proposed plat.
2. The Planning Board may require the reservation and dedication of at least ten (10) percent of the area of land to be subdivided for park, playground, recreation, open land or other public purposes. In locating lands to be reserved and dedicated, the Planning Board shall consider preservation of trees, shrubs, special environmental and geographic features, unsuitability of certain lands for building purposes, future expansion of public use areas, the most appropriate type of public land use for the area and the conditions necessary to preserve access, use and maintenance of such lands for their intended purpose.
3. Prior to such lands being dedicated to the Town, a Phase I Environmental Audit shall be completed by the applicant at his expense.
4. In the event that the Planning Board, upon consultation with the Town Board, determines that reservation of land of adequate size and suitable purpose cannot be practically located in a proposed subdivision, or that said reservation would not appropriately serve the locale, the Board may condition its approval of a subdivision upon payment to the Town of a sum as set forth by the Town Board. The amount shall be available for use by the Town for neighborhood, playgrounds or other recreation purposes, including the acquisition of property.

K. Tree Protection Guidelines

1. The Subdivider shall not begin clearing or tree cutting operations on any site or subdivision without first obtaining Planning Board approval of the Preliminary Plat. Any required landscaping plan shall include locations of isolated trees more than five (5) inches diameter at breast height (DBH). Wooded areas, which will remain undisturbed, shall be outlined and labeled "wooded, to remain."
2. While it is understood that areas for roads and buildings must be clear cut, the Owner or Subdivider shall not clear-cut the remaining portions of the lots in the subdivision. Where clear-cutting is necessary, it shall be indicated on the site plan and no clearing shall be accomplished until the plan is approved.

3. There shall be no clear-cutting permitted on slopes greater than fifteen (15) percent in grade. However, selective cutting or trimming is permitted consistent with silviculture standards.
4. There shall be no piling or storage of building material or soil debris, around, or other obstruction of the open space at the base of trees and shrubs. Short-term exceptions will be authorized by discretion of the Zoning Officer.

L. Erosion Sediment Control

1. General

It is the Town's intent to control soil movement by employing effective erosion and sediment control measures before, during and after site disturbance.

Erosion and sediment control measures, both temporary and permanent, must be designed and presented for approval to the Planning Board prior to any site development or soil disturbance.

The Planning Board and its designated representatives will evaluate submitted erosion and sediment control design plans against the most current edition of "New York State Standards and Specifications for Erosion and Sediment Control".

A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared for all subdivisions that include construction resulting in soil disturbance exceeding one (1) acre. At a minimum, the SWPPP shall include erosion and sediment controls. The SWPPP shall also include water quality and quantity controls (post-construction stormwater control practices) except in the case where soil disturbance is between one (1) and five (5) acres of land for the construction of single-family residences and construction activities at agricultural properties.

2. Vegetative Controls

To attain the Town's goals, vegetative measures should be used in a site design to control surface water runoff, provide soil stabilization methods and entrap soil sediments generated from the forces of erosion.

- a. Site slopes shall be graded to be stable and provide control of any surface or subsurface water prior to vegetative plantings.

- b. Site disturbance, especially in sensitive areas, shall be kept at a minimum. Designs shall limit the removal of existing trees, hedgerows and indigenous plant cover.
- c. The Subdivider shall take whatever action is necessary to establish a stabilized vigorous stand of vegetative cover on all disturbed site soils within thirty (30) calendar days of initial soil movement. If phasing is necessary to meet these conditions, the Subdivider shall include such as part of the development plans presented to the Planning Board.
- d. Upon completion of a subdivision road (base course) and gutters, a twenty-five (25) foot green strip paralleling both sides of the road shall be topsoiled, seeded and properly mulched. The intent is to create a filter strip, which will help prevent silt and sediment from entering the road and storm sewer network.

3. Structural Controls

Some projects may require permanent erosion and sediment controls. If these measures are required to be constructed, they must be fully functional before upland site disturbance begins as determined by the Town Engineer. Such measures may include, but are not limited to, siltation traps, ponds, diversion swales or dikes.

4. Maintenance Measures

It is imperative that both the vegetative and structural components constructed be inspected and maintained for optimum erosion and sediment control according to the approved SWPPP for the subdivision in compliance with the SPDES General Permit.

Facilities must be cleaned, repaired and/or replaced as necessary to meet the original design criteria established in the project approval and SWPPP.

- a. Dedicatable Projects - If the project under consideration involves possible dedication of constructed facilities to the Town, there shall be sufficient funds included in the maintenance bond to cover the projected cost of such facilities for a two (2) year period.
- b. Private Projects - If a project is under consideration without dedicatable facilities to the Town, the Subdivider is responsible to make sure the erosion control facilities are constructed and properly maintained. Final acceptance of the erosion control

facilities is necessary for the Town to issue a Certificate of Occupancy.

5. Penalty

The Town is empowered to assess reasonable penalties to a Site Owner for failure to properly construct, operate and maintain an approved soil erosion and sedimentation control plan. The penalties shall be as follows:

- a. The Site Owner shall be charged for the costs incurred by the Town, including, but not limited to, cleaning ditches, swales, drains or streams, due to the failure of the Site Owner to properly construct, operate and maintain site erosion and sedimentation control devices.
- b. No further reviews of such project shall be conducted by the Town until all payments for the Town charges have been satisfied and/or satisfactory completion of the required erosion and sediment control measures by the Site Owner.

1722 IMPROVEMENTS

A. General Improvements

The Subdivider of a parcel of land shall construct improvements in accordance with the approved plans and in conformity with the applicable standards set forth in these subdivision regulations, the Town's Construction and Design Criteria Local Law and any other applicable regulations and laws of the Town.

Where certain standards of development are not set forth they shall be established by the Planning Board, following their review of the particular project.

In many cases, alternate improvement standards may be permitted if the Planning Board deems them equal in performance characteristics for the proposed use intended, with the approval of the Town Board as a deviation from an adopted regulations. Additional or higher design standards for improvements may be required in certain cases where the Planning Board believes it necessary to create conditions essential to the health, safety, morals and general welfare of the citizens of the Town.

B. Road Construction

1. Due to normal construction sequences for development, it is deemed to be in the best interests of the Town that following procedures be followed:

a. Binder material shall not be placed prior to the completion and approval of all underground utilities including the private utility services and a review of the road base by the Superintendent of Highways.

b. The weather and seasonal limitations as specified under the Standard Specifications of New York State Department of Transportation shall apply for placing of bituminous mixtures.

Restrictions (1) and (2) imply completion of all underground systems will in advance of the Subdivider's schedule for paving.

c. No Certificates of Occupancy will be issued unless a proper road surface as herein specified has been constructed.

d. Upon completion of the binder pavement and all other items related to the completion of a project, the Town may elect to accept for dedication the completed facilities if: (1) an acceptable two year maintenance bond is submitted to the Town; and (2) the Subdivider presents a sum of money to complete the top pavement course. The amount of money to be transferred to the Town will be established by the Superintendent of Highways. This sum shall be sufficient to cover the cost of labor and materials to cause the proper installation of the top course.

It is the intent of this option by the Town to allow the Subdivider to offer the project for dedication before the final pavement is installed. This option will also allow the Subdivider to substantially complete the related construction in the developed area prior to installing the top course. In this manner the area will receive a new pavement top that is less susceptible to marring or patching as a result of normal construction activity.

Before the expiration of the maintenance bond and before the final top is applied, the Planning Board and the Subdivider will hold a final site review to assess any damages or repairs that may be necessary by the Subdivider under the maintenance agreement. Once the top course has been installed, final acceptance of all roadway improvements shall be obtained from the Town Board.

2. Driveway Culverts

The installation of driveway culverts requires the approval and a permit for culvert location, size and material from the State, County or Town Highway Department having jurisdiction over a given road. New driveway culvert installation shall be the responsibility of the Subdivider following the receipt of a permit.

The Town reserves the right to remove and/or install driveway or roadway culverts along any existing road to properly transmit surface drainage as determined by the Town Engineer and the Superintendent of Highways.

C. Sidewalks - Sidewalks within Residential Districts shall be installed on one or both sides of the street as the Planning Board may require, depending upon local conditions of public safety. Sidewalks are required on whichever side of the street development occurs (See Example A, Schedule VIII). Corner lots should have sidewalks along each street (See Example B, Schedule VIII), with handicap accessible, mountable aprons.

1. Sidewalks should be set back from the road surface such that sufficient utility right-of-way access is provided between the street edge and the sidewalk to minimize damage to the sidewalk during utility maintenance. Any sidewalk damaged during utility maintenance shall be repaired or replaced in kind at the expense of the maintenance provider.

D. Storm and Surface Drainage - All storm sewers and drainage facilities such as gutters, catch basins, bridges, culverts and swales shall be designed for the development and be subject to the approval of the Planning Board. Such facilities shall be capable of handling upland flows that may be generated from future land development. The following points should be considered in the design of storm drainage facilities.

1. Lots shall be laid out and graded to provide positive drainage away from buildings.
2. Storm sewers, culverts and related installations shall be provided:
 - a. To permit unimpeded flow of natural watercourses.
 - b. To insure adequate drainage of all low points.
 - c. To intercept storm water runoff along streets at intervals reasonably related to the extent and grade of the area drained.

3. Discharge of sump pumps or roof leaders directly to roadside gutters or channels will not be permitted.
4. In the design of storm sewer systems, special consideration shall be given to avoidance of problems, which may arise from concentration of storm water runoff over adjacent properties.
5. The completed construction and the design engineer's certification of all surface drainage improvements and erosion control measures for a development must be submitted to the Planning Board before any building permits are issued.

E. Sewage Disposal Systems - Where the public sanitary sewer system, in the opinion of the Planning Board, is reasonably accessible, sanitary sewers and appurtenances shall be designed to adequately serve all units with connections to the public system. The design and installation of said sewers shall be subject to the approval of the Planning Board, Wyoming County Health Department, and any other agencies having jurisdiction over this matter.

Where lots cannot be served by the extension of an existing public sanitary sewer, the Subdivider shall obtain the approval of individual subsurface disposal systems from the appropriate agencies. The Town assumes no liability for the performance of individual disposal systems.

In areas not presently served by public sanitary sewers, the Planning Board may require, in addition to installation of temporary individual on-site sewage disposal facilities, the installation and capping of sanitary sewer mains and house connections if extension of public sanitary sewer trunks or laterals to service the property subdivided appears probable or necessary to protect the public health.

F. Water Supply - Where the public water supply, in the opinion of the Planning Board, is reasonably accessible, the Subdivider shall provide and dedicate to the Town a complete water distribution system. The design and installation of said system shall be subject to the approval of the Planning Board and any other agencies having jurisdiction over this matter.

Where public water supply is not available within reasonable distance, an alternate supply, developed under the guidelines of the State Department of Health, shall be required. The Town is not responsible for the quantity or quality of an individual water supply as shown on development plans.

G. Landscaping -

1. Adequate site landscaping will be required for any lands developed in the Town. A landscape plan shall designate plant species and

locations. The Planning Board will notify the Subdivider at the preliminary plan stage if a specific landscape plan is required.

2. Trees shall be planted outside the Town rights-of-way (R.O.W.) and easements.
 - a. Visual impacts shall be considered for planting on sight distances.
 - b. The trees are to be a minimum of ten (10) feet from the edge of any right-of-way and/or easement.
 - c. There shall be no underground utilities within fifteen (15) feet of any proposed tree.
 - d. The trees shall be of a variety that will be medium to small in stature, do not generally have a wide-spreading root system and do not generally have a large-spreading trunk base.
 - e. On new subdivision roads, trees shall be spaced at 75-foot intervals on both sides of the R.O.W.

H. Drainage Facilities - Any drainage ditch or water course, deemed significant by the Town or its agents as an important factor in maintaining or improving local storm water management conditions, shall be cleared of brush and debris and re-graded (if necessary) to assure positive drainage.

I. Monuments - Permanent reference monuments shall be set at final grade at all corners and angle points of the boundaries of any major subdivision plan and at all street intersections and such intermediate points as may be required. These markers shall be set by a licensed land surveyor and certified to the Town as true and accurate before a Certificate of Occupancy is issued, or acceptance of dedication of the proposed road.

J. Street Signs - Permanent street signs, of the same specifications as those of the Town Highway Department, shall be erected at each intersection by the Town Highway Department and paid for by the Subdivider.

K. Street Lighting - The Planning Board shall require adequate street, sidewalk or site lighting to be installed. Lighting shall be provided at all street intersections. Such a system shall be coordinated with the electrical utility system and designed to keep light from illuminating areas outside of the developed site.

L. Electric, Telephone, Cable TV or Other Buried Cable Utility - In every development, provisions shall be made for service from the private utility supply systems. All utilities and street lighting systems serving residential, commercial and industrial developments (for new subdivisions) shall be underground, rather

than on poles, standard or towers. Underground conduit and cables shall be installed per the regulations of the Public Service Commission and a minimum of two (2) feet below any drainage way. Any new subdivisions on existing Town roads that have aboveground utilities shall have all utilities installed underground between the poles and structure. A road crossing height of a minimum of 20 feet shall be required for all road crossings that serve these subdivisions.

M. General Site Consideration - In addition to the above, the following will also be considered by the Planning Board; pedestrian and vehicular access and circulation, provision for handicapped access, location arrangement, size, architectural features and design of buildings, lighting and signs, protection of adjacent properties and the general public against noise, glare and unsightliness, or other objectionable features.

1723 PERMITTED MODIFICATIONS

A. Curbing and Sidewalks - Concrete curbing may be omitted, and in lieu thereof, rolled gutters or other means for controlling storm waters may be constructed as may be acceptable to the Town Engineer, Superintendent of Highways and the Planning Board.

Where curbing and/or sidewalks are not provided, adequate provisions for the protection of the edge of the road pavement and graded shoulders, at all driveway openings or other accessways, shall be provided in a manner acceptable to the Town Engineer and the Planning Board.

Where curbing and/or sidewalks are not provided, grass curb strips shall not be required. However, grading and permanent seeding of the area between the pavement edge, shoulder or approved drainage structure and the front property line of any lot shall be provided.

B. Fire Hydrants - Where adequate water mains are neither existing, nor proposed for the subdivision fire hydrants may be omitted.

1724 DOCUMENTS TO BE SUBMITTED

A. Sketch Plan Requirements - The Sketch Plan initially submitted to the Planning Board shall be prepared by using a tax map or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The Sketch Plan shall be submitted, showing the following information:

1. The location of that portion to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.

2. All existing structures, wooded areas, streams and other significant physical features, within the area to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
3. The name of the record owner and record owners of all adjacent property(s) as disclosed by the most recent tax records of the Town.
4. The tax map sheet, block and lot numbers, if available.
5. All the utilities available and/or proposed including easements therefore, and all streets which are either existing, proposed, or shown on the Official map, if any.
6. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage, and water supply within the area to be subdivided.
7. All existing and proposed restrictions on the use of land including easements, covenants, or zoning lines.
8. Total Holdings Map - where sketch plan covers only a portion of the applicant's holdings, a tax map or survey (if applicable) shall be submitted showing the proposed development of the overall parcel.

1725 PRELIMINARY PLAT AND ACCOMPANYING DATA

The following documents shall be submitted for approval.

A. Requirements - The Preliminary Plat prepared at a scale of not more than one hundred feet, nor less than fifty feet to the inch, showing:

1. Proposed subdivision name, name of Town and County in which it is located, date, true north point, scale, name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
2. The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
3. Zoning district, including exact boundary lines of district, if more than one district, and any proposed changed in the Zoning District lines and/or the Zoning Law text applicable to the area to be subdivided.
4. Land areas proposed to be dedicated to public use and the conditions of such dedication.

5. Location of existing and proposed property lines, easements, buildings, water courses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk, and other significant existing features for the proposed subdivision and adjacent property.
6. Location of any existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
7. Location of lands subject to flooding as determined by FEMA, and any freshwater wetlands as determined by NYSDEC or U.S. Army Corps of Engineers.
8. Grading plan showing existing and proposed contours with intervals of one foot as required by the Planning Board or Town Engineer, including elevations on existing and proposed roads.
9. The width and location of any streets or public ways or places shown on the Official Map, if one exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the Subdivider.
10. The approximate location and size of any proposed waterlines, valves, hydrants and sewer lines, and fire alarm boxes. Connections to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law or Environmental Conservation Law. Profiles of all proposed water and sewer lines.
11. Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.
12. Stormwater Pollution Prevention Plan indicating proposed erosion and sediment controls, water quality and quantity controls, mitigation measures, construction sequencing and post-construction maintenance schedule.
13. Percolation and deep test holes and locations with results (if applicable).
14. Landscaping Plan, showing removals of existing vegetation and locations of proposed plantings (including and requirements of §1721(K) herein).

15. Plans and cross-sections showing the proposed location and type of any sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.
16. Preliminary designs of any bridges or culverts which may be required.
17. The proposed lot lines with approximate dimensions and area of each lot.
18. Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision or the official map.
19. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineer, and shall be referenced and shown on the Preliminary Plat.
20. Erosion and Sediment Control Plan (including any requirements of §1721(L) above).
21. Sight distances for access to the parcel of proposed streets (required and provided).
22. Preliminary Engineering Report, including proposed utilities and preliminary drainage to substantiate proposed designs.

B. Phasing - If the application covers only a part of the Subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch showing an outline of the platted area with its proposed streets together with the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The platted area of the Subdivider's entire holdings submitted shall be considered in the light of the entire holdings.

C. Covenants and Deed Restrictions - A copy of the covenants or deed restrictions intended to cover all or part of the tract.

1726 FINAL PLAT AND ACCOMPANYING DATA

The following documents shall be submitted for Final Plat approval:

- A. Requirements** - The Final Plat to be filed with the County Clerk shall be printed upon mylar or other base material acceptable to the Planning Board and County Clerk. The size of the sheets shall be 15 inches by 20 inches or 30 by 44 inches, including a margin for binding of two inches, outside of the border, along the left side and a margin of one inch outside of the border along the remaining sides. The Final Plat shall be drawn at a scale of not more than 100 feet to the inch and oriented with the north point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block number clearly legible.

The Final Plat shall show:

1. Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of record owner and Subdivider, name, license number and seal of the professional engineer or licensed land surveyor.
2. Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
3. Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State system of plane coordinates and in any event should be tied to reference points previously established by a public authority.
4. The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The Final Plat shall show the boundaries of the property, location, graphic scale and true north point.
5. The Final Plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the Subdivider. For any of the latter, there shall be submitted with the Final Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.

6. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
7. Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.
8. Permanent reference monuments shall be both shown and constructed in accordance with specification(s) of the Town Engineer. When referenced to the State system of plan coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineer and their location noted and referenced upon the Plat.
9. Signature lines and dates of plan approval shall be affixed to the Final Plat and all submitted Construction Drawings as follows:
 - Duly Authorized Officer of the Planning Board
 - Superintendent of Highways
 - Town Engineer
10. Indication of approval from any jurisdictional agencies (eg. Wyoming County Health Department, Wyoming County Water Authority, etc.)
11. Final Engineering Report, including proposed road, utilities and drainage design utilizing format detailed in the Town's Construction and Design Criteria Local Law, to substantiate proposed designs.
12. Note on all final plans: Placement and arrangement of buildings, waste disposal system, driveway and removal of excess material, utilities and drainage shall not be changed without prior approval of the Code Enforcement Officer.
13. Easement descriptions.
14. Legal covenants (if any).

B. Construction Drawings - Construction drawings including plans, profiles and typical cross-sections, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and sub-base, manholes, catch basins and other facilities.

1727 TIME LIMITATIONS

The time limitations set forth in these regulations and the corresponding provisions of Town Law may be varied, when required, for the purpose of complying with the

provisions of the State Environmental Quality Review Act (SEQR) (Part 617 of Article 8 of the Environmental Conservation Law).

1728 WAIVER OF REQUIREMENTS

Where the Planning Board finds that extraordinary hardship may result from strict compliance with these regulations because of the inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision, unusual circumstances due to shape, topography or other physical features of a proposed development, it may specifically waive, subject to appropriate conditions, portions of these regulations with Town Board approval, so that substantial justice may be done and the public interest secured. No such waiver shall be granted, however which will have the effect of nullifying the intent and purpose of these regulations or any other pertinent rules, regulations, local laws or ordinances of the Town of Attica.

1729 AMENDMENTS

The rules and regulations as set forth above may be amended, altered or revised by the Planning Board from time to time, after public hearing and subject to the approval of the Town Board per Section 271 of NYS Town Law.

1730 FEE SCHEDULE

The Town of Attica has a Fee Schedule on file at the Town Clerk's Office. Copies of this Schedule are available and any fees due the Town must be paid in full before approvals are considered.

1731 VIOLATION AND PENALTY

- A.** Any violation of this Local Law shall be deemed an offense punishable by a fine and/or imprisonment as set forth in Section 268 of NYS Town Law. Each and every week such violation continues shall be deemed a separate and distinct violation.
- B.** It shall be further unlawful for any person to fail to comply with a written order of the Zoning Officer within the time fixed for compliance therewith.
- C.** Appearance Ticket - The Zoning Officer may issue an appearance ticket to any person who fails to respond to a notice of violation and written order to correct the violation.
- D.** The Zoning Officer may, with permission of the Town Board, engage the Town Attorney or any other attorney approved by the Town Board to initiate legal action to enforce provisions of this Local Law.

- E. In addition to the foregoing remedies, the Town of Attica and/or its appropriate officials and authorities may maintain an action for injunction to restrain, correct or abate any violation of this Local Law and/or maintain an action at law for damages sustained as a result of any violation of this Local Law and/or seek any other remedy permitted by law including Town Law Section 268. Damages shall include, but not be limited to, the legal fees and court costs expended or incurred by the Town as a result of any legal proceedings brought hereunder.
- F. If the Subdivider is not the owner of the parcel being subdivided, then both the Subdivider and Owner shall be held jointly and severally liable for any violation of this Local Law.

1732 SUPERCEDING AND SAVINGS CLAUSE AND EFFECTIVE DATE

- A. **Conflict with Construction Specifications for Land Development** - In the event of any conflict or inconsistency between the Town's Zoning Law and any other local law, it is the responsibility of the Subdivider to bring such alleged inconsistency or conflict to the Planning Board's attention, in writing. The Planning Board shall, in its sole discretion, determine what regulation or regulations shall then apply.
- B. **Interpretation** - Where the conditions imposed by any provision of this Local Law are more restrictive than comparable conditions imposed by any other provisions of any other local law, ordinance, resolution or regulation of the Town, the provisions which are more restrictive shall govern.
- C. **Severability** - The provisions of this Zoning Law are severable. If any section, subsection or provision of this Zoning Law shall be invalid, such invalidity shall apply only to that section, subsection or provision and the other section, subsections or provisions contained herein shall remain valid and effective and in full force and effect.
- D. **Repeal** - All existing subdivision regulations of the Town are hereby repealed.
- E. **Saving Clause** - The adoption of this Zoning Law shall not affect or impair any conditions of approval, act done, violation committed or right incurred or acquired or liability, penalty, forfeiture or punishment incurred prior to the effective date of this Zoning Law under the Town's Subdivision Regulations herein repealed.

SCHEDULES

SCHEDULE I : ZONING MAP

SCHEDULE II: AREA & YARD REQUIREMENTS

SCHEDULE III: REQUIRED OFF-STREET PARKING SPACES

SCHEDULE IV: ZONING FEES

SCHEDULE V: LOCAL LAW NO. 2 OF THE YEAR 2009

SCHEDULE VI: PERMIT FORM EXAMPLES

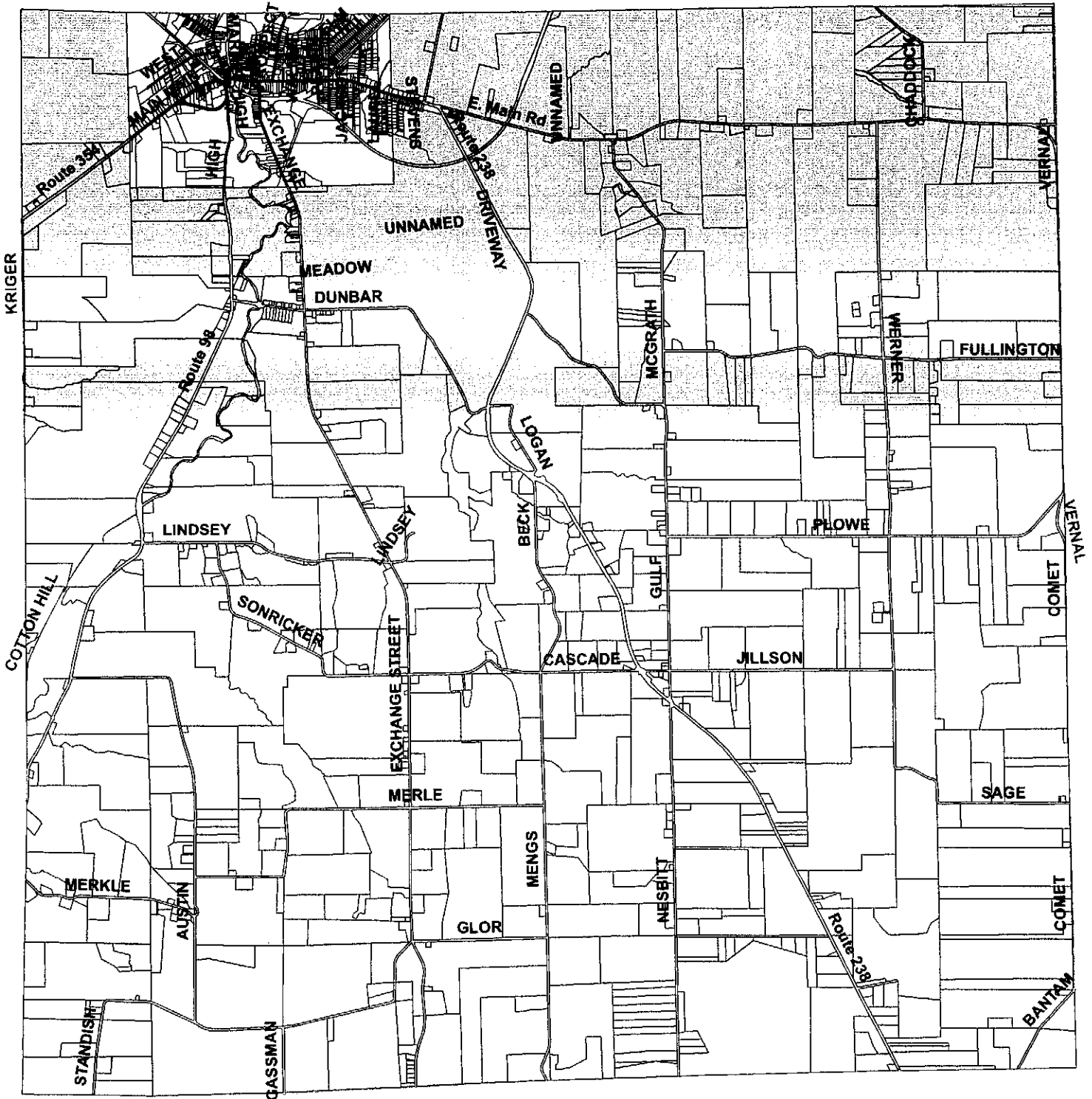
- A. Certificate of Use**
- B. Certificate of Non-Conforming Use**
- C. Zoning Permit Application**
- D. Temporary Permit Application**
- E. Special Use Permit Application**
- F. Sign Permit Application**

SCHEDULE VII: USE & AREA VARIANCE FINDINGS & DECISION WORKSHEETS

SCHEDULE VIII: SIDEWALK EXAMPLES

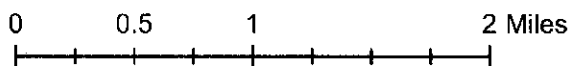
SCHEDULE I

TOWN OF ATTICA ZONING MAP



Zoning Areas:

-  Village
-  Agricultural-Residential
-  General Business
-  General Industrial



SCHEDULE II

SCHEDULE II - AREA & YARD REQUIREMENTS
TOWN OF ATTICA, WYOMING COUNTY, NEW YORK

ZONE / DISTRICT	Permitted Uses	Minimum Lot Size SF/Acre	Minimum Lot Width /Road Frontage Feet	Minimum Lot Depth Feet	Minimum Setback Requirements								Minimum Building Height Principal Bldg. Feet	Maximum Building Coverage on Lot Percentage
					Principal Bldg. Side				Accessory Bldg.		Both	Side		
					Front	Rear	One	Both	Rear	Side				
Agricultural/ Residential	Farms-Home	10 Acres	400	600	100	75	50	100	50	50	25	10		
	Farms - All Other Structures	-----	----	----	200	200	200	400	-	-	-	-		
	Single Family - Non-Farm Dwelling	2 Acres	200	175	100	50	20	40	20	20	20	20		
	Swimming Pools - must be in side or rear lot, see §1380, treated like an accessory building									20	20			
	Private Air Strips	10 Acres	400	600	100	75	50	100	50	25	25	10		
Business (RESERVED)		5 Acres	200											
Industrial (RESERVED)		10 Acres	200											

The minimum setbacks shall be measured from the centerline of the road.
NOTE: Substandard lots which are held in single and separate ownership when this zoning law becomes effective are entitled to an exception as of right to the minimum lot size and road frontage requirements only, without having to apply to the Zoning Board of Appeals for a variance. This exception does not entitle a landowner to a variance with respect to other nonconformities with zoning regulations.

SCHEDULE III

SCHEDULE III-REQUIRED
OFF-STREET PARKING SPACES

**SCHEDULE III
REQUIRED OFF-STREET PARKING SPACES***

Type of Use	Number of Required Off-Street Parking Space(s)
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AGRICULTURAL/ RESIDENTIAL

Single and Two Family Dwelling	Two (2) parking spaces per dwelling unit.
Garden Apartments and Townhouses	Two (2) parking spaces per dwelling unit.
Home Operated Barber and Beauty Shops	Two (2) parking spaces per beauty or barber chair, plus one (1) parking space for each non-resident employee, in addition to the off-street parking spaces required for the dwelling.
Home Professional Occupations	Three (3) spaces for client uses, plus one (1) parking space for each non-resident employee, in addition to the off-street parking spaces required for the dwelling.
Home Operated Doctor or Dentist Office	Five (5) spaces for client use plus one (1) parking space for each non-resident employee, in addition to the off-street parking spaces required for the dwelling.
Home Occupations	A minimum of one (1) parking space shall be provided for each employee, plus the parking spaces required for the dwelling. Said employee use parking spaces shall be designed and included in the site plan and shall be required to be constructed to the extent necessary to satisfy the initial review and approval of the special use permit application. At the annual review of the special use permit, the Planning Board will determine the need for the construction of any additional parking spaces based upon the current number of employees and/or customers/patrons/patients. Each parking space shall be a minimum of two hundred (200) square feet.

BUISNESS

Motels & Hotels, Auto Courts	One (1) parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof, but not less than one (1) parking space per sleeping or dwelling unit.
Business & Professional Offices	One (1) parking space for every two hundred (200) square feet of gross floor area or major fraction thereof.

Banking Offices	One (1) parking space for every one hundred (100) square feet of gross floor area or major fraction thereof. Drive-in windows shall have sufficient space to adequately handle then (10) cars, separate and apart from any required parking spaces.
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INDUSTRIAL

Industry	One (1) parking space for each employee, plus one (1) for each one thousand (1,000) square feet of gross floor area in the building for use by guests or visitors. The employee ration shall be applied to that shift of work activity which has the greatest number of employees.
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PUBLIC & OTHER USES

Non-Office Public Utility Installations	Five (5) parking spaces, except for box substations where only two (2) spaces shall be required.
Parks & Other Outdoor Recreation Sites	Five (5) parking spaces per each gross acre of land up to fifty (50) acres and one (1) space per gross acre of land above fifty (50) acres.
Country Clubs, Golf Courses	One (1) parking space for each two hundred (200) square feet of floor area occupied by all principal and accessory structures, except those used for parking purposes.
Hospitals, Nursing & Convalescing Homes	One (1) parking space for each three (3) beds plus one (1) parking space for every two (2) employees and members of the staff in the largest working shift. Notwithstanding the provisions of other sections of this Zoning Law, off-street parking, which serves nursing homes, retirement homes, housing for the elderly and other similar uses predominantly serving senior citizens, shall be no further than one hundred (150) feet from the building it serves.
Auditoriums, Churches, Theaters, Assembly Halls & Similar Places of Public & Quasi-Public Assembly Having Fixed Seating Facilities	One (1) parking space for every three (3) seats in the main assembly unit.
Retail and Service Shops Except When Otherwise Specifically Covered Herein	One (1) parking space for every one hundred fifty (150) square feet of gross floor area or major fraction thereof.
Stores for the Retail Sale of Furniture, Appliances or Hardware	One (1) parking space for every five hundred (500) square feet of gross floor area or major fraction thereof.

Supermarkets and Self-Service Food Stores	One (1) parking space for every one hundred (100) square feet of gross floor area or fraction thereof.
Laundromats	One (1) parking space for every two (2) washing machines.
Motor Vehicle Service Stations	One (1) parking space for every one hundred (100) square feet of gross floor area or fraction thereof.
Motor Vehicle Sales Including Used Car Sales	One (1) parking space for customer parking for every three hundred (300) square feet of gross floor area or fraction thereof. In no case, however, shall a motor vehicle sales establishment provide less than ten (10) off-street parking spaces exclusively for customer use.
Bowling Alleys	Five (5) parking spaces for each bowling lane.
Restaurants, Cafeterias, Taverns, Bars (Indoor Service Only)	One (1) parking space for every two (2) seats for customers.
Restaurants, Drive-Ins	One (1) parking space for every one hundred (100) square feet of gross floor area or fraction thereof.
Funeral Homes, Mortuaries	Fifteen (15) parking spaces per parlor.
Medical or Dental Clinics or Offices	Five (5) parking spaces for each doctor or dentist plus one (1) space for each employee.
Auditorium Exhibition Halls, Assembly Halls, Community Centers and Similar Places of Public & Quasi-Public Assembly not having Fixed Seating Facilities	One (1) parking space for every one hundred (100) square feet of gross floor area.

*If any proposed use does not come within the uses specified herein, the Planning Board shall determine the number of parking spaces to be required for such proposed use.

SCHEDULE IV

**SCHEDULE IV
ZONING FEES**

All of the below fees are subject to change upon resolution of the Town Board

		PERMIT FEE♥
Dwelling		\$25.00
Addition	Up to 100 square feet	\$15.00
Addition	Over 100 square feet	\$20.00
Addition	Raising the roof	\$20.00
Porches and Decks		\$15.00
Garages & Storage Buildings		\$15.00
Utility Buildings	Over 64 square feet	\$15.00
Multiple Dwellings		\$50.00
Non-Residential Buildings	10,000 cubic feet of volume or more	\$100.00
Picnic Shelters		\$20.00
Additions	5,000 cubic feet or under	\$20.00
Renovations	Equaling 50% of value is considered a new building	\$25.00
Chimney or Solid Flue		\$15.00
Demolition Zoning Permit		\$25.00
Ponds		\$25.00
Outdoor Furnace		\$50.00
Special Use Permit		\$125.00
Variance		\$125.00
Swimming Pools		\$25.00
Sign	Fee is based upon per sign	\$10.00
Land Separation		\$50.00 ; each additional \$30.00
Land Subdivision		100.00
Wind Energy Device	Fee is based upon per device	\$250.00*
Wind Energy Conversion Device	Fee is based upon each 1.5 megawatt of each anticipated device	

♥In addition to the above stated permit fee, the applicant shall be responsible for all reasonable attorney, consultant and/or engineering costs and expenses associated with the permit process review, if required. These costs and expenses may be collected through the use of an escrow fund.

*as stated in our existing Local Law #2 of 2009, Section 4, Article 9.

SCHEDULE V

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Attica
Town
~~Village~~

Local Law No. 2 of the year 2009

The Town Board of the Town of Attica adopts this Local Law to promote the personal use of wind towers not intended for commercial use.

Section 1 – Title.

A Local Law Entitled “The Town of Attica Small Wind Energy Conversion Systems Law.”

Section 2 – Purpose and Intent.

The purpose of this Article is to provide standards for small wind energy conversion systems designed for home, farm, and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

Section 3 – Exclusivity

The wind energy conversion systems referred to in Section 2 herein shall be the only wind energy conversion systems permitted in the Town of Attica.

Section 4 - Applications.

Applications for small wind energy conversion systems wind energy permits shall include:

1. Name, address, and telephone number of the applicant. If the applicant will be represented by an agent, the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.

2. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.

3. Address of each proposed tower location, including Tax Map section, block, and lot number.

4. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

5. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.

6. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.

7. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.

8. A visual analysis of the small wind energy conversation system as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

9. Any party submitting an application under the terms of this local law shall submit a nonrefundable \$250.00 application fee.

10. Any party submitting such application shall be responsible for the reasonable engineering and professional expenses incurred by the Town in connection with reviewing the submitted application and the reasonable expenses of the Town incurred in connection with the review of the application under the State Environmental Quality Review Act if such a review is deemed necessary.

Section 5 – Development Standards.

All wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

A. A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.

B. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Article.

C. Tower heights may be allowed as follows;

1. 65 feet or less on parcels between one and two acres.

2. 120 feet or less on parcels of two or more acres.

3. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

E. The maximum turbine power output is limited to 100 kW.

F. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

G. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.

H. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

I. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

J. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

K. Signs shall be posted, visible from all directions, on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery, and giving a local contact number in case of emergency. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

L. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

1. Tower-climbing apparatus located no closer than 12 feet from the ground.

2. A locked anti-climb device installed on the tower.

3. A locked, protective fence at least six feet in height that encloses the tower.

M. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

N. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.

O. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

P. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.

Q. All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

Section 6 – Standards.

A small wind energy system shall comply with the following standards:

A. Setback requirements. A small wind energy conversion system shall not be located closer to a property line than 200 feet.

B. Noise. Except during short-term events including utility outages and severe wind storms, a small wind energy conversion system shall be designed, installed, and operated so that noise generated by the system shall not exceed the 50 decibels (dbA), as measured at the closest neighboring inhabited dwelling.

Section 7 – Abandonment of Use.

A. Small wind energy conversion system which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the grating of any building permit shall constitute grounds for the revocation of the permit by the Town.

B. All small wind energy conversion systems shall be maintained in good condition and in accordance with all requirements of this section.

Section 8 – Fees.

A. Non –refundable Application Fees shall be as follows:

1. \$150.00 per wind energy conversion system.

Section 8 – Enforcement; Penalties and Remedies for Violations.

A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.

B. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy conversion facility or wind monitoring tower in violation of this Article, or in noncompliance with the terms and conditions of any permit issued pursuant to this Article, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$350 or to imprisonment for a period of not more than fifteen days, or subject to both such fine and imprisonment for a first offense; for a second offense (both within a period of five years), a fine not less than \$350 nor more than \$700, or imprisonment not to exceed six months, or both; and for a third or more offense (all of which occurred within five years), a fine not less than \$700 nor more than \$1,000, or imprisonment not to exceed six months, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amounts set forth herein for each violation and each week said violation continues shall be deemed a separate violation.

C. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties provided here, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct, or abate such violation, to prevent the illegal act.

Section 9 – Severability

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 10 - Effective Date.

This local law shall become effective upon the filing with the New York State Department of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2009 of the ~~(County)~~(City)(Town)(Village) of Attica was duly passed by the Town Board on April 15, 2009, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20____, and was

((Name of Legislative body))

(approved)(not approved)(repassed after disapproval) by the _____

(Elective Chief Executive Officer)*

and was deemed duly adopted on _____, 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20____,

((Name of Legislative body))

and was (approved)(not approved)(repassed after disapproval) by the _____

(Elective Chief Executive Officer)*

cer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20____,

((Name of Legislative body))

and was (approved)(not approved)(repassed after disapproval) by the _____.

(Elective Chief Executive Officer)*

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

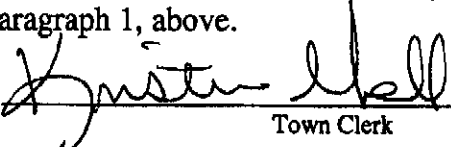
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20____, become operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of Section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, become operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



Town Clerk


(Seal)

Date: May 1, 2009

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF WYOMING

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Eric T. Dadd, Town Attorney

County
City
Of Attica
Town
Village
Date: May 1, 2009

SCHEDULE VI

**SCHEDULE VI - PERMIT
FORM EXAMPLES**

**SCHEDULE VI
PERMIT FORM EXAMPLES**

**TOWN OF ATTICA
CERTIFICATE OF USE APPLICATION**

In accordance with Article III, Section 302(C) of the Zoning Law of the Town of Attica, it is unlawful to use or occupy or permit the use of occupancy of any building or premises, or both, or part thereof hereafter created, changed, converted or wholly or partly altered in its use until a Certificate of Use shall be been issued by the Zoning Officer stating that the proposed use of the building or land conforms to the requirements of the Zoning Law of the Town of Attica.

Application Date: _____	Application No.: _____
Business Operator/Owner: _____	
Business Address: _____	
(Street)	(City) (State) (Zip)
Business Phone (____) _____ - _____	Zoning Classification of Property: _____

Description of type of Business: _____

Office Home Office Retail Warehouse Wholesale
 Total Sq. Ft. of Residence: _____ # of Non-Resident Employees: _____
 Total Sq. Ft. Dedicated to Business: _____ # of Parking Spaces Provided: _____

A Certificate of Use, issued based upon the above information, authorizes the above listed type of business and no other. It does not relieve the designated permit holder of the responsibility of obtaining the approvals of other applicable state and county agencies.

I hereby certify that I have read, examined and understand this application and know the same to be true, correct and to the best of my knowledge.

Signature of Applicant: _____ Date: _____
 Print Name/Title: _____

For Office Use Only

Application Reviewed: Yes No By: _____ Date: _____
 Application Approved: Yes No By: _____ Date: _____
 Application Fee Paid: Yes No If yes, amount: \$ _____
 Comments: _____

COPIES: Applicant Zoning Officer Planning Board Chairman Town Clerk

**TOWN OF ATTICA
CERTIFICATE OF NON CONFORMING USE**

In accordance with Article VII of the Zoning Law of the Town of Attica, the lawful use of land or buildings existing at the date of adoption of the Zoning Law may be continued although such use or building does not conform to the regulations specified by the Zoning Law for the zone district in which such land or building is located. A non conforming use must be maintained in full compliance with Article VII of the Town of Attica Zoning Law.

Property Owner: _____			
Address: _____			
(Street)	(City)	(State)	(Zip)
Phone: (____) ____-_____			
Zoning District of Property: __LDD __MDD __CRD __M-H __C __I __P-B			
Description of the Non Conforming Use: __Building __Land			

****Photos Must Be Attached Documenting the Existing Non Conforming Use****			

A Certificate of Non Conforming Use is hereby issued for the above described non conforming use. It does not relieve the certificate holder of the responsibility of complying with the balance of the Town of Attica Zoning Law.

I hereby certify that I have read, examined and understand that this certificate documents the non conforming use occurring on my property and know the same to be true, correct and to the best of my knowledge.

Signature of Certificate Holder

Signature of Zoning Officer

Print Name/Title

Print Name/Title

Dated: _____

Dated: _____

For Office Use Only

COPIES: __ Certificate Holder __ Zoning Officer __ Town Clerk

TOWN OF ATTICA
ZONING PERMIT APPLICATION

William Stranahan
Town of Attica Zoning Officer
(585) 322-6406 or (585) 689-9257

PERMIT No.: _____	Application Date: _____
Application No.: _____	
Tax Map No.: _____	Phone No.: _____
Owner: _____	
Address: _____	
(Street)	(City) (State) (Zip)

Present Use of Land: _____ Intended Use of Improvements: _____
Type of Work: ___Garage ___Sign ___Driveway ___Sidewalk ___Home/Addition
___Fence ___Barn ___Porch/Deck ___Parking Lot ___Other: _____

1. I propose to do the following work: (Erect) (Alter) (Move) (Enlarge) (Use)
(___ Story) (_____ Building) (_____ type of construction) (_____ feet high)
(Type of use _____)

All permits are subject to the approval of the Wyoming County Health Department and/or the Wyoming County Building and Fire Code Inspector. *New Construction driveways are the responsibility of the Town of Attica Highway Superintendent, Bruce Kriger at (585) 591-1366.* Landowners of driveways on County and State roads must contact the County and State Highway Departments, respectively.

PLEASE NOTE: This is not a building permit! In Most cases a building permit is required through the County of Wyoming Building Code and Fire Inspector at (585) 786-8820.

2. On the (front) (rear) (side) of the premises known as _____
located in the (Agricultural) (Residential) district
3. Size of building: _____ feet wide, _____ feet deep; or Area: _____ square ft.
Est. Cost \$ _____
4. On a lot _____ feet wide x _____ feet deep. Or Area _____ square feet or _____ acres
5. Located on the _____ side of _____ (Street) (Avenue) (Road)
6. The following other buildings are located on the lot: _____
Size: _____ feet wide x _____ feet long _____ Story, _____ feet high, area: _____ sq. feet
7. Number of families to be housed in premises (if applicable) _____
8. Building will be used for: _____
9. Sketch map below showing dimensions of proposed building, its reference to street and sidelines and distance from building on adjoining lots hereby made a part of this application.
10. If such permit is granted, applicant agrees that the provisions of the Zoning Ordinance of the Town of Attica, and all other ordinances that may be applicable, will be complied with. Each home of dwelling shall have a foundation around the perimeter to a depth below the frost line. Such permit shall expire and be of no effect unless construction is started within three (3) months of the date of issuance, and unless completed within fifteen (15) months of the date of issuance.

- 11. The applicant(s) allege that the proposed zoning permit use property (is) (is not) in a flood zone and:
 - a. Would not create a hazard to health, safety, morals or public welfare because

 - b. Would not be detrimental to the neighborhood or to residents thereof because

 - c. Would not depreciate or tend to depreciate the value of property in the Town because

 - d. Would not alter the essential character of the surrounding area because

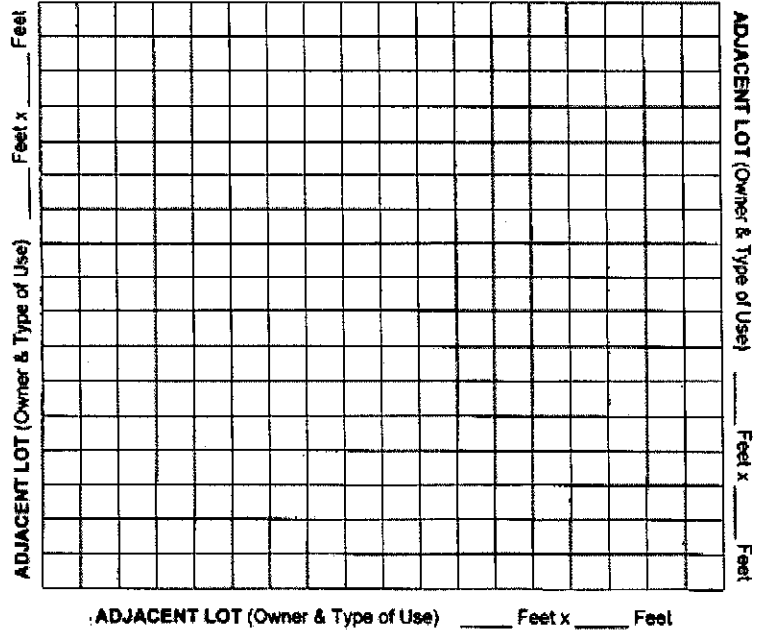
- 12. List any additional information which applicant(s) desire to be considered with this application:

Name & Address of Contractor: _____

Minimum set-back of front yard is fifty (50) feet from public right of way. Rear yard set-back is forty (40) feet. Minimum side yard set-back is fifteen (15) feet, except for corner lots, when it is twenty-five (25) feet from Public Street or right of way. Lot coverage may not exceed 25% in dwellings and 35% in buildings other than residential. The surface grade of the front yard at the front wall of the principal building will not be less than two (2) feet above the elevation of the centerline of the traveled way of the road.

Name of Road or Street to be built upon:

LOT TO BE BUILT UPON



Plans Attached: Yes No Number of Sheets: _____ Value of Work: \$ _____
Survey Map Attached: Yes No

A Zoning Permit, issued based upon the above information, authorizes the above-listed type of work and no other. It does not relieve the designated permit holder of the responsibility of obtaining the approvals of other applicable state and county agencies.

I hereby certify that I have read, examined and understand this application and know the same to be true, correct and to the best of my knowledge.

Signature of Applicant: _____ Date: _____
Print Name/Title: _____

For Office Use Only

Application Reviewed: Yes No By: _____ Date: _____
Application Approved: Yes No By: _____ Date: _____
Application Fee Paid: Yes No If yes, amount: \$ _____
Comments: _____

The denial, if so manifest above, is based on a violation of section _____ of the Zoning Ordinance as follows: _____

COPIES: Applicant Zoning Officer Assessor Town Clerk Planning Board & ZBA Chairman(s)

The determination within is (affirmed) (revised) (modified) by the Board of Appeals this _____ day of _____, 20__ as follows:

Zoning Board of Appeals

BY: _____

**TOWN OF ATTICA
TEMPORARY USE PERMIT APPLICATION**

In accordance with Article III, Section 302(B), and upon written direction of the Planning Board of the Town of Attica, the Zoning Officer is hereby empowered to issue a temporary use permit. A temporary use permit shall only be effective for a period of not to exceed six (6) months. Said permit may be extended by the Zoning Officer, not more than once, for an additional period not to exceed six (6) months.

Application Date: _____	Application No.: _____
Tax Map No.: _____	Zoning Classification of Property: _____
Owner: _____	Phone Number: _____
Address: _____	City, State, Zip: _____

1. State the specific temporary use requested and why it is needed: _____

2. Does the request involve the temporary use of mobile or manufactured home during construction of a permanent residence: ___Yes ___No
3. Is the requested use intended to be temporary? ___Yes ___No
4. Specify the time period requested for the temporary use, including the starting date:

A Temporary Use Permit, issued based upon the above information, authorizes the above-listed type of temporary use and no other. The applicant is aware that application for necessary permits must be made within thirty (30) days of the issuance of the temporary use permit and that failure to apply for necessary permits within that time renders the temporary use permit null and void.

I hereby certify that I have read, examined and understand this application and know the same to be true, correct and to the best of my knowledge.

Signature of Applicant: _____ Date: _____
Print Name/Title: _____

For Office Use Only

Application Reviewed: ___Yes ___No By: _____ Date: _____
 Application Approved: ___Yes ___No By: _____ Date: _____
 Application Fee Paid: ___Yes ___No If yes, amount: \$ _____
 Comments: _____

COPIES: ___Applicant ___Zoning Officer ___Planning Board Chairman ___Town Clerk

**TOWN OF ATTICA
SPECIAL USE PERMIT APPLICATION**

Application Date: _____	Application No.: _____
Applicant(s)/Property Owner(s): _____	
Address: _____	
(Street)	(City) (State) (Zip)
Home Phone: (____) _____ - _____ Other Phone: (____) _____ - _____	
Applicant Address (if different from above): _____	
Applicants(s) acquired the above property on _____	
A copy of the legal description as set forth in the applicant's deed is attached hereto _____	
Tax Map No.: _____	
Zoning Classification of Property: _____ Present Use of Property: _____	
Attorney for Applicant(s) _____	
Attorney's address _____ Phone _____	
Requested length of time/hours of operation: _____	
Any signs/structures being used: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, describe: _____	

REQUEST:

The applicant(s) request a special use permit for the above use under Section ____ of the Attica Zoning Ordinance and in support thereof submit the following documents:

- _____ Two copies of detailed plans showing site, elevations and plans of structures and accessory use areas and landscaped development of the entire parcel devoted to the Special Use Permit.

- _____ Two copies of location map showing the relationship of the proposed site to surrounding neighborhood, traffic ways, land uses and other pertinent data.

- _____ Two copies of complete and specific statement of the nature of Special Permit use including initial contemplated construction; future planning or construction; number of families to be housed; number of animals or fowls to be raised; maximum occupancy; parking arrangements; etc. as applicable to special use requested.

ALLEGATIONS OF APPLICANT(S)

- The applicant(s) allege that the proposed special use permit use
- 1) Would not create a hazard to health, safety, morals or public welfare because

 - 2) Would not be detrimental to the neighborhood or to residents thereof because

3) Would not depreciate or tend to depreciate the value of property in the Town because

4) Would not alter the essential character of the surrounding area because

CONDITIONS

The applicant(s) consent that the following conditions may attach to the granting of the Special Permit use: (list any reasonable conditions upon the use which are agreeable to applicant(s): _____

ADDITIONAL INFORMATION

List any additional information which applicant(s) desire to be considered with this application: _____

A Special Use Permit, issued based upon the above information, authorizes the above-listed special use requested and no other. It does not relieve the designated permit holder of the responsibility of obtaining the approvals of other applicable state and county agencies.

I hereby certify that I have read, examined and understand this application and know the same to be true, correct and to the best of my knowledge.

Signature of Applicant: _____

Date: _____

Print Name/Title: _____

For Office Use Only

Application Reviewed: ___ Yes ___ No By: _____ Date: _____

Application Approved: ___ Yes ___ No By: _____ Date: _____

Application Fee Paid: ___ Yes ___ No If yes, amount: \$ _____

Comments: _____

COPIES: ___ Applicant ___ Zoning Officer ___ Planning Board Chairman ___ Town Clerk

APPLICATION: _____ DENIED _____ APPROVED DATE _____

BY: _____

ZONING: Attica Sign Permit Application

Building Department

Examined:

Approved:

Permit No.

Date:

Disapproved: a/c _____ No.

APPLICATION FOR SIGN PERMIT

APPLICATION IS HEREBY MADE to the Town of Attica Planning Board for the issuance of a Sign Permit pursuant to the Local Law #___ for the erection of signs. The applicant agrees to comply with all applicable laws, ordinances and regulations.

INSTRUCTIONS

No sign, in any district shall be erected or altered in physical structure until a sign permit has been issued by the Zoning Officer. All applicants for sign permits shall submit the following:

- 1. Name, address and telephone number of the applicant.

- 2. Name, address and telephone number of the Owner of the property.

- 3. Name, address and telephone number of the Contractor installing the sign.

- 4. Location of building, structure or land to which or upon which the sign now exists or is to be attached or erected. (Attach plot plan showing location of proposed sign in relation to boundaries of lot.)

(street or road)

Tax Map No. _____ Section _____ Block _____ Lot _____

Zone or use district in which premises are situated. _____

5. The type, size and location of the sign, including the method of illumination (if any), the graphic design and the visual message, text, copy or content of the sign.

Is the proposed sign a

- a. Business or advertising sign?
- b. Ground sign?
- c. Roof sign?
- d. Projection sign?
- e. Wall sign?

6. Two (2) blueprints or ink drawings of the plans and specifications and method of construction and attachment to the building or in the ground.
7. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and/or any ordinance of the Town of Attica.
8. Copy of owner's written consent or a copy of the agreement made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner of the property.
9. Does proposed construction violate any zoning law, ordinance or regulation?

10. Name of compensation insurance carrier _____

Name of policy _____ Date of expiration _____

11. Such other information as the Enforcement Officer shall require to show full compliance.

Permit Fee – Fees for the sign permits shall be fixed by the Town Board and listed in fee schedule.

Applicant's signature

SCHEDULE VII

SCHEDULES

SCHEDULE I : ZONING MAP

SCHEDULE II: AREA & YARD REQUIREMENTS

SCHEDULE III: REQUIRED OFF-STREET PARKING SPACES

SCHEDULE IV: ZONING FEES

SCHEDULE V: LOCAL LAW NO. 2 OF THE YEAR 2009

SCHEDULE VI: PERMIT FORM EXAMPLES

A. Certificate of Use

B. Certificate of Non-Conforming Use

C. Zoning Permit Application

D. Temporary Permit Application

E. Special Use Permit Application

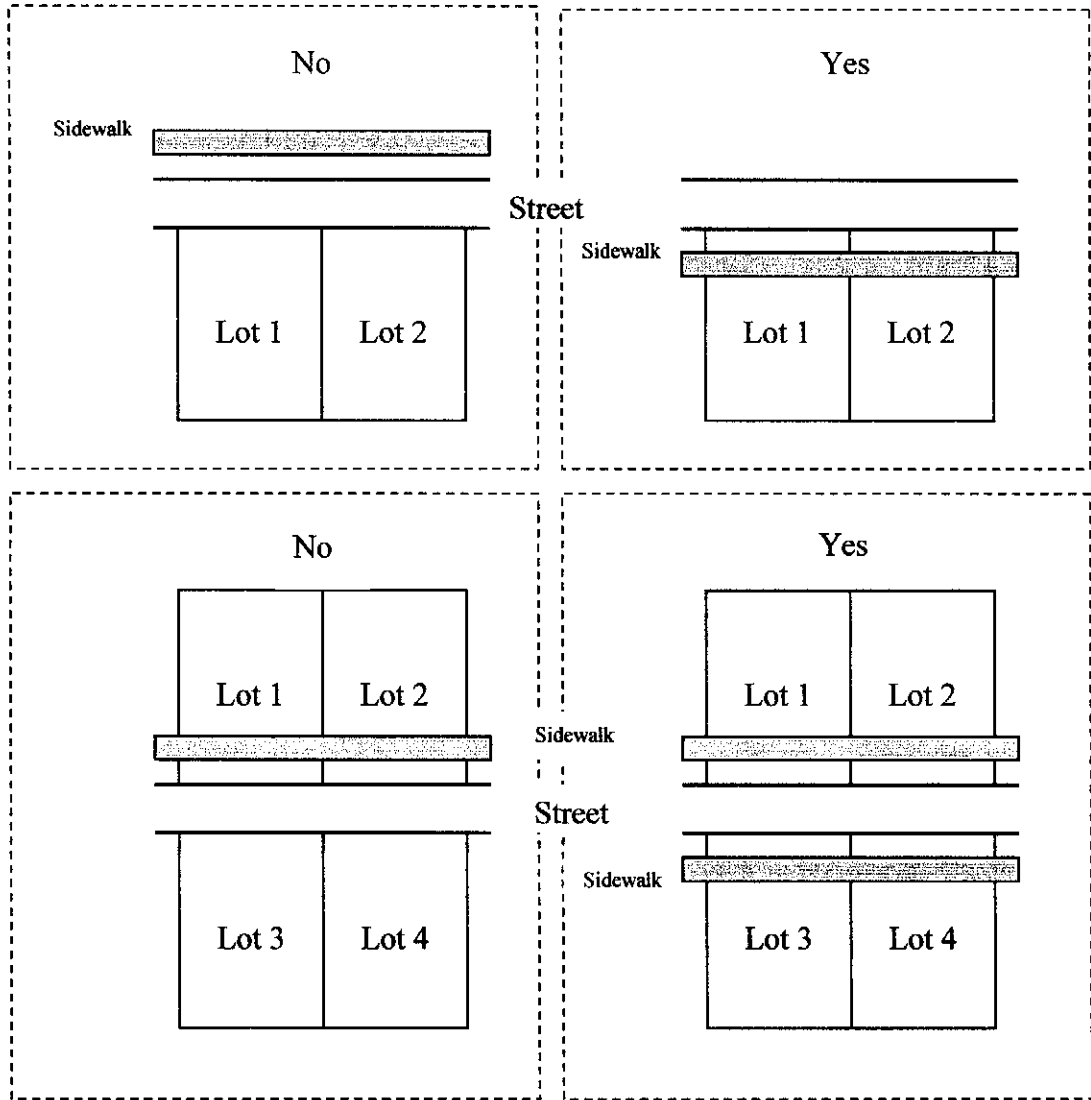
F. Sign Permit Application

SCHEDULE VII: USE & AREA VARIANCE FINDINGS & DECISION WORKSHEETS

SCHEDULE VIII: SIDEWALK EXAMPLES

SCHEDULE VIII

Sidewalk Design



Example B

**Sidewalk
Design**

