

ARTICLE XI-REGULATIONS GOVERNING
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**ARTICLE XI
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SECTION 1100 GENERAL PROVISIONS

The uses specified in this Article are hereby declared to possess unique characteristics requiring that each proposal for any such use shall be considered by the Planning Board as an individual case. Upon application complying with the requirements of Article III, special use permits may be issued by the Board in accordance with the administrative procedure set forth in Article III and only after the applicant has proved that each and all of the following standards have been met:

- A. The proposed special use is consistent with the general intent of Article I herein.
- B. The location, size and use of the structures involved, nature and intensity of the operations involved and size and layout of the site in relation to the proposed special use are such that it will be compatible with the orderly development of the use district.
- C. Operation of the proposed special use is not more objectionable to the uses of nearby properties, by reason of dust or smoke emission, noise, odors, fumes, pollution of air or water, including subsurface waters, unsightliness or similar conditions, than would be the operation of any permitted use.
- D. The proposed special use satisfies each and all standards and conditions specified for such special use by the relevant provisions of this Article. Failure to comply with the conditions specified herein shall be grounds for the revocation of the special use permit.
- E. The Planning Board may impose additional conditions or restrictions as it may deem necessary prior to approving any special use permit application in order to protect public health and safety, the quality of the Town=s natural resource base and the value of property.
- F. No site preparation or construction shall commence nor shall existing structures be occupied for any special permit use until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.
- G. The Planning Board shall have the authority to issue all special use permits and site plans, except for the following which authority has been reserved by the Town Board:

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1. Commercial Communication Towers, Section 1115; and
2. Wind Energy Conversion Systems/Devices, Section 1116.

SECTION 1101 ESSENTIAL SERVICES

- A. Essential services as defined in Article II herein may be allowed as a special permit use in any zone district upon the approval of a special use permit by the Planning Board.
- B. The Planning Board shall determine the following prior to approving a special use permit:
 1. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.
 2. 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. Adequate and attractive fences and other safety devices will be provided.
 4. A buffer strip of not less than fifteen (15) feet in depth shall be provided around the perimeter of the property.
 5. Adequate off-street parking shall be provided.
 6. All other applicable requirements of this Law shall be met.

SECTION 1102 HOME PROFESSIONAL OCCUPATIONS

- A. Home Professional Occupations may be allowed as special permit uses in the Low Density Districts and Medium Density Districts upon the approval of a special use permit by the Planning Board.
- B. No more than one (1) person other than a member of the immediate family occupying such dwelling shall be employed as part of the Home Profession Occupations.

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- C. A Home Professional Occupation must be conducted within a dwelling which is bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
- D. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations.
- E. No outdoor display of goods or outside storage of equipment or materials used in the Home Professional Occupation shall be permitted.
- F. No sign shall be permitted except in accordance with the provisions of Article X, Section 1002.
- G. Off-street parking shall be provided in accordance with Article X, Section 1000 and Schedule II.
- H. No commercial vehicles with a rated capacity in excess of one and one-half (12) ton shall be used in connection with the Home Professional Occupation or parked on the property.
- I. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no Home Professional Occupation exists.
- J. No more than twenty percent (20%) of the gross floor area of such residence shall be used for the conduct of a Home Professional Occupation.

SECTION 1103 EXCAVATION OPERATIONS

- A. Excavation operations may be permitted as special permit uses in the Low Density District upon the approval of a special use permit by the Planning Board.
- B. The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.
- C. The minimum lot area for any such use shall be ten (10) acres.
- D. All buildings and excavation operations shall be located or shall occur not less than

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one hundred (100) feet from any street or property line. The setback area shall not be used for any use in conjunction with the excavation and appurtenant activities except for one (1) public notice sign identifying the use of the property, fencing, berms, buffers and access roads.

- E. All equipment used for excavations and processing shall be constructed, maintained and operated in such a manner as to eliminate as far as is practicable noises and vibrations, and dust conditions which are injurious or a nuisance to persons living in the vicinity. The ambient noise level from said operation shall not exceed fifty (50) dBA.
- F. All operations shall be conducted between the hours of seven o'clock in the morning (7:00 a.m.) and seven o'clock in the evening (7:00 p.m.) with no Sunday or Holiday operations, and except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.
- G. All land which has been excavated must be rehabilitated in accordance with reclamation plans approved by the Planning Board as part of the site development plan review and approval process. Whenever possible, the Planning Board shall encourage excavation operators to reacclimate areas on an ongoing basis as part of the excavation operation. All reclamation work shall be complete within one (1) year after the termination of operations, at the expense of the operator. The rehabilitation plan shall be prepared by a licensed engineer, landscape architect or surveyor and provide for at least the following objectives:
 - 1. The removal of all buildings and structures used in the operations.
 - 2. All excavations must either be made to a water-producing depth if permitted by applicable New York State laws, or graded and back-filled, and piles of waste material must be leveled.
 - 3. Excavations made to a water-producing depth shall be properly sloped to the water line, with banks sodded or surfaced with soil of an equal quality to adjacent land area top soil, and shall be planted with trees, shrubs, legumes or grasses upon the parts of such area where revegetation is possible.
 - 4. Excavations not made to a water-producing depth must be graded or back-filled with non-noxious, non-flammable, non-toxic, non-combustible solid material and in a topographic character which will result in a substantial general conformity to adjacent lands. Such grading or back-filling and

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leveled piles of waste materials 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 revegetation is possible.

- H. A performance bond or some other financial guarantee shall be required to assure that the conditions stipulated in the approval of the special use permit are carried out.
- I. Each tract of land to be granted a permit for excavation shall use only direct access to-improved state or county highways and demonstrate proof of legal right to that access.
- J. All access roads shall be constructed to screen as much as feasible, excavation and appurtenant activities from public view. The junction of the access and the public road must be at an angle of not more than ten (10) degrees deviation from a right angle (90 degrees).
- K. All topsoil and subsoil shall be stripped from the active excavation area and stockpiled and seeded for use in accordance with the restoration plan. The location of topsoil to be stored shall be identified. Such stockpiles shall be treated to minimize the effects of erosion by wind or water upon public roads, streams, or adjacent property. This provision shall be applied to all operations except that of topsoil removal.
- L. Existing hills, trees and ground cover fronting along public roads or adjacent property shall be preserved, maintained and supplemented by selective cutting, transplanting and addition of new trees, shrubs and other ground cover for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplement plan, the operation can, if properly landscaped with grass, trees or shrubs, grade back overburden around the perimeter of the excavation site to create a Berm for the purpose of screening and noise reduction. No berm shall be constructed within twenty-five (25) feet of any right-of-way line or other property boundaries.
- M. Lateral support shall be sufficient to prevent the hazard or damage to persons, adjacent properties and public roads by reason of slides, sinking or collapse.
- N. All access routes leading to public highways shall be dust and mud free. All precautions such as applying calcium chloride or watering daily, or more frequently if and when necessary shall be taken to prevent dust and sand from being blown from the premises. Also, the first two hundred (200) feet of access from a public

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road shall be improved to meet written specifications provided by the Planning Board to insure its suitability to carry heavy traffic.

- O. Operations shall not be detrimental to adjacent property nor unduly interfere with the quiet enjoyment of adjacent property.
- P. An adequate and comprehensive drainage system shall be provided to convey the storm water runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total watershed area. No excavation shall be allowed within fifty (50) feet to a natural stream. Sediment control measures shall be installed to keep sediment damage, if any, totally within the applicant's property. The Planning Board shall determine whether or not the system and control measures are adequate and, in force, prior to approval of original or renewal permit.
- Q. The applicant shall include a plan for the control of soil erosion and excessive ground water seepage upon public roads, streams and adjacent property. The Planning Board shall determine whether or not the controls are adequate, and in force, prior to approval of the original or renewed permit.
- R. All applications for a permit under this section must contain an operations plan in sufficient detail to describe the excavation operation including active excavation and storage areas.
- S. Excavation permits shall be issued for a period of one (1) year and shall be subject to periodic site inspection and review by the Planning Board and Zoning Enforcement Officer. If all operations undertaken pursuant to any permit issued hereunder have been conducted in full compliance with the term of such permit and all provisions of this Zoning Law, such permit may be renewed by the Planning Board for a period of one (1) year. At least ten (10) days before taking any such renewal action, the Planning Board shall cause a notice to be published in the official town newspaper and posted on the official sign board, a notice of the proposed renewal and a statement indicating clearly both the property affected and the nature of the operation. All Zoning Laws and regulations in effect at the time a renewal is granted shall apply to the renewal permit in the same manner as when a new or original permit is issued.

SECTION 1104 PRIVATE AIRSTRIPS

- A. Private airstrips may be allowed as special permit uses in the Low Density District with the approval of a special use permit by the Planning Board.

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- B. The Planning Board shall determine that not more than twenty-five percent (25%) of the site area proposed for use as a private airstrip contains prime agricultural soils as defined by the Town of Orangeville.
- C. An application for the establishment, construction, enlargement or alteration of an airstrip shall include, in addition to requirements for special use permits outlined in Article III, Section 302, the following statements and information:
1. Name and address of the proponent.
 2. Classification of the proposed airport (commercial, non-commercial or restricted).
 3. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.).
 4. Number of aircraft expected to utilize the airport initially and within five (5) years.
 5. Type of aircraft expected to be based at the airport (single engine, multi-engine, turboprop jet, etc.).
 6. Whether an instrument approach procedure will be offered.
 7. Statement as to the anticipated number of daily operations.
 8. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
 9. A copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of 249 of the New York State General Business Law.
 10. A site development plan of the airport, as approved by the Planning Board, which includes the following:
 - a. Scale no smaller than one (1) inch equals one hundred (100) feet (1" = 100').
 - b. Location of existing and proposed structures.
 - c. Alignment of existing and/or proposed runways shall be shown in exact location and magnetic bearing to the nearest thirty (30)

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- minutes.
- d. Existing and proposed contours at five (5) feet intervals.
 - e. Location of aircraft parking and tie-down areas.
 - f. Provisions for access and off-street parking.
 - g. Provisions for sanitary waste disposal and water supply.
 - h. Location and method of fuel storage.
11. An area map at a scale of not less than one (1) inch equals five hundred (500) feet (1" = 500') showing:
- a. Distances from buildings, roads, natural features, power lines or other possible obstructions within two thousand (2,000) feet of the ends of runways shall be accurately plot.
 - b. Properties within one thousand (1,000) feet of the airport boundary shall be plotted, owners identified and the location and height of each building demarcated.
12. Permits issued for the operation of an airstrip shall be valid for a period of one (1) year. Said permit may be extended by action of the Planning Board for successive periods of one (1) year if the operation conforms to the initial proposal and the conditions on which the initial permit was issued are unchanged.
13. The Planning 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.

SECTION 1105 CAMPING GROUNDS

- A. Camping grounds may be allowed as special permit uses in the Low Density District with the approval of a special use permit by the Planning Board.
- B. Camping grounds shall be occupied by park model homes, travel trailers, pick-up coaches, motor homes, camping trailers and 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

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patios may be attached to any travel trailer or other vehicular accommodation parked in a camping ground, and the removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.

- C. Minimum site area is ten (10) acres.
- D. Not more than a total of ten (10) park model homes, travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- E. Location and Access - A camping ground shall be so located that no entrance or exit from a site shall discharge traffic into any Medium Density District nor require movement of traffic from the camping ground through a Medium Density District. A camping ground shall have a minimum of two hundred (200) feet of frontage on a public street.
- F. Site Conditions - Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or 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 Uses - 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:
 - 1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five percent (5%) of the gross area of the camping ground.
 - 2. Such establishments shall be restricted in their use to occupants of the camping ground.
 - 3. 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.

H. Streets in camping grounds shall be private, but shall be constructed with a

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stabilized travelway and shall meet the following minimum stabilized travelway width requirements:

1. One-way, no parking - twelve (12) feet.
 2. One-way with parking on one (1) side, or two-way with no parking - eighteen (18) feet.
 3. Two-way with parking on one (1) side - twenty-seven (27) feet.
 4. Two-way with parking on both sides - thirty-four (34) feet.
- I. Sites. Each travel trailer site shall be at least one thousand two-hundred fifty (1,250) square feet in area and have a minimum width of forty (40) feet.
- J. Recreation Facilities - A minimum of ten percent (10%) 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. 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, and radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. All such exits and entrances shall be approved by the appropriate Highway Department.
- L. Off-Street Parking and Loading - In connection with use of any camping ground, no parking, loading or maneuvering incidental to parking or loading shall be permitted on any public street, sidewalk, or required buffer or right-of-way, or any public grounds, or on any private grounds not part of the camping ground, unless the owner has given written permission for such use. Each camping ground shall provide off-street parking, loading and maneuvering space located and scaled so that the prohibitions above may be observed, and camping ground owners shall be responsible for violations of these requirements.
- M. An adequate lighting system shall be provided for the camping ground, i.e. main entrance, restrooms, and main travel area.

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- N. The campground shall provide adequate facility to insure sanitary conditions.
- O. No camp structure, except fences, gates and permitted signs shall be located within two hundred (200) feet of any street or property line.

SECTION 1106 NOT-FOR-PROFIT, PUBLIC AND SEMI-PUBLIC USES AND BUILDINGS, RECREATIONAL FOR PROFIT, AND PRIVATE FOR PROFIT

- A. Public and semi-public uses of institutional, health, education, recreational, religious or cultural nature may be allowed as special permit uses in the Low Density District and Medium Density Districts upon the approval of a special use permit by the Planning Board. This may include, but not be limited to golf courses, motor cross, race tracks, open-air theaters, VFW, YMCA, conservation clubs or any type of business or activity that would encourage a large number of people to gather.
- B. A statement setting forth the details of the operation of the use along with evidence of the proposed activity's eligibility as a Not-for-Profit use shall be submitted to the Planning Board
- C. The proposal shall meet the minimum area and yard requirements for such uses as specified in the Schedule I.
- D. The proposed use shall meet the minimum off-street parking and loading and unloading requirements of this Zoning Law as may be appropriate.
- E. The Planning Board, in considering the request for a special use permit, may impose conditions it deems necessary to protect the health, safety and public welfare of the Town.

SECTION 1107 KENNELS

- A. Kennels may be permitted as special permit uses in the Low Density District upon the approval of a special use permit by the Planning Board.
- B. The minimum lot area for such uses shall be five (5) acres.
- C. Shelters for animals within kennels shall not be closer than one hundred (100) feet to any lot line.
- D. No outdoor area enclosed by fences for the use of animals shall be permitted within

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the front yard. Fenced areas shall be setback not less than fifty (50) feet from any side or rear property line.

- E. The applicant shall provide an acceptable method of animal waste disposal or contract with approved waste hauler for disposal in a sanitary way.
- F. The Planning Board in considering the request for a special use permit may impose conditions it deems necessary to protect the health, safety and public welfare of the Town.

SECTION 1108 BOARDING HOUSES

- A. Boarding houses may be permitted as special permit uses in the Low and Medium Density Districts upon the approval of a special use permit by the Planning Board.
- B. No Boarding house shall provide shelter for more than four (4) tenants who are not family members.
- C. Off-street parking shall be provided as follows: At least two (2) spaces for the family residing on the premises plus not less than one (1) additional space for each boarder.

SECTION 1109 STABLES OR RIDING ACADEMIES

- A. Stables for the commercial boarding of horses or riding academies may be permitted in the Low Density District upon the approval of a special use permit by the Planning Board.
- B. No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.
- C. 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.

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4. Rental of horse vans.
 5. Riding lessons to the public.
- D. The land devoted to this use shall not be less than twenty (20) contiguous acres.
- E. One (1) principal single family dwelling may be located on the land devoted to this use provided that it complies with the requirements for this Zoning Law. The land area on which the principal single family dwelling is located shall not be considered as part of the land devoted to this use as set forth in paragraph D above.
- F. The number of horses that may be boarded and/or trained at such property shall not exceed twenty-five (25) horses for the first twenty (20) acres of land devoted to this use, plus one horse for each additional half acre.
- G. The stable and the facilities for the storage of manure shall be located on the land devoted to this use and not less than two hundred (200) feet from any boundary line.
- H. Exercise tracks and riding rings shall meet the following requirements:
1. Any riding ring or exercise track shall be at least one hundred fifty (150) feet from any boundary line.
 2. Horses shall not be left unattended in any roofless area which is enclosed by a fence less than four (4) feet in height.
- I. Accessory buildings such as barns (not housing horses) sheds and the like, may be located on the land devoted to this use provided that:
1. they are set back at least two hundred (200) feet from the street line and one hundred (100) feet from each side boundary line; and,
 2. they are not used for the storage of manure.
- J. Structures on the land devoted to this use (not including the principal dwelling) shall not in the aggregate cover more than five percent (5%) of the area of the land devoted to this use.
- K. No structure shall exceed thirty-five (35) feet in height.
- L. Suitable and adequate off-street parking in accordance with the reasonable

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requirements of the Planning Board shall be provided. No parking shall be permitted within two hundred (200) feet of any property lines.

- M. 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.
- N. Exterior loudspeakers shall be installed or used on the premises so as to minimize potential nuisances to adjacent properties.
- O. The maintenance of the structures and hygiene conditions connected with the use here permitted shall be under the continuous supervision of the Planning Board. If conditions are found to exist which are dangerous to the health, safety and welfare of humans or horses, or if any of the requirements of this or any other section of this Law or of any condition attached to the permit issued hereunder are not complied with by the operator of the boarding stable, the permit issued hereunder may be revoked or suspended by the Planning Board after public hearing.

SECTION 1110 MULTIPLE FAMILY DEVELOPMENTS

- A. Multiple family developments may be permitted in the Medium Density District upon the approval of a special use permit by the Planning Board.
- B. No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.
- C. The minimum land area required for such use shall be ten (10) acres.
- D. The maximum gross density shall not exceed ten (10) units per acre.
- E. Apartment buildings shall contain no more than twelve (12) dwelling units.
- F. Townhouse buildings shall contain no more than six (6) dwelling units.
- G. Minimum habitable floor area requirements:
 - 1. Townhouse unit, two (2) bedrooms or less: eight hundred fifty (850) square feet.
 - 2. Townhouse unit, three (3) bedrooms or more: one thousand (1,000) square feet.

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3. Apartment unit, efficiency: five hundred fifty (550) square feet.
4. Apartment unit, one (1) bedroom: seven hundred fifty (750) square feet.
5. Apartment unit, two (2) bedrooms: nine hundred (900) square feet.
6. Apartment unit, three (3) bedrooms: one thousand (1,000) square feet.

H. Unit Distribution

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

I. Setback Requirements - Minimum area and yard requirements for each multiple family structure within a multiple family development shall be as follows:

1. Setback: front and rear, seventy-five (75) feet; and, side, fifty (50) feet.
2. Minimum distance between buildings: eighty (80) feet.
3. Direct line of sight visibility from one building to another shall not be less than one hundred twenty-five (125) feet.
4. Every building shall have a minimum setback of twenty-five (25) feet from all interior roads, driveways and parking areas.
5. 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.
6. Court yards 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.

J. 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.

K. All stairways to the second floor or higher shall be located inside the building.

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- L. Access to public road
1. All multiple family dwelling developments shall have direct access to a public road.
 2. If there are more than twelve (12) dwelling units in a multiple family dwelling development, direct access must 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 Planning Board the location or topography of the site indicates the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.
- M. Requirements for off-street parking as provided in Article X of this Zoning Law shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that such lots shall not be located with the front yard or the required side yard setback.
- N. The aggregate lot coverage of multiple family dwelling developments shall not exceed thirty percent (30%) of the total lot area.
- O. 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 of 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 or shrubbery of at least six (6) feet in height around the perimeter. Fencing and walls shall be not more than fifty percent (50%) open on the vertical surface.

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P. Recreation, Open Space, Maintenance

1. Multiple family dwelling complexes shall be designed to create useable private open space. A minimum of ten percent (10%) 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 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.

Q. Utilities

1. All public utility, electric, gas, cable television and telephone lines shall be installed underground.
2. An adequate supply of water shall be provided for multiple family dwellings. Where public water is available, connection thereto shall be used exclusively. If a public system is not available, the development of a private water supply system shall be approved by the New York State Department of Health or other authorities having jurisdiction thereof.
3. An adequate and approved system shall be provided in all multiple family developments for conveying and disposing of sewage from dwellings, service buildings and other accessory facilities. Where public sewers are available, connection thereto shall be used exclusively. If a public system is not available, the development of a private sewage system shall be approved by the New York State Department of Health or other authorities having jurisdiction thereof.

SECTION 1111 ADULT BOOKSTORES, CABARETS AND THEATERS

- A. Findings; Statement of Policy - In the development and execution of this chapter, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, that such activities are deleterious to the health, welfare and well-being of the Town of

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Orangeville and those who live within the town and that the concentration of such activities in any one (1) area can and does adversely and seriously endanger the adjacent areas thereto. It is further recognized that the location of these uses in regard to areas where our youth may regularly assemble and the general atmosphere encompassing their operation is of great concern to the Town of Orangeville. Therefore, it is recognized that special regulation of these uses is necessary to ensure that the adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses and to prevent their accessibility to minors.

- B. Designation as Regulated Uses - Adult bookstores, adult cabarets and adult motion-picture theaters are hereby deemed to be regulated uses.
- C. Location Restrictions - Adult uses, including but not limited to adult bookstores, adult motion-picture theaters, adult mini-motion-picture theaters and adult entertainment cabarets, shall be permitted, subject to the following restrictions:
 - 1. No such adult use shall be allowed within five hundred (500) feet of another existing adult use.
 - 2. No such adult use shall be located within five hundred (500) feet of the boundaries of any zoning district which is zoned exclusively for residential uses.
 - 3. No such adult use shall be located within five hundred (500) feet of a pre-existing school, place of worship, cemetery, park or playground or other area where large numbers of minors travel or congregate.
 - 4. No such adult use shall be located in any zoning district except an industrial district.
- D. Registration
 - 1. The owner of a building or premises, his agent for the purpose of managing or controlling rents or any other person managing or controlling a building or premises, any part of which contains an adult use, shall register the following information with the Town Clerk of the Town of Orangeville:
 - a. The address of the premises.
 - b. The name and address of the owner of the premises and the names and addresses of the beneficial owners if the property is in a land trust.

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- c. The name of the business or establishment subject to the provisions of this chapter.
 - d. The name(s) and addresses of the owner, the beneficial owner and the major stockholder(s) of the business or the establishment subject to the provisions of this chapter.
 - e. The date of the initiation of the adult use.
 - f. The nature of the adult use.
 - g. If the premises or building is leased, a copy of said lease.
2. It is a violation of this chapter for the owner or person in control of any property to establish or operate thereon or to permit any person to establish or operate thereon an adult use without having properly registered said adult use with the Town Clerk.
- E. Display of Registration - The owner, manager or agent of a registered adult use shall display in a conspicuous place on the premises of the adult use a copy of the registration filed with the Town Clerk.
- F. Prohibition regarding Public Observance - No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.
- G. Special Use Permit
1. No use as described in this chapter shall be established until the issuance of a special use permit by the Zoning Enforcement Officer of the town. Applications for such special use permit shall be in writing to the Zoning Enforcement Officer and shall consist of a description of the premises for which the permit is sought, a plain and concise statement of the use which is proposed and such additional information as shall be required by the Zoning Enforcement Officer. The Planning Board shall call a public hearing for the purpose of considering the request for a special use permit. At least ten (10) days= notice of the time and place of the public hearing shall be given by the publication of a notice in a newspaper of general circulation in the town, indicating the general nature of the public hearing and the fact

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that those persons interested therein may be heard at the time and place of such hearing.

2. A special use permit issued under the provisions of this section shall not be transferable.

SECTION 1112 HOME OCCUPATION MAJOR

Within Low Density Districts (LDD), on lots of two (2) acres or more, Home Occupations Major may be permitted, upon the approval of a special use permit by the Planning Board and subject to site plan review as authorized by Article III of this law. Home Occupation Majors are subject to the following standards:

- A. For the purpose of this article, Home Occupations Major may involve the following types of uses. Other uses may be permitted if the applicant demonstrated that the proposed Home Occupations Major would serve the area farming community.
 1. Facilities for the manufacturing, processing, warehousing, sales, distribution, storage, repair and services of agricultural produce, equipment, vehicles or supplies.
 2. Buggy Shops.
 3. Blacksmith Shops and Harness Making.
 4. Butcher Shops.
 5. Grain Mills.
 6. Processing of locally produced agricultural products.
 7. Veterinary Offices.
 8. Feed Supply, Seed and Fertilizer Distribution.
 9. Variety Store. (Shoes, Boots, Kerosene, Lamps)
 10. Dry Goods.
 11. Bulk Food Store.
 12. Steel Metal Fabrication.

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13. Tarp Making.
 14. Wood Working.
 15. Furniture and sale of same.
 16. Agricultural and/or Personal Service Establishment.
- B. The applicant must demonstrate that the Home Occupation Major is compatible with the rural or hamlet setting and will not create nuisances for nearby properties.
 - C. The Home Occupation Major shall be conducted by the owner-occupant or tenant of the farm or home and no more than four (4) additional employees.
 - D. The Home Occupation Major shall occupy no more than eight thousand (8,000) square feet of gross floor area.
 - E. The maximum area devoted to the Home Occupation Major (including the structure, parking, storage, and driveway if separate) shall be no more than fifteen thousand (15,000) square feet of land.
 - F. Where practicable, Home Occupation Major shall be conducted within an existing farm or residential building. Any building constructed for use by the Home Occupation Major shall be located within one hundred (100) feet of the residence, or other accessory structure, and shall be set back at least one hundred (100) feet from the roadway.
 - G. Any building constructed for the use of the Home Occupation Major shall be of a nature that it can be converted to an agricultural or residential use if the Home Occupation Major is discontinued. The structure=s exterior appearance should be that of a farm or residential building.
 - H. No Home Occupation Major shall be located within fifty (50) feet of any adjoining side or rear property line. Such distance shall be measured as a straight line between the closest points of any structure or any other physical improvement of the Home Occupation Major and the adjoining property line.
 - I. Outdoor storage shall be located so as not to be visible from adjoining roads and properties. This may be done by means of placement within a building, landscaping, screening or placement on the lot behind a building.
 - J. Off-street parking shall be provided in accordance with Article

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X, Section 1000 and Schedule II.

- K. The use shall not create excessive noise, vibration, glare, smoke or fumes which are continuously detectable beyond the limits of the property.

SECTION 1113 HOME-BASED BUSINESSES

A. Findings; Statement of Policy

1. Recognizing the fact that many residents of the Town of Orangeville currently maintain home occupations/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.
2. The Town Board recognizes that Town 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 districts. Conversely, the Town recognizes that unrestricted use of residentially zoned 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 interests of the welfare of the residents, home occupations/businesses should be permitted.
3. In order to further the benefits of home occupations/businesses while mitigating the potential detrimental off-site impacts of the same, the Town has enacted these regulations.
4. Recognizing that different home occupations/businesses exhibit varying potentials for generating off-site impacts, the Town adopts three (3) tiers of businesses for the purposes of establishing review procedures and approval conditions. The three (3) tiers are: (1) Home Occupations Minor; (2) Home Occupations Major; and (3) Home-Based Businesses.
5. See Section 1112 of this Article for Home Occupations Major regulations and Section 1007 of Article X for the Supplementary Regulations governing Home Occupations Minor.

B. Home-Based Businesses

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1. Permitted District - Home-Based Businesses are permitted in the Low Density Districts only, with the issuance of a special use permit and provided that the following standards are satisfied.
2. Permitted Structure - 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 Aseasonal use.@ Access may not be provided by a private road. No more than one (1) home-based business shall be permitted on each property.
3. 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:
 - a. Lot Size - The minimum required lot size for a home-based business is five (5) acres.
 - b. Extent of Use - The total gross floor area of the home-based business in an accessory building shall not exceed seventy-five hundred (7,500) square feet in area.
 - c. Neighborhood Character - The appearance of the property 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.
 - d. Employees on Site - No more than eight (8) employees or assistants in addition to the members of the family occupying such dwelling may be engaged on the premises in the home-based business at any given time.
 - e. Hours of Operation - The home-based business shall be conducted in such a manner that the majority of the clients, customers and

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others coming to do business at the site of the home-based business, shall arrive and depart between the hours of 7:00 a.m. and 9:00 p.m.

- f. Outdoor Storage of Materials and Equipment - Materials and equipment actively used in connection with the home-based business may be stored outdoors, but shall be buffered from public rights-of-way and neighboring properties by intervening land form and/or vegetation or fencing 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 or materials or equipment shall be permitted in the front yard of the premises nor less than fifty (50) feet from any property boundary.
- g. Construction Vehicles and Equipment - Not more than four (4) construction vehicles or pieces of construction equipment may be used in connection with the home-based business. No such vehicles or equipment shall be parked in the required front or side yards of the property unless properly buffered.
- h. 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 7:00 a.m. and 9:00 p.m.

SECTION 1114 MOTOR VEHICLE SERVICE STATIONS

Within Commercial Districts, Motor Vehicle Service Stations may be permitted, upon approval of a special use permit by the Planning Board and subject to site plan review as authorized by Article III of this law. Motor Vehicle Service Stations are subject to the following standards:

- A. In addition to the information required in the special permit application and enumerated in Article III herein, the site plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, and number and location of fuel pumps to be installed.
- B. Where a Motor Vehicle Service Station abuts a residential district, it shall be buffered by a buffer area not less than fifteen (15) feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the district boundary line. The Planning

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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 area shall have a minimum height of six (6) feet above the ground. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate buffer area, the Zoning Enforcement Officer shall direct the property owner to replace said shrubs.

- C. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- D. 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. No commercial parking shall be allowed on the premises of a Motor Vehicle Service Station or public garage.
- F. In addition to the signs permitted by Article X, Section 1002 hereof, Motor Vehicle Service Stations may also exhibit one (1) temporary sign for a period of up to forty-five (45) days setting forth special seasonal servicing of automobiles. Such temporary sign shall not exceed nine (9) square feet in area, be located not less than ten (10) feet inside the property line and shall be removed when no longer current.
- G. No Motor Vehicle Service Station or public garage may display more than two (2) unlicensed vehicles for sale outside of an enclosed building at any one time.
- H. There shall be no more than two (2) driveways, with a combined width of not more than one-third (1/3) the site frontage on each public street fronting the site.
- I. No driveway shall be closer than fifty (50) feet to the intersection of two (2) street corner lot lines, or within twenty (20) feet of an adjacent lot line.
- J. Off-street parking shall be provided in accordance with Article X, Section 1000 and Schedule II.

SECTION 1115 COMMERCIAL COMMUNICATIONS TOWER

No Commercial Communications Tower or antenna(s) shall hereafter be used, erected, moved, reconstructed, changed or altered unless in conformity with these regulations.

A. Shared Use of Existing Towers and/or Structures

- 1. In all instances, shared use of an existing tower and/or structure (i.e.,
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another Commercial Communications Tower, water tower, building, etc.) shall be preferred to the construction of a new Commercial Communications Tower.

2. An applicant shall be required to present an adequate report inventorying existing towers or other structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new Commercial Communications Tower.
3. The installation of a Commercial Communications antenna(s) on an existing structure located within the Low Density District shall be considered a permitted accessory use not subject to Site Plan Review, provided the following criteria are met:
 - a. The existing structure is not increased in height or otherwise modified so as to change its visual appearance.
 - b. The antenna(s) do not extend above such structure more than ten (10) feet.
 - c. The applicant provides the necessary documentation to the Zoning Enforcement Officer to verify the existing structure and proposed antenna(s) installation would comply with the NYS Uniform Fire Prevention and Building Code.
 - d. An applicant proposing to share use of an existing tower and/or structure shall be required to document intent from an existing tower/structure owner to allow shared use.

B. New or Altered Towers and/or Structures

1. The Town Board may, in its sole discretion, consider a new or altered (including towers or structures which are modified, reconstructed or changed) Commercial Communications Tower/structure where the applicant demonstrates to the satisfaction of the Town Board that shared usage of an existing tower/structure is impractical.
 - a. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers or other structures as well as documentation of the physical and/or financial reasons why shared usage is not practical.

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3. Any new Commercial Communication Tower approved for a site with an existing tower or other structure site shall be subject to the standards of Subsections F through N of this Section.
- E. New Tower at a New Location - The Town Board may consider a new Commercial Communication Tower on a site not previously developed with an existing tower or other structure when the applicant demonstrates that shared usage of an existing tower site is impractical, as determined in the sole discretion of the Town Board, and submits a report as described in Subsection B of this Section.
- F. Future Shared Usage of New Tower
1. The applicant must design a proposed Commercial Communication Tower to accommodate future demand for commercial broadcasting and reception facilities.
 2. This requirement may be waived provided that the applicant demonstrates, in the sole discretion of the Town Board, that provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:
 - a. The number of Federal Communication Commission (FCC) licenses anticipated for the area.
 - b. The kind of tower site and structure proposed;
 - c. The number of existing and potential licenses without tower spaces;
 - d. Available spaces on existing and approved towers; and
 - e. Potential adverse visual impact by a tower designed for shared usage.
- G. Setbacks for New Towers
1. Appearance, Color, and Finish - The exterior surface of any visible components of a Commercial Communication Tower must be a nonreflective, neutral color, Commercial Communication Towers that are located within view of each other, or within one (1) mile of each other must be of uniform design, including tower type and color.
 2. Visual Impact Assessment - The applicant shall submit a Visual Environmental Assessment Form (Visual EAF - SEQR), as well as, a visual

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impact assessment of any proposed Commercial Communication Tower or any proposed modifications to existing Commercial Communication Tower prepared by a qualified professional in a format generally accepted in the profession. The visual impact assessment shall include:

- a. Before and after photos or computer simulations from key viewpoints both inside and outside of the Town, including state highways and other major roads, from state and local parks, other public lands; from any privately owned preserves and historic sites normally open to the public, and from any location where the site is visible to a large number of visitors or travelers. A balloon test may also be requested by the Town Board.
 - b. Alternative Commercial Communication Tower designs.
 - c. Assessment of any visual impact from abutting properties and streets of the tower base, guy wires, accessory buildings and any other element of the Commercial Communication Tower as determined and directed by the Town Board.
 - d. A viewshed map of the proposed Commercial Communication Tower with a radius of three (3) miles from any portion of the Commercial Communication Tower.
 - e. An inventory of all aesthetic resources in the viewshed defined in item d.
 - f. The assessment of the visual impact shall also include, but not limited to, an analysis of the lightning or illumination of the Commercial Communication Tower and assessment of any shadowing or other visual effect of the Commercial Communication Tower relating to the level of natural or artificial illumination.
3. Visual Impacts Mitigation Plan - The applicant may be required to prepare and implement a Visual Impacts Mitigation Plan to mitigate negative impacts on aesthetics of a proposed Commercial Communication Tower. Such a plan would show how the applicant would protect or make improvements to the aesthetics of another part of the Town to offset the negative impacts on aesthetics within the viewshed.

H. New Tower Design

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1. Alternate designs shall be considered for new towers, including lattice and single pole structures.
2. Plans should show that the owner of the Commercial Communication Tower has agreed to permit other persons to attach other communication apparatus, which do not interfere with the primary purposes of the commercial communication tower, provided that such other persons agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment.
3. The design of a proposed new tower shall comply with the following:
 - a. Unless specifically required by other regulations, all towers shall have a neutral, earth tone, sky tone or similar finish that will minimize the degree of visual impact that the new tower may have.
 - b. Artificial lighting, including strobes, beacons and other hazard avoidance lighting, shall be limited to that required by the Federal Aviation Administration (FAA) or other governmental agency, recognized safety guidelines and the Town Board. Artificial lighting shall be limited to red by night and white by day.
 - c. Any new tower shall be designed and constructed to have the minimum height and carrying capacity needed to provide future shared usage (co-locating of a minimum of two (2) additional antennae.)
 - d. The Town Board may request a review of the application by the Town Engineer, or other engineer selected by the Town Board, for evaluation of need for and design of any new tower. The costs associated for such review shall be borne by the applicant.
 - e. Accessory facilities shall maximize use of building materials colors and textures designed to blend with the natural surroundings.
 - f. No portion of a tower may be used for signs or advertising purposes, including company name, banners, streamers, etc.
 - g. The applicant shall provide documentation acceptable to the Town Board that certifies the operation of the proposed Commercial Communication Tower facility will not interfere with usual and customary transmission or reception of radio, television or other

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communication equipment.

- h. Space on communication towers shall be made available for public safety purposes (i.e. Wyoming County Public Safety Radio System) at no cost to public safety agencies.

I. Existing Vegetation

- 1. Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special use permit.
- 2. Clear cutting of all trees in a single contiguous area exceeding twenty thousand (20,000) square feet shall be prohibited.

J. Screening

- 1. Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property and from public sites known to include important views or vistas.
- 2. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required:
 - a. For all Commercial Communication Towers, at least one (1) row of native evergreen shrubs or trees capable of forming a continuous hedge at least eight (8) feet in height within two (2) years of planting shall be provided to effectively screen the tower base and accessory facilities.
 - b. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival.
 - c. Plant height in these cases shall include the height of any berm.

K. Access

- 1. Adequate emergency service access shall be provided.
- 2. Maximum use of existing roads, public or private, shall be made.

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3. Road construction shall, at all times, minimize grounds disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement.
 4. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- L. Parking - Parking shall be provided in accordance with Article X. No parking space shall be located in any required yard.
- M. Fencing
1. Sites of proposed new Commercial Communication Towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence, ten (10) feet in height, from finished grade, unless the applicant demonstrates to the sole discretion of the Town Board that such measures are unnecessary to ensure the security of the facility.
 2. Such security fencing shall surround the tower base, as well as, each guy anchor.
- N. Maintenance and/or Performance Bond
1. Prior to approval of any application, the Town Board, in its sole discretion, may require the applicant and/or owner to post and file with the Town Clerk a maintenance and/or performance bond or other form of security acceptable to the Town Attorney, in an amount sufficient to cover the installation, maintenance and/or construction of said tower during its lifetime and provided for its removal.
 2. The amount required shall be determined in the sole discretion of the Town Board, based upon the unique characteristics of the tower and site.
 3. In furtherance of the foregoing, the applicant and/or owner shall cooperate with the Town Board in supplying all necessary construction and maintenance data to the Town Board prior to approval of any application to accomplish the foregoing.
- O. Removal of Obsolete/Unused Facilities
1. Upon the original issuance of a special use permit for a Commercial Communications Tower, the applicant agrees to dismantle and remove the Commercial Communication Tower from the property when the Commercial

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Communication Tower ceases to be used for its intended purpose for a period is revoked or not renewed.

2. The decision as to whether the project has been abandoned or the permit revoked shall be in the sole and absolute discretion of the Town Board and not subject to review or appeal.
3. To secure the applicant=s performance to dismantle and remove the Commercial Communication Tower once the same ceases to be used for the intended purpose, the following will be complied with:
 - a. In conjunction with the issuance of the original special use permit, the applicant shall post a bond or deposit with the Town, per Commercial Communication Tower, in an amount to be determined by the Town=s engineer and to be held in escrow (the Escrow Fund) by the Town pursuant to the terms of this local law.
 - b. The Town Board reserves the right to review annually to ensure sufficient monies are available for removal.
 - c. Removal of the system shall include the removal of the entire structure, including foundations forty-eight (48) inches below the surface, transmission equipment and fencing, if any, from the property.
 - d. After the applicant dismantles and removes the Commercial Communication Tower, said deposit shall be returned to the applicant.
4. In the event that the Commercial Communication Tower is not dismantled and removed, the Town shall have the right, on thirty (30) days written notice, mailed certified return receipt requested to the last known address of the applicant, to have the Commercial Communication Tower dismantled and removed and charge the cost thereof against the Escrow Fund.
5. In the event there is any unused portion of the Escrow Fund remaining, after the dismantling and removal of the Commercial Communication Tower, the balance shall be returned to the applicant.
6. If the cost to dismantle and remove the Commercial Communication Tower is in excess of the amount in the Escrow Fund, the applicant shall reimburse the Town for such excess upon demand.

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7. In the event the applicant fails to so reimburse the Town and the Town commences legal action to enforce this local law, the applicant shall reimburse the Town for its reasonable attorney=s fees and court costs.
- P. Indemnify and Save Harmless Agreement - The applicant shall agree to indemnify and save the Town, its officers, agents, and employees harmless from any liability imposed upon the Town, its officers, agents, and/or employees arising from negligence, active or passive, of the applicant.
- Q. Insurance - Prior to issuance of a building permit, the applicant shall provide the Town proof of a level of insurance to be determined by the Town Board in consultation with the Town=s insurer and attorney, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.
- R. Lighting - A Commercial Communication Tower may not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA), other governmental agency, recognized safety guidelines (i.e. Mercy Flight), or the Town Board. If lighting is required, the lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed. If more than one lighting alternative is available, the Town reserves the right to choose the least obtrusive lighting option available, potentially Ared by night@ and Awhite by day.@
- S. State Environmental Quality Review Act - The applicant shall fully comply with all provisions contained in State Environmental Quality Review Act. Nothing in this Article shall read as limiting the authority of the Town Board to impose mitigating conditions under this Act.
- T. All Commercial Communication Towers will be subject to a bi-annual inspection by the Zoning Enforcement Officer unless said requirement is waived by the Town Board.
- U. Electromagnetic Interference (EMI)
 - a. The applicant shall provide evidence in the form of test results or independent engineering studies that the Commercial Communication Tower should not interfere with microwave, cellular, television or radio reception to or from existing primary structures and fixed broadcast, retransmission or reception antennas.