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**ARTICLE I
PURPOSES AND DEFINITIONS**

1.1 GENERAL INTENT

1. The intent of this Local Law is to establish comprehensive controls for the development of land in the Town of Livingston, so as to protect the health, safety and welfare of the citizens of the Town, and to carryout locally established goals and objectives in accordance with the town's Master Plan, which has been designed for the benefit of the township as a whole, to preserve and protect the basic rural-agricultural nature of the town.

1.2 OBJECTIVES

2. This chapter is enacted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16 to protect and promote public health, safety, morals, comfort, convenience, economy, Town aesthetics and the general welfare, and for the following additional purposes:
 - a. To promote and effectuate the orderly physical development of the Town of Livingston, New York, in accordance with the Master Plan.
 - b. To preserve, protect and enhance the agricultural nature and viability of the Town.
 - c. To encourage the most appropriate use of land in the community in order to enhance the value of property.
 - d. To provide adequate and suitably located commercial facilities.
 - e. To protect and enhance existing wooded areas, scenic areas and waterways and to preserve the rural character of the Town.
 - f. To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, in order to prevent undue concentration of population, in order to lessen congestion on streets and highways and in order to provide efficient municipal utility services.
 - g. To improve transportation facilities and traffic circulation and to provide adequate off-street parking and loading facilities.
 - h. To realize a development plan properly designed to conserve the use of land and the cost of municipal services.
 - i. To assure privacy for residences and freedom from nuisances and things harmful to the senses.
 - j. To protect the community against unsightly, obtrusive and noisome land uses and operations.
 - k. To enhance the aesthetic aspects throughout the entire community and maintain its present character and natural beauty.

1.3 DEFINITIONS

3. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
 - a. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. The word "lot" includes the word "plot" or "parcel". The word "person" includes an individual person, a firm, a corporation, a co-partnership and any other agency of voluntary action.
 - b. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
 - c. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY APARTMENT - A separate and complete dwelling unit, in conformity with Section 4.1, which is subordinate in size and intensity of use to the principal use of the lot on which it is located.

ACCESSORY BUILDING - A building detached from and subordinate to a main building on the same lot and used for purposes customarily incidental to those of the main building.

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

ACCESSORY USE, BUILDING OR STRUCTURE - A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure. The term accessory building may be, but is not limited to a private garage, garden shed, a private playhouse and a private greenhouse. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.

ACCESSORY BUILDING OR STRUCTURE I and II – A building or structure less than 1499 square feet would be considered Level I. 1500 square feet and above would be considered Level 2.

ADJACENT PROPERTY - Any parcel sharing a boundary line with the property that is the subject of a public hearing. "Sharing a boundary line" shall include situations where the property, which is the subject of the public hearing, is directly across from, in whole or in part, other property that is on the other side of a road or stream.

AGRICULTURE - The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, fishing, forestry, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for the packing, treating or storing of such produce.

AGRICULTURAL RESEARCH - The use of the land for the research, development, field testing and creation of products or materials used for and/or in connection with agriculture.

AIRPORT - Any area of land designed and set aside for the landing and takeoff of aircraft, including all necessary facilities for the housing and maintenance of such.

ALTERATION - As applied to a building or structure, a change or rearrangement in the structural parts or existing facilities of such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location to another.

AMUSEMENT CENTER - Any indoor place or part thereof, or enclosure in which is maintained or operated for the amusement, patronage or recreation of the public, any coin-controlled amusement device of any description, and particularly, but not by way of limitation, both electronic or mechanical displays and/or operation, or the production of musical entertainment.

AMUSEMENT – SPECIALTY – Any outdoor place or part thereof in which is maintained or operated for the amusement, patronage or recreation of the public, any coin-controlled amusement device of any description, and particularly, but not by way of limitation, both electronic or mechanical displays and/or operation.

ANTIQUÉ SHOP - A business premises used to display and offer for sale to customers or clients art, furniture and collectible goods, such as jewelry, utensils, books, memorabilia and clothing considered examples of the artistry or craftsmanship of other than the present era, at prices determined by collector interest rather than day-to-day consumer goods. Specifically excluded from uses within this "antique shop" definition are the sale of items whose use and demandable price qualify them in common terminology as "used" or "secondhand".

APPROVED BUILDING LOT - A lot that has been approved by the Planning Board as a result of subdivision, re-subdivision or site plan approval in compliance with the Livingston Code.

AQUIFER - An underground bed or stratum of earth, gravel or porous stone that contains water.

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

ATTIC - The space of a building that is immediately below and wholly or partly within the roof framing. An "attic" with a finished floor shall be counted as one-half (1/2) story in determining the permissible number of stories.

AUCTION HALL - A building in which public sales are held for items that are sold to the highest bidders.

AUTOMOBILE OR TRAILER SALES AREA - An open area other than a street or public place used for the display, barter, purchase, sale or rental of new or used motor vehicles or trailers, and where no repair work is done except minor incidental repair of vehicles to be displayed, sold or rented on the premises.

AUTOMOTIVE BODY REPAIR - The straightening, repairing, repainting, re-chroming and replacement of glass and/or parts of motor vehicles damaged or despoiled as a result of accident, act of God, malicious mischief or otherwise, for profit.

BAR - An establishment primarily for the sale and consumption of alcoholic beverages and licensed under the laws of New York State for these purposes.

BASEMENT - The portion of a building wholly or partly underground, which extends no more than four (4) feet above the average level of the finished grade adjacent to the exterior walls of the building. The word "basement" includes the word "cellar". A basement shall not constitute a "story" of a building.

BED AND BREAKFAST - A building, other than a hotel or boarding house, containing a general kitchen and dining room and in which not more than ten (10) sleeping rooms are offered for rent, together with the provision of a morning meal only.

BILLBOARD - A sign or structure which directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered elsewhere than upon the lot on which such sign is situated.

BUFFER AREA - Open ground area of the plat, in addition to any required yards or road widenings around the perimeter of any plot, where required. Parking is not permitted in a buffer area.

BUILDING - Any structure that is permanently affixed to the land, has one (1) or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or property.

BUILDING, ACCESSORY - See "accessory building".

BUILDING, DETACHED - A building surrounded by open space on the same lot as the principal structure.

BUILDING GROUP - A group of two (2) or more principal buildings and any buildings accessory thereto, occupying a lot in ownership and having any yard in common.

BUILDING INSPECTOR - The official building inspector of the Town.

BUILDING LINE - The line, established by statute, local law or ordinance, beyond which a building shall not extend, as specifically provided by law.

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

BUILDING, SEMIDETACHED - A building attached by a party wall to another building normally of the same type on another lot, but having one (1) side yard.

BUILDING SUPPLY - A use involving the sale of large building materials (such as lumber, building blocks, steel, etc.) and may include, in addition, the sale of typical hardware and construction supplies.

BUILDING, TEMPORARY - Any building or manufactured home intended for temporary occupancy or use in connection with the construction of a permitted use: A "temporary building" shall be removed from the premises when such construction is completed.

BULK - A term used to describe the size, volume, area and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures or other walls of the same building, and all open spaces required in connection with a building, other structure or tract of land.

BUNGALOW COLONY - A group of two (2) or more dwelling structures on a single premises, designed for seasonal occupancy and not more than one (1) of which is used for the purpose of all-year-round residence, which premises does not include a public lobby or dining room serving guests. The term "bungalow colony" includes cottage or cabin colonies or development, but does not include trailer park, trailer camp, boardinghouse, hotel or motel.

CABIN - Any structure designed primarily for seasonal use.

CAMP - Any parcel of land on which are located two (2) or more tents, shelters or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, including resort and day camp, but not including a trailer park, boardinghouse, hotel or motel, bungalow colony.

CAMP GROUND OR CAMP SITE - A property providing four (4) or more sites for the parking of occupied travel trailers, the erection of tents or other shelters serving as temporary residences, as defined by Part 7 of the New York State Sanitary Code, and all buildings and facilities pertaining thereto.

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

CLUB, MEMBERSHIP - An organization catering exclusively to members and their guests, or premises and building for recreational or athletic purposes, which are conducted primarily for gain, provided there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

COMMERCIAL EVENT VENUE – A location where events are held, including but not limited to weddings, parties, meetings, family reunions, and corporate events. The event locations can include, but not be limited to tents, gazebo, barns, open areas, and residential structures. (Exception: Events for which the owner or operator of the venue receives no fee or other remuneration in connection with the event and no fees are charged to attendees are exempt from this definition.)

COMMERCIAL USE - An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

COMMERCIAL VEHICLE - A vehicle of more than one (1) ton capacity used for the transportation of persons or goods primarily for gain, or a vehicle of any capacity carrying a permanently affixed sign exceeding one (1) square foot in area of lettering of a commercial nature.

COMMUNITY POLE - A sign owned and maintained by the Town Board or by a group of businessmen as approved by the Town Board and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the community.

CONDOMINIUM - A multiple-family dwelling/apartment house or houses, the units of which are individually owned, each owner receiving a deed enabling the sale, mortgage or exchange of the dwelling unit independent of the owners of the other units in the building or buildings.

CONTRACTOR'S YARD / STORAGE YARD - Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery, vehicles or parts thereof which are in active use by a construction contractor this includes uses such as a storage yard for building materials and/or equipment intended for commercial uses.

CONVERSIONS - The transformation of a single-family dwelling, whereby one (1) separate and complete dwelling unit is contained within the said single-family dwelling.

COVERAGE - That lot area or percentage of lot area covered by pavement, buildings or structures, including accessory buildings and structures.

CUSTOM WORK, SHOP FOR - A business premises used for the making of clothing, millinery, shoes or other personal articles to individual order and measure, for sale at retail on the premises only, and not including the manufacture of "ready-to-wear" or standardized products.

DANCE HALL - A structure, or part thereof, whose primary use is the operation of a business offering facilities for dancing.

DECIBEL (db) - A unit of sound pressure level. (e.g. The noise level in an average residence is about 50 decibels).

DEVELOPER - Any person, firm, corporation, partnership or association who, having an interest in land, causes it either directly or indirectly to be used for development.

DEVELOPMENT - The division of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; and any use or extension of the use of the land.

DISTRICT - A part, zone or geographic area within the Town to which certain zoning or development regulations apply.

DORMITORY - A building, other than a hotel or motel, containing dwelling units or rooms for the housing of non-transient persons attending or employed by a community college, other college or university.

DRIVE-IN MOVIE - An open lot or part thereof, with appurtenant facilities, devoted primarily to the showing of motion pictures on a paid admission basis to patrons seated in automobiles or on outdoor seats.

DUMP - A lot or land used primarily for the disposal, by abandonment, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DUSTLESS SURFACE – A surface that is adequately covered with concrete or bituminous products and adequately treated with oil or a similar dust-inhibiting substance and maintained in good condition at all times.

DWELLING - A building designed or used principally as the living quarters for one (1) or more families. The terms "dwelling", "one-family dwelling", "two-family dwelling", "multifamily dwelling", "multiple dwelling" and "dwelling group" shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING GROUP - A group of two (2) or more dwellings occupying a lot in one (1) ownership.

DWELLING, MULTIFAMILY - A dwelling containing three (3) or more dwelling units and occupied or designed for occupancy by three (3) or more families living independently of each other.

DWELLING, ONE-FAMILY - A building containing one (1) dwelling unit only.

DWELLING, TWO-FAMILY - A building containing two (2) dwelling units.

DWELLING UNIT - A building or portion thereof providing complete housekeeping facilities for one (1) family.

ESSENTIAL SERVICES - The erection, construction, alteration or maintenance by public utilities or the Town or other governmental agencies of underground, surface or overhead electrical, gas or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories, in connection with the reasonably necessary furnishing of adequate service by such public utilities or Town or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

FAMILY - Any number of related or unrelated individuals living together as a single housekeeping unit.

FARM - A parcel of land used principally in the production of agricultural products and the necessary or usual dwellings, farm structures, storage and equipment.

FARM ANIMALS - Animals commonly raised on a farm, such as cows, horses, donkeys, hogs, chickens, etc. but not necessarily located on a farm.

FENCE - A structure designed either to limit access to a land area or to screen such area from view, or both.

FINISHED GRADE - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the "finished grade," in computing height of building and other structures or for other purposes, shall be the average elevation for all "finished grade" elevations around the periphery of the building.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of streams, rivers or other inland areas of water, or from abnormally high tidal water or rising lake waters resulting from severe storms, or hurricanes.

FLOOD INSURANCE RATE MAP (FIRM) - The official map on which the Federal Insurance Administration has delineated the areas of special flood hazards applicable to Livingston.

FLOODPLAIN OR FLOOD HAZARD AREA - Nearly level land situated on either side of a river, stream, watercourse or lake which is subject to overflow flooding; and as identified by the Federal Emergency Management Agency (FEMA).

FLOODPLAIN MANAGEMENT - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and land use and control measures.

FLOODPROOFING - Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduces or eliminates flood damage to lands, water and sanitary facilities, structures and contents of buildings.

FLOOD PROTECTION ELEVATION - The one-hundred-year flood elevation.

FLOODWAY - The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FLOOR AREA (OF A BUILDING) - The sum of the gross horizontal area of the several floors including the basement of a building, including the area of roofed porches and roofed terraces. All dimensions shall be measured between the exterior faces of walls.

FOOD PROCESSING/MANUFACTURING - The use of land for the manufacture of food products and stuffs, including packing, treating, cooking, mixing or processing of food or food products, principally for off-premises human consumption, including the storage of such food products for processing or shipping.

FOUNDATION - A wall or pier extending at least four feet below grade or an equivalent load-bearing structure certified by a licensed professional engineer, having a fixed location on the ground and capable of serving as a support for a structure or structural part of a building, such as a wall, pier or column. All foundations shall meet the relevant criteria set forth in Part 3 of the New York State Building Construction Code applicable to general building construction.

FUNERAL HOME - A dwelling or other structure used and/or occupied by a professional licensed mortician for burial preparation and funeral services.

GARAGE, PRIVATE - An enclosed space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one (1) car is leased to a non-resident of the premises.

GASOLINE FILLING STATION - An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating or washing, but which does not include auto body work, welding or painting, unless authorized.

GROUP HOME - A dwelling that houses no more than eight (8) unrelated individuals who live as a single housekeeping unit under a common housekeeping non-profit management, under a plan based on an intentionally structured relationship providing organization and stability. This is also known as a community residence.

HABITABLE FLOOR - Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof.

HEIGHT OF BUILDING - The vertical distance measured from the average finished grade along the wall of the building (or adjacent to the side of the structure) to the highest point of such building.

HIGH-TENSION LINE/TRANSMISSION LINE - Any electric line operating a voltage in excess of sixty-nine (69) kilovolts.

HOME OCCUPATION - An accessory use of a service character customarily conducted entirely within a dwelling or an accessory building by the residents thereof, except that additional persons, not residents of the dwelling, may be employed as permitted in Section 4.17. This use is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have exterior evidence of such secondary use except as permitted in Section 4.17.

HORSE STABLE - An accessory building in which horses are kept for private use and not for remuneration, hire or sale.

HOSPITAL - An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

HOTEL - A building or any part thereof which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may contain one (1) or more dining rooms.

INN - A single structure affording accommodation such as lodging, food.

INSTITUTIONAL USE - Unless specifically defined elsewhere, includes hospitals, nursing homes, sanatoriums, correctional institutions or other institutions of a similar public or semi-public nature.

JUNKYARD - An area of land, with or without buildings, used for or occupied by the outside storage, keeping or abandonment of junk, including scrap metals or other scrap, used or salvaged building materials, or for the dismantling, demolition or abandonment of automobiles or other non-agriculturally related vehicles or machinery or parts thereof.

KENNEL - Any place at which there are kept any number of dogs or cats for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid.

KIOSK - See "COMMUNITY POLE"

LANDFILL (SANITARY) - A disposal site employing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume and applying cover material over all exposed wastes at the end of each operating day.

LAUNDRY - A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use.

LIGHT INDUSTRIAL/MANUFACTURING - A use involving the manufacture of a product, but not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment in contravention of the performance standards as stated within Section 3.2 of this law.

LIGHT INDUSTRIAL PARK - A tract of land with individual sites and structures or multi-tenant sites and structures, planned as a whole with shared access, utilities, signage and other facilities and intended for occupancy by five (5) or more light manufacturing, wholesale business or service business establishments.

LIGHT MANUFACTURING - A use involving the manufacture of a product, but not requiring heavy, noisy or otherwise objectionable machinery or transporting equipment.

LOGGING / TIMBER HARVESTING - The removal of timber from areas greater than five (5) acres on any one (1) ownership of land in any one (1) calendar year.

LOT - A designated parcel, tract, or plot of land established by subdivision or as otherwise permitted by the Planning Board, to be used, developed, built upon as a unit or to remain vacant.

LOT, CORNER - A lot situated at the junction of and adjacent to two (2) or more intersecting streets when the interior angle of intersection does not exceed one hundred thirty-five degrees (135°).

LOT COVERAGE - See "COVERAGE"

LOT FRONTAGE - A lot line which is coincident with a street line.

LOT LINES - The lines bounding a lot as defined herein.

LOT, NONCONFORMING - Any lot validly created which does not conform with the minimum width, depth, or area dimensions specified for the district in which said lot is located.

LOT, THROUGH - A lot which faces on two (2) streets at opposite ends of the lot and which is not a corner lot.

MANUFACTURED HOME (Mobile Home) - means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to the Federal Manufactured Home Construction and Safety Standards, and except that such term shall not include any self-propelled recreational vehicle. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projection when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows.

MANUFACTURED HOME PARK (Mobile Home Park) - A parcel of land under single ownership on which two (2) or more manufactured homes are located.

MAP, FILED - Any map or plat filed in the County Clerk's Office of Columbia County.

MAP, OFFICIAL - A map adopted by the Town Board, showing highways and other features, whether natural or manmade, adopted and established by law.

MASTER PLAN - A comprehensive, long-range plan officially recognized as a guide for the physical growth and development of a community.

MEETING HALL – An enclosed building used for public assembly.

MINES, MINING - Means the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

MODULAR UNIT - A factory-fabricated New York State Code approved transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure and placed on a permanent foundation. The structure is to be used for residential, commercial or industrial purposes.

MOTEL - A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and used primarily by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, roadside hotel.

MOTOR FREIGHT TERMINAL - An area and/or building where trucks are parked and/or where cargo may be loaded and unloaded on a regular basis.

MOTOR VEHICLE REPAIR - An area of land, including any structure or part thereof, that is used for the repair of motor vehicles and which may or may not include facilities for the sale of motor fuels or motor vehicle accessories.

NATURAL GAS - shall mean any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarified state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

NATURAL GAS AND/OR PETROLEUM EXPLORATION - shall mean geologic or geophysical activities, practices known as hydrofracking including but not limited to the digging or drilling of a well for the purposes of exploring for, developing, producing, distributing or selling natural gas or activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR PETROLEUM EXPLORATION AND PRODUCTION MATERIALS - shall mean any solid, semi-solid, liquid, semi-liquid or gaseous material used in the exploration or extraction of natural gas.

NATURAL GAS EXPLORATION AND/OR PETROLEUM PRODUCTION WASTES - shall mean any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semi-solid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

NATURAL GAS AND/OR PETROLEUM EXTRACTION - shall mean the digging or (2) drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including but not limited to the practices involved with hydrofracking.

NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES - shall mean the construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

NEIGHBORHOOD PARKING AREA - An area on one or more building lots devoted to car parking for occupants of adjoining or nearby dwellings and their guests.

NONCONFORMING, BULK - That part of a building, other structure or tract of land which does not conform to one (1) or more of the applicable bulk regulations of this chapter either following its effective date or as a result of subsequent amendments thereto.

NONCONFORMING STRUCTURE - A structure lawfully existing at the effective date of this law or any amendment thereto affecting such structure, which does not conform to the Table of Bulk Regulations of this law for the District in which it is situated, irrespective of the use to which such structure is put.

NONCONFORMING USE - A building, structure or use of land existing at the time of the enactment of this ordinance and which does not conform to the regulations of the district or zone in which it is situated.

NON-NUISANCE INDUSTRY - Any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration or excessive light beyond the limits of its lot, or by reasons of generating excessive traffic with attendant hazards. It does not induce any outdoor processing of materials, or open accessory storage yard unless completely enclosed by a solid wall or fence not less than six (6) feet in height. Agriculture shall be considered a non-nuisance industry.

NUISANCE - An interference with the enjoyment and use of property.

NURSERY SCHOOL - Any place, however designated, operated for the purpose of providing daytime care or instruction for two (2) or more children from two (2) to five (5) years of age inclusive, and operated on a regular basis, including kindergartens, day nurseries and day-care centers.

NURSING OR CONVALESCENT HOME - A building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

ONE-HUNDRED-YEAR FLOOD - The highest level of flood which, on the average, is likely to occur once every one hundred (100) years (i.e., which has a one-percent chance of occurring each year).

OUTDOOR ADVERTISING - A sign fabricated, constructed, attached, erected, fastened, painted or manufactured in any manner whatsoever and displayed out of doors for the sole purpose of advertising or identifying.

OUTDOOR WOOD BOILER/FURNACE - (also known as outdoor wood-fired hydronic heater, water stove or outdoor wood furnace) a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages and outbuildings); and (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water / antifreeze mixture.

PARKING AREA - A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

PARKING SPACE - The area required for parking one (1) automobile.

PERMITTED USE - A specific main use of a building, structure, lot or land, or part thereof, which this law provides for in a particular District as a matter of right; any use which is not listed as a PERMITTED USE, ACCESSORY USE, or SPECIAL USE shall be considered as a PROHIBITED USE.

PLANNING BOARD - An appointed body whose principal duties are to review and approve site plans and subdivisions.

POSTER - A temporary, nonpermanent device which announces, directs attention to or advertises any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, campaign, show, drive, movement or event.

PREMISES - A lot, together with all the buildings and uses thereon.

PRE-SCHOOL (also NURSERY SCHOOL) - A building or structure, together with its lot and its accessory uses, building or structure, used as an instructional facility for two or more enrolled children from two to five years of age inclusive, other than the children of the resident family, and operated on a regular basis with a New York State license.

PROHIBITED USE - A use of a building, structure, lot or land, or part thereof, which is not listed as a PERMITTED, SPECIAL USE or ACCESSORY USE.

PUBLIC UTILITY - Included are such utilities as electric unit substations, municipal pump stations and water towers, municipal garages, firehouses and telephone substations.

RECREATIONAL VEHICLE - Includes campers, travel trailers and motor homes which are not used as permanent residences.

RECREATIONAL VEHICLE PARK - A property providing four (4) or more sites for the parking of occupied recreational vehicles, such as campers, travel trailers and motor homes which serve as temporary residences usually for vacation purposes.

RESIDENCES, RESIDENTIAL - A building or any part of a building which contains living and sleeping accommodations for permanent occupancy. "Residences," therefore, include all one-family, two-family, multi-family, boarding, fraternity and sorority houses. However, "residences" shall not include the following:

- (1) Transient accommodations, such as hotels, motels and hospitals.
- (2) That part of a building containing both residences and other uses which is used for any nonresidential uses, except accessory uses for residences.

RESIDENTIAL DISTRICTS - Defined in this law as Central Hamlet (CH-2), High Density Residential (HDR-2), Low Density Residential (LDR-2), and Conservation (CON-7).

RESIDENTIAL UNIT - A separate and complete dwelling unit that is contained within the structure of a single residential structure.

RESORT HOTEL, RESORT RANCH, RESORT LODGE - An area of land on which is located a hotel or group of buildings containing living and sleeping accommodations hired out for compensation, which has a public lobby serving guests and contains one (1) or more dining rooms and recreation facilities.

RESTAURANT - An establishment where food and drink is prepared, served and consumed primarily within the principal building.

RETAIL ESTABLISHMENTS - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RIDING SCHOOL - An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for riding.

RIGHT-OF-WAY - A legal right of use and passage over, under or through another person's property.

ROADSIDE STAND - A building, portion of a building shelter or product display area for the retail sale of agricultural products. Normally this is not a permanent structure.

SALE, GARAGE (also "barn, lawn or tag sale") - The temporary use of otherwise noncommercial premises for the purpose of offering for sale items originally accumulated for personal use rather than for the purpose of sale.

SATELLITE DISH - An antenna, normally mounted on the ground, that attracts television signals which are beamed from satellites.

SETBACK PRINCIPLE - A method of satisfying the minimum distance requirements of a building from a prescribed point or line by computing the distance from the base of each successive level or tier to the prescribed point or line when the prescribed minimum distance is established as a function of the height of the building. The distance at each point of measurement is the length of the shortest horizontal line from the point to a vertical plane rising from the point or line concerned. In this way, the lower floors of a building may be permitted to approach the prescribed point of line more closely than the upper floors.

SIGN - Any structure or part thereof attached or painted or represented thereon which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard", but does not include the flag, pennant or insignia of any nation, state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

SIGN, ADVERTISING - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises.

SIGN AREA - The area within the shortest lines that can be drawn around the outside perimeter of a sign, including all decorations and lights, but excluding the supports if they are not used for advertising purposes. All faces of the sign shall be counted in computing the area. Any neon tube, string of lights or similar device shall be deemed to have minimum dimensions of one (1) foot.

SIGN, BUSINESS - A sign which directs attention to a business profession conducted on the premises. A "for sale" sign or a "to let" sign relating to the property on which it is displayed shall be deemed a "business sign".

SIGN, DIRECTLY ILLUMINATED - A sign which incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent material or electricity or radio activated or gaseous material or substance.

SIGN, FLASHING - An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

SIGN, GROUND - A sign which is supported by one (1) or more uprights or braces set in the ground or fastened to anchor bolts set in concrete. The sign area of a "ground sign" is defined as the area within the shortest line that can be drawn around the outside perimeter of the face of the sign, including all decoration but excluding supports.

SIGN, ILLUMINATED - A sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

SIGN, PROJECTING - A sign secured to the building by lag bolts or through bolts and supported by a metal or wood member set at right angles to the wall. The sign area of a "projecting sign" is defined as the area within the shortest line that can be drawn around the outside perimeter of the face of the sign, including all decoration but excluding supports.

SIGN, REPRESENTATION - Any three-dimensional sign which is built so as to physically represent the object advertised.

SIGN, ROOF - A sign erected above the roofline of a building and fastened to the roof. The sign area of a "roof sign" is defined as the area within the shortest line that can be drawn around the outside perimeter of the face of the sign, including all decoration but excluding supports.

SIGN, WALL - A sign affixed directly to the wall of any building, parallel to that wall and not projecting more than twelve (12) inches. The sign area of a "wall sign" is defined as the area which results by multiplying the outside dimensions of the sign or the area within the shortest line.

SITE PLAN - The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including: topography, vegetation, drainage, floodplains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs and lighting and screening devices.

SLAUGHTER HOUSE - A building in which animals are slaughtered for food consumption.

SPECIAL EVENT - Any low-impact event of the Town, or owner-occupied parcel, or as a conforming use related to an established business that may gather up to 300 people for a single event with no special town permit. Special events include any town-sponsored event and any event held at the town hall, town recreation park, area church, ambulance squad, fire company, area nonprofit, area business if conducted as a conforming use or purpose, or any private event or party that is held by an owner-occupier that does not collect a fee or other remuneration in association with the event.

SPECIAL PERMIT - Required for a use which, because of its unique characteristics, needs individual consideration in each case by the Planning Board before it may be permitted in the district, enumerated in this chapter.

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

STORY, HALF - That portion of a building situated above a full story and having at least two (2) opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to one-half (1/2) the floor-to-ceiling height of the story below.

STREET - An existing public way or private way which affords principal means of access to abutting properties and is suitably improved; or a proposed way shown on a plat approved by the Town Planning Board and/or recorded in the office of the County Clerk.

STREET WIDTH - The width of the right-of-way or the distance between property lines on opposite sides of a street.

STRUCTURE - A static construction of building materials, including buildings, stadiums, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings (whether mobile or stationary at the time) and the like.

SUBDIVISION - The division of a lot, tract or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development or lease. To be classified as follows:

MINOR SUBDIVISION - The division of a lot, tract or parcel of land into four (4) or less lots.

MAJOR SUBDIVISION - The division of a lot, tract or parcel of land into five (5) or more lots. Where lands have been previously subdivided pursuant to the zoning law (local Law 3 of 1991, December 19, 1991), as a minor subdivision the previous lots created by the former subdivision, regardless of ownership shall be considered in the lot count in evaluating if the proposed subdivision is minor or major.

CLUSTER SUBDIVISION - A residential subdivision of a lot, tract or parcel of land where housing units are grouped on lots of reduced dimensions. The remaining land in the tract which is not built upon is reserved as permanently protected open space.

CONSERVATION SUBDIVISION – A proposed subdivision of a lot, tract or parcel of land into ten (10) or more lots where development is designed to permanently protect a large portion of a site as open space while clustering lots on the remainder. Where lands have been previously subdivided pursuant to the zoning law (local Law 3 of 1991, December 19, 1991), as a minor or major subdivision the previous lots created by the former subdivision, regardless of ownership shall be considered in the lot count in evaluating if the proposed subdivision is a conservation subdivision.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on a National Register of Historic Places or a State Inventory of Historic Places.

SWIMMING POOL, PRIVATE - A pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.

SWIMMING POOL, PUBLIC - A structure which contains water, having either a depth at any point greater than three (3) feet or a capacity of greater than eight thousand (8,000) gallons, constructed, installed or maintained in or above ground and used for public recreational swimming purposes.

TELECOMMUNICATION TOWER OR TRANSMITTING / RECEIVING FACILITY – A structure or location designed or intended to be used, or used to support antennae. This includes, without limitation, free-standing towers, guyed towers, monopoles, structures such as a church steeple, silo, water tower, sign or other structures intended to mitigate the visual impact of an antenna or the functional equivalent or such, while serving to support antennae. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications. A telecommunications tower or transmitting/receiving facilities shall be public utility structures for the purposes of this Zoning Law.

THEATER - A place or building where play, motion pictures or dramatic acts are presented or staged.

TIMBER HARVESTING, COMMERCIAL - The removal of timber from areas greater than five (5) acres on any one (1) ownership of land in any one (1) calendar year.

TOWN BOARD - An elected body responsible for municipal legislation.

TOWNHOUSE - A building consisting of a series of one-family attached dwelling units having common party walls between each dwelling unit.

TRANSPORTATION TERMINAL - A building used for the accommodation of bus or taxi passengers.

USE - The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

VARIANCE - A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

VETERINARY CLINIC - An office designed for the care and treatment of animals which also provides for the boarding of animals.

VETERINARY OFFICE - An office designed for the care and treatment of animals but does not provide overnight accommodations.

YARD, FRONT - A yard extending across the full width of the lot lying between the front lot line of the lot and the nearest point of the building.

YARD, REAR - A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest point of the building.

YARD, REQUIRED - That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, SIDE - A yard situated between the building and the side line of a lot and extending from the front yard rear line (or from the front lot line if there is not a required front yard) to the rear yard front line (or rear lot line).

ZONING ADMINISTRATOR - The Zoning Administrator shall be the administrative officer charged with the duty of enforcing the building code and the provisions of this chapter. This person may be the same individual holding the position of Building Inspector.

ZONING BOARD OF APPEALS - An appointed body whose principal duties are to grant variances from the strict application of the zoning ordinance.

**ARTICLE II
ESTABLISHMENT OF DISTRICTS**

2.1 ZONING MAP

1. Said districts are bounded as shown on a map entitled "Zoning Map - Town of Livingston", last revised August 11, 2014, with explanatory matter thereon, which is hereby adopted and made a part of this Local Law. The official zoning map is on file with the Town Clerk, from whom copies may be obtained.

2.2 DESIGNATION OF DISTRICTS

2. In order to fulfill the purpose of this chapter, the Town of Livingston establishes and is hereby divided into the following zoning districts:
 - a. Central Hamlet District (CH-2). This district is designed to establish the hamlet of Livingston as the primary center for the Town. This district will allow for limited expansion of the existing hamlet in order to preserve its function as the social and political center of the Town. This district is meant for residential use, as well as small-scale commercial and public uses, which are functionally and aesthetically compatible with the existing hamlet. Unless excepted elsewhere in this chapter, the density shall not exceed one principal use in two (2) acres.
 - b. High Density Residential District (HDR-2). This district provides for orderly residential development, while providing for a concentration of population, in order to attract a variety of housing types so as to allow for a range of costs. Unless excepted elsewhere in this chapter, the density shall not exceed one (1) principal use in two (2) acres.
 - c. Low Density Residential District (LDR-2). This district provides for orderly residential development, while retaining the rural character of the district. Unless excepted elsewhere in this chapter, the density shall not exceed one principal use in two (2) acres.
 - d. Conservation District (CON-7). This district provides for orderly residential development in an area of scenic and environmental importance most suited for open space uses. Unless excepted elsewhere in this chapter, the density shall not exceed one principal use in seven (7) acres.
 - e. Commercial Districts (C-1). These districts provide for commercial establishments which function relatively independent of intensive pedestrian traffic and whose uses typically require direct automobile access. Minimum lot area per permitted use is one (1) acre. Specifically, the intent of this district is:
 - i. To provide for well-planned and concentrated development of commercial uses.
 - ii. To provide appropriate space with sufficient depth from the roadway to satisfy the needs of modern commercial development where access is usually dependent on the automobile.
 - iii. To encourage commercial uses in a manner which will not impair the flow of traffic and which will minimize hazards along the roadway.

- iv. Within these districts, businesses should be placed in small clusters and the districts shall be administered in such a way as to discourage, in appearance or fact, the creation of strip commercial activities.
- f. Flood Area Over Zone (FAO). This area describes the land within the Town adjoining watercourses that are subject to periodic flooding. The purpose of the FAO is to protect the health, safety and welfare of the inhabitants of the Town of Livingston from the hazards due to periodic flooding, including the protection of persons and property, the preservation of water quality and minimizing of expenditures for relief, insurance and flood control projects, and as defined by FEMA. The Flood Area Over Zone is designed to be "superimposed" on the other zoning districts. The dimensional requirements and land use requirements will remain the same as those of each district overlapped by the FAO.
- g. Agricultural Development/Light Industrial District (AD/LI-1). This district is designed to provide an area for the research, development, testing, processing and manufacture of products or materials used from and/or in connection with agriculture, as well as specific non-offensive light industrial and manufacturing uses and retail operations. Unless excepted elsewhere in this chapter, the density shall not exceed one principal use in one (1) acre.
- h. Light Commercial (LC-1). This district is designed to provide an area for orderly, light commercial development, while retaining the rural character of the district. Unless excepted elsewhere in this chapter, the density shall not exceed one principal use in one (1) acre.

2.3 INTERPRETATION OF DISTRICT BOUNDARIES

- 3. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:
 - a. Along center lines and rights-of-way. Where district boundaries are indicated as approximately following the right-of-way lines of streets, highways, public utility easements or watercourses, said boundaries shall be construed to be coincident with such lines.
 - b. Along lot lines. Where district boundaries are so indicated that they approximately follow the town boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
 - c. Parallel to center lines and rights-of-way. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, property lines, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
 - d. Along watercourses. Where the Boundary of a district follows an internal stream, lake or other body of water, said boundary line shall be deemed to follow the center line thereof; where the boundary of the district follows an external stream, lake or other body of water located along the town boundary, said district line shall be deemed to follow the line of jurisdiction of the town.

- e. Along district boundaries. Where a district boundary line divides a lot in a single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion.
- f. Non-dimensioned boundaries. In all other cases where not dimensioned, the location of boundaries shown on the Zoning Map shall be determined by the use of the scale appearing thereon.
- g. Interpretations. The Zoning Board of Appeals shall be the final decision making body.

**ARTICLE III
DISTRICT REGULATIONS**

3.1 GENERAL REGULATIONS

1. The provisions of this law shall be subject to such exceptions, additions or modifications as provided by the following general supplementary regulations.
 - a. Lot for Every Principal Building. Every building hereafter erected shall be located on a lot as herein defined, and there shall be not more than one (1) principal building on one (1) lot, except for agricultural operations, multi-family dwellings, community facilities, and public utilities, and except as specifically permitted elsewhere in this law.
 - b. Subdivision of a Lot. Where a lot is hereafter formed from the part of a lot already occupied by a building, such separation shall be effected in such manner that each lot thus created conforms to all of the requirements of this law and the Town Subdivision Regulations, except as specifically permitted elsewhere in this law.
 - c. Irregularly Shaped Lots. Where a question exists as to the proper application of any of the requirements of this law to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the Zoning Board of Appeals shall determine how the requirements of this law shall be applied.
 - d. Lots Under Water or Subject to Flooding. At least one (1) acre or ten percent (10%) of the lot, whichever is less, shall be free of land which is under water, within a 100-year floodplain, or which has a water table less than one (1) foot from the surface. All minimum front, side and rear yard requirements must be satisfied by measurement on dry land.
 - e. Road Frontage Requirements. The minimum road frontage in all districts shall be fifty (50) feet and the minimum lot width, as measured at the building site, shall be one-hundred fifty (150) feet.
 - f. Projections into Required Yard. The following projections into required yards may be permitted:
 - i. Open fire escapes: four (4) feet into required side or rear yard.
 - ii. Awnings or movable canopies: six (6) feet into any required yard.
 - iii. Cornices, eaves and other similar architectural features: three (3) feet into any required yard.
 - iv. Any open or enclosed porch or carport shall be considered a part of the building in the determination of the size of the required yard or lot coverage.
 - v. Accessory uses not enclosed in a building shall not be located in a required front or side yard but may be located in a required rear yard, provided that no accessory building shall be located closer than ten (10) feet to the rear lot line.

- g. Height Exceptions - Maximum height limitations shall not apply to barns, silos, grain elevators, flagpoles, domes, chimneys, ventilators, skylights, water tanks, church spires and belfries, solar heating equipment, satellite dish or other antennas (excluding communication towers), or to similar features and such necessary mechanical appurtenances not used for human occupancy provided that:
 - i. They shall not extend more than twenty (20) feet above the roof or the maximum height for the district, whichever is greater.
 - ii. If located on a roof, the total area covered by such features shall not exceed ten percent (10%) of the area of the roof.
 - iii. Architectural features used for ornamentation and without windows shall not extend more than ten (10) feet above the roof.
- h. Corner Lots. On a corner lot, there shall be provided a side yard on a side street equal in depth to the required front yard. A rear yard shall be provided on each corner lot, and the house orientation shall determine which yard is the rear yard.
- i. Recreational Vehicles or Tents. It shall be unlawful for any person or persons to use a tent or recreational vehicles for permanent living quarters within the limits of the Town of Livingston.
- j. Required Street Access. No permit for the erection of any building shall be issued unless the parcel on which such building is proposed to be erected has access to a street or highway.
- k. Visibility at Intersections. For the purpose of minimizing traffic hazards at intersections where corner lots abut public streets, no fence, wall, hedge or other structure shall be placed or maintained so as to interfere with sight distances as required in the Town subdivision regulations. This section shall not apply to existing street trees, provided no branches are closer than six (6) feet to the ground.

3.2 SCHEDULE OF PERMITTED USES

1. No building or permit shall be erected or altered in any district, except for uses designated for the district in the following schedule. No use shall be allowed except as provided by the following schedule and in compliance with all applicable provisions of this chapter. Also, site plan approval is required from the Planning Board pursuant to Section 6.7 for all construction or use in any district, except for a single-family residence and its accessory structures on any approved building lot. Accessory Structure Two needs Approval by Special Use Permit. No certificate of occupancy shall be issued until all other applicable provisions of this chapter have been met. Any use not specifically listed shall be deemed to be prohibited.

Symbols: P : Designates a use permitted by right.

X : Designates a temporary and/or conditionally permitted use requiring application for a special use permit issued by the Planning Board and allowed only if confirmed suitable in the specific case.

-- : Designates a use not permitted by right nor by special use permit.

NOTE: Site plan approval is required from the Planning Board pursuant to Section 6.7 for all construction or use in any district, except for a single-family residence and its accessory structures on any approved building lot.

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Accessory Apartments	P	P	P	P	P	--	P	P
Accessory Use/Building	P	P	P	P	P	X	P	P
Accessory Structure #2	X	X	X	X	X	X	X	X
Agriculture, excluding animals	P	P	P	P	P	P	P	P
Agriculture, including animals	X	X	P	P	X	P	P	X
Agricultural research	--	--	X	--	X	--	X	--
Amusement Center	--	--	--	--	X	--	--	X
Amusement – Specialty	--	--	--	--	X	--	--	X
Antique shop	P	X	X	X	P	X	X	X
Auction hall/Flea market	P	--	X	--	P	--	P	X
Automotive body repair	--	--	--	--	X	--	--	X
Airport	--	--	X	--	--	--	--	--

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Bank	X	--	--	--	P	--	--	X
Bar, dance hall, nightclub	--	--	--	--	X	--	--	--
Bed and Breakfast	X	X	X	X	--	--	--	--
Bowling alley	--	--	--	--	X	--	--	--
Building supply	--	--	--	--	P	--	X	X
Camp	--	X	X	X	--	--	--	--
Campground	--	--	X	X	--	--	--	--
Car wash	--	--	--	--	X	--	--	X
Cemetery	X	X	X	X	--	--	--	--
Church/synagogue	P	P	P	P	--	--	--	X
Club	--	--	X	X	X	--	--	--
Cluster subdivision	P	P	P	P	--	--	--	--
Commercial <input type="checkbox"/> Event Venue	X	X	X	X	P	X	X	X
Commercial greenhouse and plant nursery, including office and sales yard	--	--	X	X	P	--	P	X
Commercial parking lot	--	--	--	--	X	--	X	X
Community pole	P	P	--	--	P	--	--	P
Condominiums	X	X	X	X	--	--	--	--
Country club or golf course	--	X	X	X	--	X	X	--
Cultural facilities (Library, Museum, Art Gallery)	X	X	X	X	X	--	--	X
Drive-in theater	--	--	--	--	X	X	--	--
Dwelling, multi-family	X	X	X	P	X	--	X	X
Dwelling, two family	P	P	P	P	P	--	X	P
Dwelling, single family	P	P	P	P	P	X	P	P

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Equipment rental or Sales yard	--	--	--	--	P	--	X	X
Farm greenhouse	--	P	P	P	P	--	P	X
Farm stand	P	P	P	P	P	X	P	X
Fence	P	P	P	P	P	P	P	P
Food Processing manufacturing	--	--	--	--	X	--	P	--
Funeral home	X	X	X	--	X	--	--	X
Furniture sales	--	--	--	--	P	--	--	X
Garage, Private	P	P	P	P	P	X	P	P
Gasoline filling station	X	--	--	--	X	--	X	X
Group home	X	X	X	X	X	--	--	X
Home occupations:								
HO1	P	P	P	P	P	P	P	P
HO2	P	P	P	P	P	P	P	P
Horse Stable	X	X	P	P	X	P	X	X
Hospital, nursing home or sanatorium	--	--	X	--	X	--	--	--
Hotel or motel including restaurant	--	--	X	--	X	--	--	--
Inn	X	X	X	X	--	--	--	X
Junkyard	--	--	--	--	--	--	--	--
Kennel	--	--	X	X	X	--	--	--
Laundry/dry cleaning	X	--	--	--	P	--	--	X
Light Industrial Park	--	--	--	--	X	--	P	--
Light Manufacturing	--	--	--	--	X	--	X	--
Manufacture, processing coal, tar, asphalt or petroleum products	--	--	--	--	--	--	--	--
Manufactured (Mobile Home) Single Section	--	--	P	--	--	--	--	--

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Manufactured (homes) 2 sections or more	P	P	P	P	P	X	P	P
Meeting hall	X	--	X	--	X	--	--	X
Mines, Mining	--	--	X	--	X	--	--	--
Motor freight terminal	--	--	--	--	X	--	X	--
Motor vehicle repair	--	--	--	--	X	--	X	X
Motor vehicle sales	--	--	--	--	X	--	X	X
Multiple business professional or professional service office	--	--	--	--	X	--	X	X
Nursery school	X	X	X	X	X	--	--	X
Outdoor Boilers								
Public recreation	X	X	X	X	X	X	--	X
Public utility	--	X	X	--	X	--	X	X
Radio, television and other electric transmission stations and towers	--	--	X	--	X	--	X	X
Recreational vehicle or manufactured home (mobile home) sales	--	--	--	--	X	--	X	--
Research laboratories	--	--	--	--	--	--	--	--
Restaurant	P	--	--	--	P	--	--	X
Retail business or service not otherwise specified and not otherwise prohibited in this chapter	X	--	--	--	P	--	X	X
Riding school	--	--	X	X	--	X	--	--
Satellite Dishes	X	X	P	P	P	P	P	X
School (private)	X	X	X	X	X	--	--	--
School (public)	X	X	P	--	--	--	--	--
Skating rink	--	--	--	--	X	--	--	--
Slaughterhouse	--	--	--	--	--	--	--	--

DISTRICT	CH-2	HDR-2	LDR-2	CON-7	C-1	FAO	AD/LI-1*	LC-1**
Special Event	P	P	P	P	P	P	P	P
Storage yard / Contractor's yard	--	--	--	--	X	--	X	X
Swimming pool, private	P	P	P	P	P	P	P	P
Swimming pool, public	X	X	--	--	P	P	--	X
Telecommunications Towers, Transmitting/Receiving Facility	--	--	X	--	X	--	X	X
Theater	--	--	--	--	X	--	--	--
Townhouses	X	X	X	X	--	--	X	X
Tourist home	X	X	X	--	--	--	--	--
Transportation terminal	--	--	--	X	--	--	--	--
Veterinary clinic	--	--	X	X	--	--	--	--
Veterinary office	X	X	X	X	X	--	--	X
Warehouse, excluding chemicals	--	--	--	--	X	--	X	--
Warehouse, including chemicals	--	--	--	--	X	--	X	--
Wholesale business or service not otherwise specifically mentioned herein and not otherwise prohibited in this chapter	--	--	--	--	X	--	X	--

3.3 SCHEDULE OF BULK REGULATIONS

2. No building shall be erected, moved, altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in accordance with the Schedule of Area and Bulk Regulations and all of the provisions of this law for the district in which such building or land is located.

District	Maximum Building Height (stories) (feet)		Minimum Lot Area (acres)	Maximum Lot Coverage (%)	Minimum Lot Width (sq.ft.)	Minimum Living Area Per Family	Minimum Building Yard Setback (ft.)		
							Front	Side	Rear
CH-2	2 1/2	35	2	25	150	700	40	20	20
HDR-2	2 1/2	35	2	25	150	700	40	20	20
LDR-2	2 1/2	35	2	20	150	700	40	40	40
CON-7	2 1/2	35	7	10	150	700	50	50	100
C-1	2	30	1	65	150	700	40	20	20
AD/LI-1	2 1/2	35	1	65	150	700	30	20	20
FAO	---	---	(Please refer to Section 4.15)						
LC-1	2 1/2	35	1	65	150	700	40	20	20

1. The minimum living area for two-family and multi-family residences shall be 400 square feet per unit
2. Setbacks are to be measured from property lines.
3. Within the Conservation District (CON-7) there shall exist an additional setback of 100 feet to be measured from the Hudson River shoreline.

ARTICLE IV
SUPPLEMENTARY REGULATIONS

4.1 ACCESSORY APARTMENTS

1. Intent. Accessory apartments are allowed by Site Plan Review in the Town of Livingston in order to provide an affordable housing alternative in a manner which does not infringe upon the character of the existing neighborhoods.
 - a. General Provisions
 - i. Only one apartment is allowed per lot, and it shall be clearly subordinate to the principal use on the lot.
 - ii. The number of bedrooms in the apartment shall not be more than two.
 - iii. The floor area of the apartment shall be greater than four hundred (400) square feet and less than eight hundred (800) square feet.
 - iv. The apartment must have safe and proper means of entrance, clearly marked for the purpose of emergency vehicles.
 - v. Off-street parking shall be in accordance with Section 4.27 and shall be located on the same parcel on which the accessory apartment is located.
 - vi. No Site Plan for an accessory apartment shall be approved unless the applicant can demonstrate that the water supply and sewage disposal systems serving the building or buildings in question meet current County Health Department requirements and shall continue to meet such requirements. The Planning Board may require that the applicant have sufficient area on the lot to allow for the expansion of the sewage disposal system.
 - vii. It shall be the responsibility of the owner of the lot to provide for adequate solid waste disposal.
 - viii. Stairways leading to any floor or story above the first floor shall be located within the walls of the building wherever practicable. Stairways and fire escapes shall be located on the rear wall in preference to either side wall. In no instance shall an exterior stairway or fire escape be located on any wall fronting a street.
 - ix. Any legally established accessory apartment that is in existence at the time of the adoption of this amendment and which fails to conform to one (1) or more of the provisions of this law shall be subject to the provisions of Section 5.3, Nonconforming Use of Buildings and Section 5.5, Nonconforming Site Development.
 - x. No accessory apartment shall be created by the construction of a new, detached accessory structure.

- xii. Continued compliance with all of these regulations is required. Failure to do so will result in a revocation of the special permit.
 - xii. No accessory apartment shall be created on a lot where two or more dwellings exist in violation of the permitted density in the district in which the lot is located.
- b. Accessory Apartments Requiring Additions to One-Family Dwellings
- i. No addition to create an accessory apartment shall be permitted unless it conforms to all bulk regulations for the district in which it is located.
 - ii. Design and construction of the addition must be compatible with the parent structure and with the character of the neighborhood.
- c. Accessory Apartments In Existing Gatehouses, Garages, Barns, or Similar Detached Accessory Structures Construction associated with adaptation of buildings should be performed in a manner that retains the character of the structure. The design and construction of the adaptation of the building must be compatible with the parent structure and with the character of the neighborhood.
- d. Accessory Apartments in Non-Residential Buildings
- i. The apartment shall not exceed fifty (50) percent of the total usable floor area of the commercial building.
 - ii. The apartment is limited to the second floor and/or to the rear of the first floor of the commercial building.
 - iii. In no case will accessory apartments be allowed in the same building as any use which involves the use of noxious or dangerous chemicals, gases or other hazardous substances and materials. The reviewing board has the right to deny a special permit application if it is determined that the primary business use may create a hazard for accessory residential uses.
 - iv. Off-street parking shall be in accordance with Section 4.27 and shall be located upon the same parcel on which the accessory apartment is located. The applicant must own or provide these parking spaces.

4.2 ACCESSORY STRUCTURES

1. Accessory structures shall not exceed thirty-five (35) feet in height, except that accessory structures which are not buildings shall not exceed twenty (20) feet in height, except as permitted elsewhere in this law.
2. If any accessory building or structure is attached to a main building, including attachment by means of a breezeway or a roofed passageway, it shall comply, in all respects, to the requirements of this law applicable to the main building. No unattached accessory building or structure hereinafter permitted shall be constructed nearer to the front lot line than is permitted for the main building nor nearer to any side or rear lot line than half the distance required in the Schedule of Bulk Regulations, except as specifically provided elsewhere in this law.

4.3 CAMPS

1. The minimum lot size shall be ten (10) acres.
2. No structure intended for dwelling purposes in any camp shall be closer than one hundred (100) feet to any property line or public highway. Said structure shall be screened from view from adjoining properties or public highways by fences, walls, or trees and shrubs.
3. Each camp shall meet the minimum requirements of the New York State Sanitary Code and other applicable regulations.

4.4 CAR WASHES

1. Minimum lot size for car wash facilities shall be two (2) acres, and such lot shall have street frontage of at least one hundred and fifty (150) feet.
2. All vehicular access shall be to a state or county road, if such access is deemed appropriate by the reviewing board.
3. All machine washing and drying operations shall be conducted within an enclosed building.
4. The building exit for automobiles that have completed the washing and drying process shall be set back a minimum of one hundred (100) feet from the nearest point of any street line.
5. No washing, vacuuming, steam-cleaning, waxing, polishing, drying operation, nor building within which such operations are conducted shall be permitted within one hundred (100) feet of a residential building located in a residential district.
6. All lot lines abutting residentially-zoned property shall be screened by means of a solid masonry wall, or evergreen hedge of a design acceptable to the reviewing board. Such screen shall not be less than six (6) feet in height and shall be maintained in good condition throughout the life of the use.
7. All entrance and exit lanes and parking areas shall be surfaces with an asphaltic or cement pavement so as to provide a durable and dustless surface and shall be so graded and drained as to dispose of all drainage water in a manner that does not adversely affect adjacent uses and abutting roadways.
8. Any lighting used shall be so arranged as to reflect the light away from adjoining premises in a residential district and abutting roadways.

4.5 CLUBS

1. The intent of these regulations is to ensure that country clubs, fraternal clubs, and recreational clubs are: (a) compatible with the neighborhood and immediate area where located and (b) not detrimental to the property values in the neighborhood where located.
 - a. A hedge, fence or wall adequate for year-round screening of the club shall be installed, at a location and of a design and material determined by the Planning Board.
 - b. Exterior lighting shall be designed to minimize nuisance to adjacent residential districts.
 - c. Any proposed use that involves the discharge of a firearm or long bow shall prohibit any discharge within five hundred feet from a dwelling house, its accessory structures, farm buildings or farm structures actually occupied or used, school buildings, school playgrounds, or occupied commercial uses.

4.6 CLUSTER SUBDIVISIONS

1. Authorization is hereby granted to the Planning Board, Town of Livingston, pursuant to Section 278 of the Town Law, to vary the zoning requirements as to lot size, lot width, frontage, depth, and yard requirements in connection with a proposed residential subdivision plat, subject to the purposes, standards and procedures contained herein.
2. Option to Request a Cluster. The Planning Board may request such variations where it finds any one of the following elements justifying preservation:
 - a. Slopes. Slopes over fifteen percent (15%).
 - b. Wetlands.
 - c. Flood-Prone Area.
 - d. Historic Structures or Areas.
 - e. Unique Natural or Geological Formations.
 - f. Vegetation.
 - g. Rare vegetation or habitats of endangered wildlife.
 - h. Recreation. The Hudson River, lakes, ponds, or other significant recreational areas or resources.
 - i. Trails, Bikeways and Pedestrian Routes. Potential and existing trails, bikeways and pedestrian routes.
 - j. Views. Significant scenic views, particularly ridge lines, water bodies and mountains.
 - k. Preservation of prime agricultural land.
3. When the Planning Board requests a cluster, the developer and his professionals shall meet with the Board to discuss the possibilities of cluster development, especially as they relate to the S.E.Q.R. review of the project.
4. Purposes. Such modifications shall result in design and development which:
 - a. Flexibility of Design and Development. Permits flexibility of design and development in such a way as to promote superior land planning design, greater economy, efficiency and convenience in the arrangement of land uses and their supporting infrastructure, facilitate adequate and economic provision of streets and utilities, preserve open spaces and the natural and scenic qualities of open lands, protect flood plains and other natural features, and otherwise encourage the most appropriate use of land.
 - b. Master Plan. Promotes a development pattern in harmony with the objectives of the Town's Master Plan.
5. Eligibility. This authorization shall be applicable to all residentially zoned lands within the Town of Livingston, and shall be utilized only when the Planning Board determines that its utilization will benefit the Town.

6. Permitted Use. The permitted uses within a cluster subdivision shall be the same as those otherwise permitted in the zoning district in which it is located. In the single family residential zones, the dwelling units permitted may be, at the discretion of the Planning Board, in detached, semi-detached or attached (townhouse) structures. However, in no case shall any attached unit structure exceed four (4) units.
7. Development Standards and Controls. Except as specified herein, all development standards and controls normally applicable to other residential subdivisions and uses shall also be applicable to cluster subdivisions.
8. Density
 - a. Conventional Plan. The permitted number of dwelling units shall in no case exceed the number of units that, in the Planning Board's judgment, would be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of this law applicable to the district or districts in which such land is situated and conforming to all other requirements. For this purpose, the applicant will submit a sketch plan for a conventional subdivision to establish this number of units, and the Planning Board may require any additional information it deems necessary to make this determination.
 - b. Environmentally Sensitive Land. In making its determination of the permitted number of dwelling units, the Planning Board will seek the preservation of steep slopes over fifteen percent (15%), wetlands, flood plains, water bodies, and other environmentally sensitive or unique open space or natural feature.
 - c. Minimum Lot Dimensions. The minimum lot dimension requirements shall be as follows:
 - d. DETACHED UNITS:

Underlying Zoning District (See Zoning Map)	Applicable Lot Dimension Requirement (See Schedule of Bulk Requirements)	Minimum Lot Size
CH-2		1/2 acre
HDR-2		1/2 acre
LDR-		1/2 acre
CON-7		1/2 acre

e. DETACHED UNITS: SEMI-DETACHED AND ATTACHED (TOWNHOUSE) UNITS:

- i. It shall be shown to the satisfaction of the reviewing board that the net density for individual clusters will not exceed four units to the acre.
- f. Frontage. The site must have a minimum street frontage of one hundred (100) feet and access to the parcel must not create any traffic hazards.
- g. Maximum Coverage. The maximum permitted gross building coverage on any cluster subdivision site shall be twenty-five percent (25%).
- h. Setbacks, Screening and Buffering. The minimum front, side and rear setback shall in no case be less than fifty (50) feet, measured from the boundary of the cluster subdivision. In reviewing the development plan, the Planning Board shall consider the setback and proposed screening of parking and active recreation areas and may require setbacks up to twice the normally applicable setback requirement for one family dwellings in the underlying zoning district in which the cluster subdivision is located. Buffer and screening areas shall be landscaped or left in its natural state in accordance with the provisions of Section 4.20.
- i. Open Space and Recreation Areas. At least fifty percent (50%) of the gross acreage of any cluster subdivision shall be composed of land that is used for recreational purposes and/or preserved as open space.
- j. Layout Design Considerations. In large scale subdivisions (such as those exceeding one hundred (100) dwelling units), the Planning Board shall consider the layout of small neighborhoods or clusters within the development, each having some open space immediately surrounding it, as a goal of proper site planning so that a large, massive concentration of units, with little or no differentiation, can be avoided, and so that the character of the cluster subdivisions will match the character of the neighborhood in which it is located. In each cluster subdivision, a pedestrian circulation system shall be designed and installed in addition to the vehicular circulation system, which is sufficient for the needs of cluster residents. Such a system may be composed of a combination of paved and unpaved walkways and bikeways of appropriate width, design, and location to serve their intended function.
- k. Utilities and Services.
 - i. Approvals. All buildings within cluster subdivisions shall be served by water supply and sewage treatment systems as approved by the appropriate governmental agency or agencies having jurisdiction thereof.
 - ii. Future Needs. Where centralized facilities are provided, they shall be planned in such a way as to anticipate future utility needs and wherever reasonably feasible shall be sited to reduce the capital costs associated with any future central utility construction.
 - iii. Cooling Systems. Cooling systems shall be designed so as to minimize adverse aesthetic impact.

- iv. Surface Water Runoff. Surface water detention facilities shall be developed so that the rate of storm water runoff from the site after construction is no greater than the rate of runoff prior to development.
 - v. Energy Efficiency. The plan for development of any site within cluster subdivisions shall be designed and arranged in such a way as to promote energy efficiency and assure solar access for all dwelling units.
1. Open Space. 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 as a condition of plat approval 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. The Town Board hereby requires that such conditions shall be approved by the Town Board before the plat may be approved for filing.

4.7 COMMERCIAL EVENT VENUE

1. The intent of this section is to promote health and safety and ensure compatibility with the neighborhood and general area in which the specially permitted events are held and to minimize impact on the surrounding properties and residents.
2. A Commercial Event Venue is a location where events are held (for a fee), including but not limited to weddings, parties, meetings, family reunions, and corporate events. The event locations can include, but not be limited to tents, gazebos, barns, open areas, and residential structures. (Exception: Events for which the owner or operator of the venue receives no fee or other remuneration in connection with the event and no fees are charged to attendees are exempt from the provisions of this law).
3. This use is allowed in all districts by *Special Permit*, as issued by the Planning Board pursuant to Section 6.6 of this code. Pre-existing commercial operations in the C-1 zoning district where Commercial Event Venues are accessory to the current use shall not be subject to this regulation.
4. Site Plan approval, as issued by the Planning Board is required pursuant to Section 6.7 of this code.
5. A Public Hearing is required prior to approval by the Planning Board. A public hearing notice shall be published at least ten (10) days in advance of the Public Hearing. Notices shall be mailed, certified receipt requested, to all real property owners within 2,500 feet of the property on which the events will be held no less than ten (10) days in advance of the Public Hearing.
6. General Event Venue Regulations / Requirements:
 - a) No vehicles associated with the event shall be permitted to be parked on public roadways. All vehicle parking shall be maintained "on site". "On Site" is defined as at least 100' within the property boundaries of the parcel on which the event is permitted.
 - b) One parking space for every four persons attending the event shall be provided.
 - c) There shall be no regulation of traffic other than by law enforcement on Town, County or State roads.
 - d) The general event area (the actual location(s) in which the gathering is to occur) shall be located 500' from adjacent owners' property lines. All activities associated with the use are to be included within the general event area, the only exception being the allowable parking as allowed by 6(a) above.
 - e) Sources of amplified sound including but not limited to recorded music, live musical performances, spoken word shall commence no earlier than 10:00 AM and shall be terminated by 10:30 PM. All sources of amplified sound shall be contained wholly within an enclosed structure. Tents, pavilions and other open / non-enclosed structures shall not be considered an acceptable location for the source of amplified sound as referenced in this code section.

- f) Fireworks, firecrackers and / or loud reports or displays are not permitted.
 - g) Light sources (constant or intermittent) shall not be permitted to exceed 0.5 foot candles at property lines.
 - h) The applicant shall provide a signed and stamped written evaluation by a NYS licensed professional to demonstrate compliance with all applicable NYS building and fire prevention codes, and all temporary and permanent structures to be used for any proposed event shall be inspected for compliance by the Town of Livingston Code Enforcement Officer, prior to approval by the Planning Board.
 - i) All venues will be subject to annual inspections by the Code Enforcement Officer and additional inspections at the discretion of the Code Enforcement Officer.
 - j) Any venues which provide overnight accommodations must comply with all applicable codes and laws, including the Town of Livingston Special Use Permit requirements for Hotels and Inns.
7. The number of events per year shall be determined by the Planning Board and shall be a condition of the approval.
- a) In making its determination of the number of permitted annual events, the Planning Board shall consider the following factors and guidelines:
 - (i) A venue that meets all criteria in subdivision 6(a.)–(j.) above shall be permitted to hold up to twelve (12) events annually.
 - (ii) In addition to 7(a)(i), if the applicant demonstrates that the minimum distance from the general event area to every point on the property lines of adjacent parcels is at least one thousand (1000) feet, the venue shall be permitted to hold up to ten (10) additional events annually
 - (iii) In addition to 7(a)(i) and (7)(a)(ii), if the applicant demonstrates that the minimum distance from the general event area to every point on the property lines of adjacent parcels is at least one thousand five hundred (1500) feet, the venue shall be permitted to hold up to five (5) additional events annually.
 - (iv) Where the setbacks specified in (7)(a)(ii) and (7)(a)(iii), are not fully satisfied, the Planning Board may authorize additional events in proportion to the applicant’s conformity with such provisions.
8. The following items shall be required for submission to the Planning Board:
- a) A statement containing the name and address of the owner of record of the property upon which the event is to occur, and a copy of the deed to said property.
 - b) A completed event application including a list of each event proposed.

- c) A detailed site plan prepared by a NYS licensed professional at a scale of 1"=50' minimum, showing:
 - (i) The entire parcel and parcel size.
 - (ii) All structures (temporary and permanent) including tents, barns, houses, staging areas and event lighting.
 - (iii) Proposed parking locations and quantities of all vehicles expected to be on site.
 - (iv) Site circulation for all proposed vehicular traffic (ensuring emergency access).
 - (v) The event location(s) and distance from all proposed event areas to property lines.
 - (vi) The names of all adjacent property owners and all structures (on adjacent parcels) within 50' of the event site property boundaries.
 - (vii) Toilet facilities.
- d) Approval from the Columbia County Department of Health where applicable.
- e) A list of contact personnel who will be in attendance at each event proposed.
- f) A list of security personnel in attendance (if applicable).
- g) Three photographs of the event area, and three additional interior photographs if a building is being used.

9. Copies of all permits, licenses for entities handling / preparing food and entities distributing / selling alcoholic beverages (if applicable) shall be submitted to the town Code Enforcement Officer no less than fourteen (14) days prior to the scheduled events.

10. In each year subsequent to the special permit approval, a person holding a special permit under this section shall submit to the Code Enforcement Officer a schedule of events for the calendar year. Said submittal should be made not less than sixty (60) days prior to the first scheduled event. At that time the permit holder shall identify any changes that have been made to the venue site since prior events. Material changes as determined by the Code Enforcement Officer shall trigger the need to apply to the Town of Livingston Planning Board for a modified site plan approval. At that time the permit holder shall also pay the appropriate fee based on the proposed schedule of events. The applicant must revise said annual submittal in the event that an additional event is proposed, provided that the maximum number of events per year is not exceeded.

11. There shall be a fee paid at the time of the initial application, and additional fees upon Planning Board approval based upon the number of approved events. The amount of fees shall be set by resolution of the Livingston Town board.

4.8 CONSERVATION SUBDIVISIONS

1. A newly proposed residential subdivision of a lot, tract or parcel of land into ten (10) or more lots where development is designed to permanently protect a large portion of a site as open space while clustering lots on the remainder.
2. Purpose and Applicability: - The purpose of this article is to achieve a balance between well-designed residential development, meaningful open space conservation, and natural resource protection in the countryside by requiring conservation subdivisions instead of conventional subdivisions. These regulations apply to all properties within all districts. The use of conservation subdivisions is intended to preserve tracts of environmentally and scenically significant undeveloped land in the Town of Livingston including road corridors and buffer areas, in order to maintain the historic settlement pattern. Conservation subdivisions result in the preservation of contiguous open space and important scenic and environmental resources, while allowing compact development, more walkable neighborhoods, and more design flexibility than conventional subdivisions. The procedure for approving conservation subdivisions is described below and contained with the Subdivision Regulations.
3. The Planning Board may waive some or all of the requirements of a conservation subdivision in the event lots proposed by the applicant exceed ten (10) acres per lot in size, by making a finding the purpose and applicability of the conservation subdivision process is achieved. Any such subdivision shall be deemed a major subdivision.
 - a. Density Calculation: The maximum density allowed for residential units is calculated by a formula based upon the acreage of "unconstrained land" on the property.
 - b. To determine unconstrained acreage, subtract from the total (gross) acreage of the proposed development parcel the acreage of constrained land "Constrained land" includes wetlands, watercourses, 100-year floodplains, and slopes over 25% which are 2,000 square feet or more of contiguous sloped area.
 - c. To determine the "base" number of allowable residential units on the site, divide the unconstrained acreage by the allowable number of acres per unit required within the zoning district. Round down fractional units of 0.5 or less and round up fractional units greater than 0.5. The resulting number is the "base density" allowed on the site.
 - i. The base density may be increased by up to 20% at the sole discretion of the Planning Board if permanent public access will be granted to the protected open space land and any associated improvements provided in accordance with this law.
 - ii. The density permitted by this section shall not be reduced as a result of the conservation analysis required or as a result of the reservation of parkland during the subdivision process.
4. Conservation Analysis
 - a. Required as part of its Preliminary Plat submission an applicant shall prepare a conservation analysis, consisting of inventory maps, description of the land, and an analysis of the conservation value of various site features.

- b. The conservation analysis shall show lands with conservation value, including but not limited to the following:
 - i. constrained land as defined above;
 - ii. buffer areas necessary for screening new development from adjoining parcels;
 - iii. land exhibiting present or potential recreational, historic, ecological, agricultural, water resource, scenic or other natural; natural resource value.
- c. The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site. In the course of its initial Preliminary Plat review, the Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.
- d. The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the approved Preliminary Plat showing land to be permanently preserved by a conservation easement,. The Preliminary Plat shall also show preferred locations for intensive development as well as acceptable locations for less dense development.
- e. The final determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board. Whenever the Planning Board approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land (the "conservation findings"). The Planning Board shall deny an application that does not include a complete conservation analysis sufficient for the Board to make its conservation findings.
- f. The Preliminary Plan shall show the following as land to be preserved by conservation easement:
 - i. An amount of land no smaller than the total amount of constrained land identified in the applicant's provided analysis, and at least 35% of the land not preserved as constrained.
 - ii. If, based upon the conservation analysis, the Planning Board determines in its conservation findings that there is no reasonable basis for requiring a conservation subdivision; the Board may approve a conventional development of the site. In order for the Planning Board to make such a determination, the applicant must demonstrate at least one of the following:
 - 1. The land contains no substantial resources with conservation value
 - 2. The acreage is too small to preserve a substantial amount of land with conservation value (this criterion shall not be evaded by piecemeal subdivision of larger tracts);
 - 3. The lot configuration is unique and precludes preservation of a substantial amount of land with conservation value;

4. That there are extraordinary circumstances unique to the parcel that demonstrates that conventional subdivision is in the best interest of the adjacent neighborhoods.
 - iii. In order to make the required showing above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result in the preservation of a substantial amount of land with conservation value (including any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.
 - iv. An approval of a conventional subdivision shall refer to the conservation findings and may be conditioned upon the protection by conservation easement of portions of the site identified in the conservation analysis and findings as having conservation value.
- g. The applicant shall specify all dimensional requirements for a proposed conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the Final Plat.
- h. Conservation Subdivision of a Portion of Larger Tract - The Planning Board may entertain an application to develop a portion of a parcel if a conservation analysis is provided for the entire parcel and the approval to develop a portion of the parcel is not a basis for the applicant or successor in interest to subsequently request an exception for the remainder of the parcel.
- i. Conservation Subdivision Design Guidelines - Lots shall be arranged in a manner that protects land of conservation value and facilitates pedestrian and bicycle circulation. The lot layout shall to the extent feasible comply with the design guidelines set forth herein. Permitted building locations or areas ("building envelopes") shall be shown on the Final Plat.
- j. Permanent Open Space - Open space set aside in a conservation subdivision shall be permanently preserved as required by this Section. Any development permitted on land located in a conservation subdivision that is not protected as open space shall not compromise the conservation value of such open space land.
- k. Conservation Value of Open Space - The open space protected pursuant to this Section must have "conservation value," which shall be determined in the course of the conservation analysis.
- l. Permanent Preservation by Conservation Easement - A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources, or similar conservation purposes, pursuant to Section 247 of the General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, and/or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of Final Plat approval. The Planning Board shall require that the conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation easement shall be recorded in the County Clerk's Office prior to or simultaneously with the filing of the Final Plat in the County Clerk's Office.

- i. The conservation easement shall prohibit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation), and shall not be amendable to permit such use. Access roads, driveways, wells, underground sewage disposal facilities, local utility distribution lines, storm water management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures shall be permitted on preserved open space land with Planning Board approval, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.
- ii. A land management plan, approved by the Planning Board, shall be included in the conservation easement. The conservation easement shall provide that if the Town Board finds that the management plan has been violated in a manner that renders the condition of the land a public nuisance, the Town may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and that the cost of such maintenance by the Town shall be assessed against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property or properties.
- iii. Preserved open space may be included as a portion of one or more large lots, or may be contained in a separate open space lot. The conservation easement may allow dwellings to be constructed on portions of lots that include preserved open space land, provided that the total number of dwellings permitted by the conservation easement in the entire subdivision is consistent with applicable density limitations of this law.
- iv. Notations on Final Plat - Preserved open space land shall be clearly delineated and labeled on the subdivision Final Plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The Final Plat shall clearly show that the open space land is permanently preserved for conservation purposes by a conservation easement required by this Section, and shall include deed recording information in the County Clerk's office for the conservation easement.
- v. Ownership of Open Space Land - Open space land shall under all circumstances be protected by a perpetual conservation easement, but may be owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.
- vi. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
 1. The HOA must be established before the approved subdivision Final Plat is signed, and must comply with all applicable provisions of the General Business Law.

2. Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
 3. The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
 4. Property owners must pay their pro rate share of the costs and the assessment levied by the HOA must be able to become a lien on the property.
 5. The HOA must be able to adjust the assessment to meet changed needs.
 6. The applicant shall make a conditional offer of dedication to the Town binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.
 7. Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
 8. The Town Attorney shall find that the HOA documents presented satisfy the conditions set forth above, and such other conditions as the Planning Board shall deem necessary.
- vii. Rural Design and Siting Standards - When locating new uses on the land there are many options in the siting, configuration, size and arrangement of elements in the landscape. These choices define the character of the developed landscape environment. Guidelines are available from the Planning Board as examples of the preferred way to design and site uses but they should not be considered the only acceptable solution.

4.9 DRIVE-IN THEATERS

1. The minimum lot size shall be five (5) acres.
2. The site shall have direct access to a state or county road.
3. The movie screen shall be located so that a movie in progress is not visible to vehicles on adjacent major roadways.
4. Each establishment shall have a separate entrance and exit and have an efficient one-way flow of traffic within the site.
5. No noise shall be emitted by the operation of the movie which is discernible at the property line of the lot.
6. A landscaped buffer along the site boundaries suitable to screen the site activity from adjacent residential properties will be required.
7. All parking areas shall be paved with dustless asphaltic or crushed stone material. Dust suppression shall continue for the life of the use.
8. Lighting shall be designed to minimize nuisance to adjacent residential properties.

4.10 EDUCATIONAL INSTITUTIONS

1. No permit shall be granted for the construction of an educational institution unless such institution has a minimum of two hundred (200) feet of frontage on a state or county road.
2. All buildings, parking and outdoor activity areas shall have a minimum setback from adjoining properties of one hundred (100) feet.

**4.11 EXPLORATION FOR OR EXTRACTION OF NATURAL GAS AND/OR PETROLEUM
(HYDROFRACKING)**

1. Prohibition against the Exploration for or Extraction of Natural Gas and/or Petroleum. No land in the Town shall be used: to conduct any exploration for natural gas and/or petroleum; to drill any well for natural gas and/or petroleum; to transfer, store, process or treat natural gas and/or petroleum; or to dispose of natural gas and/or petroleum exploration or production wastes; or to erect any derrick, building, or other structure; or to place any machinery or equipment for any such purposes.
2. Prohibition against the Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Materials. No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production materials, including but not limited to the storage of water or liquid to be used in exploration or extraction of natural gas and/or petroleum.
3. Prohibition against the Storage, Treatment and Disposal of Natural Gas and/or Petroleum Exploration and Production Wastes. No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production wastes.
4. Prohibition against Natural Gas and/or Petroleum Support Activities. No land in the Town shall be used for natural gas and/or petroleum support activities.

4.12 FEEDER ROADS

1. The Planning Board may require the construction of a feeder road along an existing or proposed road or within a proposed development in order to:
 - a. Maintain the flow and circulation of traffic along primary roadways.
 - b. Provide improved access to commercial, industrial and residential developments located on or adjacent to primary roadways.
 - c. Preserve the capacity of the highway by controlling access and preventing a proliferation of turning movements.
 - d. Segregate local traffic from higher-speed through traffic.

2. In order to accomplish the purposes stated above, the Planning Board shall, where appropriate:
 - a. Require the most appropriate number, spacing and location of any entrance(s) and exit(s) from the property under review.
 - b. Require the interconnection of parking areas and land uses via access drives within and between adjacent lots.
 - c. Require that land uses adjacent to or integrated in a shopping center or cluster of commercial or other facilities shall use common access drives with other establishments in that center or cluster.
 - d. The Planning Board may grant conditional approval which would allow direct access to the highway until such time as the access drive is improved and available, at which time the direct access to the highway will be eliminated.
 - e. The Planning Board shall require written assurance and/or deed restrictions, satisfactory to the Town Attorney, binding the owner and his heirs and assignees to permit and maintain such internal access and circulation and/or inter-use of parking facilities.

4.13 FENCES AND WALLS

1. In a residential district, fences and walls shall be permitted on any portion of a lot except where the visibility adversely affects traffic safety.
2. Fences or walls within a front yard shall not exceed four feet in height. Fences or walls in a side or rear yard shall not exceed six feet in height. Where corner sight distances are required for traffic safety, these heights will be reduced as required by the Town Highway Superintendent and/or Town Building Inspector. The Town Building Inspector may authorize a retaining wall in excess of the foregoing height limitation when it is determined that the same is necessary for the proper safety and preservation of persons or property.
 - a. Where rear yard/side yard applicants conflicts, the side yard applicants take precedence over rear yard.

4.14 FLAMMABLE LIQUID STORAGE

1. The storage of alcohol, gasoline, crude oil, liquefied petroleum gas or any other highly flammable liquid shall conform to all state and federal regulations and guidelines. The Planning Board may require appropriate berming, fencing, screening and landscaping for a safe and attractive installation.

4.15 FLOOD AREA OVERZONE (FAO)

1. The areas of the municipality which are subject to periodic inundation as described by the Flood Hazard Boundary map issued by the Federal Flood Insurance Administration and as amended from time to time are designated as a Flood Area Over Zone (FAO) for the purposes of protecting human life, preventing material losses, and reducing the cost to the public of rescue and relief efforts occasioned by the unwise occupancy of area subject to floods.
2. In order to accomplish its purposes, this ordinance uses the following methods with regard to the flood hazard area.
 - a. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood height or velocities.
 - b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - c. Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
 - d. Control filling, grading, dredging and other development which may increase flood damage.
 - e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase hazards to other lands.
 - f. Within the Flood District, no person shall erect, construct, enlarge, alter, repair, improve, or move any permitted building or structure nor shall any permitted activity such as mining, dredging, filling, grading, paving, excavation, or drilling commence without first obtaining a permit from the Zoning Administrator.
 - g. Zoning Administrator/Flood Hazard Area Duties. The Zoning Administrator shall review all permit applications for activities within the flood hazard area and shall not issue a permit unless the following requirements are met:
 - i. Residential Construction
 1. New construction or substantial improvement to any residential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation.
 - ii. Non-Residential Construction

1. New construction or substantial improvement to any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer shall certify that the standards of this subsection are satisfied.
- iii. Anchoring - All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - iv. Construction Materials and Methods - All substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - v. Utilities - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 1. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and,
 2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 3. Uses Permitted and Density Control
 - a. In addition to the above requirements, the uses permitted and the density and bulk regulations of the underlying district shall apply in determining if the requirements of this zoning ordinance are met.
- h. For the purpose of the determination of the administration of this section, the Zoning Administrator shall require the applicant to furnish the following information:
 - i. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
 - ii. Elevation in relation to mean sea level to which any non-residential structure has been flood-proofed, if any.
 - iii. Certification by a registered professional engineer or architect that any non-residential flood-proofed structure meets the flood-proofing criteria above.
 - iv. Description of the extent to which any water course will be altered or relocated as a result of proposed development.

- i. Variances - Notwithstanding, the Planning Board, upon a finding that an area described by an application submitted by an owner or his agent within a Flood Area Over Zone is safe from flooding may permit such area within the Flood Area Over Zone to be used in accordance with the regulations (including use, area, bulk, and height) specified for the underlying district of the over zone. An applicant applying for such permission shall produce sufficient evidence that an area covered by the application (as well as access to that area) is now actually safe from flooding and may include engineering surveys and reports. Evidence shall also be submitted that sewage disposal, water supply and surface drainage are adequate to serve the intended use.

- j. Previous Local Laws - Notwithstanding the general provisions of Section 7.3 of "Article VII" of Local Law No. 3 of the year 1991, the provisions of Section 4.13 of "Article VI" of said Local Law No. 3 of the year 1991, entitled "FLOOD AREA OVERZONE (FAO)", are to be applied in conjunction with Local Law No. 1 of the year 1987 and as amended by Local Law No. 9 of the year 1989, adopted by the Town Board of the Town of Livingston, and in the event of conflict or inconsistency, said Local Law No. 1 of the year 1987 and Local Law No. 9 of the year 1989 amending same shall govern.

4.16 HISTORIC AND CULTURAL RESOURCES

1. It is the intent of this section to preserve the historic and cultural features, which enrich the quality of life for the inhabitants of the Town of Livingston now and in the future. The integrity of these features should be protected from any harmful influence from development. The provisions of this section shall apply to developments in proximity to or affecting in any way historic and cultural resources designated in the following section of the Town Master Plan: Chapter Eight, Cultural Resources.
2. Procedure
 - a. The applicant is expected to recognize historic and cultural resources as they pertain to a specific development request.
 - b. The Planning Board may require a professionally written statement from the applicant or may obtain expert advice paid for in advance by the applicant if there is a disagreement over how and to what extent historic and cultural resources are affected or must be protected.
2. Standards
 - a. Every effort must be made to protect designated view sheds. Buildings should be located so that prime views from public vantage points are maintained.
 - b. Development in close proximity to designated historic and cultural resources should be compatible with their architecture and setting.
 - c. Essential architectural elements should be protected.
 - d. Special emphasis shall be given in site plan review to aesthetic considerations. View shed analyses and/or detailed maps of proposed site treatments will be required by the Planning Board.

4.17 HOME OCCUPATIONS

1. The provisions of this section are intended to protect and maintain the residential character of the districts in which such uses are permitted. Home Occupations, as defined in law shall additionally conform to the following use limitations:
 - a. A home occupation may only be conducted within a dwelling unit which is a bona fide residence of the principal practitioner of the occupation or in an accessory building thereto which is normally associated with the residential use, however, a home occupation in a mobile home park will require the written permission of the owner of the park.
 - b. The home occupation shall not occupy more than ten percent (10%) of the gross lot size.
 - c. No alteration to the exterior of any building used for the home occupation activity shall be made which changes the character thereof as a residential premises except as provided for within the specific category as noted in Section f below. Any new construction undertaken to accommodate the home occupation activity shall also be wholly consistent with the character of a residential premises, except as provided for below.
 - d. There shall be permitted no sharing, letting or subletting of space for use by others in the conduct of their profession, trade or business.
 - e. In no case shall a home occupation be open to the public earlier than 7:00 am nor later than 9:00 pm.
 - f. Two levels of home occupations shall be permitted: HO1, HO2. These two levels are defined and controlled as follows:
 - i. HO1 is a "zero impact" use and is permitted in all zones where residences are permitted. This category is designated for those occupations that make no impact on the neighborhood, and there is no external evidence of the occupation. No permit shall be required for an HO1 Home Occupation. All residents are, however, required to register the Home Occupation with the Zoning Administrator to ensure conformity with this section. Registration shall involve providing a written description of the use to the Planning Board which supports its conformance with an HO1 use. All of the following minimum requirements must be met.
 1. No signs are permitted that would indicate the occupation.
 2. No increase in normal traffic will occur as a result of the occupation.
 3. No special purpose vehicles are permitted on the property.
 4. No large number of customers/clients will enter the property.
 5. No non-residents of the principal dwelling unit shall be employed.

- ii. HO2 is a "minimal impact" use and is permitted with a non-transferable permit to be issued by the Zoning Administrator. This category is limited to uses which meet all of the following conditions:
 - 1. The use is carried on entirely within the principal dwelling unit or customary accessory building on the property.
 - 2. The use is carried on by a resident(s) of the property and no more than two (2) additional non-resident persons.
 - 3. One sign is permitted, not exceeding three (3) square feet in area.
 - 4. No exterior storage of materials is permitted.
 - 5. There shall be no exterior variations in the buildings or property from the residential character of the neighborhood.
 - 6. No unusual appearance, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbances that would exceed those normally produced by a residence are permitted.
 - 7. The use shall not cause a substantial increase in traffic in the neighborhood.
 - 8. A sufficient number of off-street parking spaces shall be provided for employees and a limited number of customer/clients.
 - 9. One (1) specialized vehicle may be stored on the premises, if screened or stored under cover.

- g. Home Occupations meeting the description and requirements of an HO1 or HO2 level which are existing at the time of enactment of this law shall be grandfathered, allowing the existing home occupation to continue. All residents performing home occupations at the time of enactment of this law who believe the use should be grandfathered should register the use with the Zoning Administrator. A written description of the use should be provided which supports its compatibility with an HO1 or an HO2 designation. Unregistered pre-existing HO1 and HO2 home occupations may be subject to review by the Zoning Administrator and may require a permit.

4.18 HORSE STABLES OR RIDING SCHOOLS

1. The minimum lot size shall be five (5) acres.
2. The use of the property shall be limited to the keeping of one (1) horse per two (2) acres of lot area.
3. Front, rear and side yard areas shall be landscaped and screening provided, where necessary, to harmonize with the character of the neighborhood.
4. Adequate buffer zones should be provided to keep manure storage at least one hundred (100) feet from any public water supply, lake, or state-regulated wetlands or streams, and at least forty (40) feet from any property line.

4.19 KENNELS

1. The minimum lot size shall be five (5) acres.
2. No kennel enclosure shall be permitted within two hundred and fifty (250) feet of any property line.
3. All outdoor areas used by animals shall be located to the side or rear of the principal building on the site. Such areas shall be enclosed by fencing of a type of construction and height sufficient to confine any animal on the premises.
4. All such quarters shall at all times be maintained in a sanitary condition.

4.20 LANDSCAPING

1. The provisions of this section shall apply to all projects undergoing site plan review.
 - a. To minimize erosion and storm water runoff and to maintain and improve the aesthetics of the town, all portions of the lot not used for buildings, structures, off-street parking and loading, permitted outdoor storage, driveways and walkways shall be landscaped and maintained in accordance with the provisions of this section.
 - b. A complete plan of existing and proposed landscaping shall be submitted to and approved by the Planning Board in the site plan review process.
2. Landscaping Standards
 - a. Where existing natural features and terrain are of a character, location, size and type that contribute to a landscaping plan, the Planning Board may modify the standards of this section.
 - b. Unique natural areas and open spaces such as streams, ponds, marshes, steeply sloped areas, woodlands and historic assets, which would add value to the development or to the town as a whole, shall be preserved.
 - c. Parking areas and access roads shall be enhanced with landscaped spaces, containing trees or tree groupings.
 - d. Where deemed appropriate, the Planning Board may require a landscaped buffer area between a paved road and any structure or parking area.
 - e. In connection with the review of any site plan application for a non-residential use abutting or directly across the street from a residential district or property, a buffer strip of landscaping may be required along all such property lines. Such buffer strips shall comply with at least the following minimum standards:
 - i. They shall be at least twenty-five (25) feet wide.
 - ii. They shall be evergreen plantings of such type, height, spacing and arrangements as, in the judgment of the Planning Board, will effectively screen the activity of the lot from the neighboring residential area year-round. Non-evergreen planting may be included to supplement evergreen planting, but not to take its place.
 - iii. Where existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.
 - f. Screening of service yards, refuse containers, and other places that tend to be unsightly shall be accomplished by the use of walls, fencing, plantings, or combinations of these.
3. New Plantings
 - a. Each new tree for screening and buffer areas shall have a caliper of at least two (2) inches DBH (diameter breast height) when planted.

- b. All plantings shall be natural and shall be maintained in a vigorous growing condition throughout the duration of the use. Plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.
- c. All trees and shrubs shall be protected from possible damage from vehicles and pedestrians by means of appropriate curbs, tree guards, or other methods as approved by the Planning Board.
- d. No permanent impervious surfacing or sub-surfacing shall be located around the base of any tree or shrub which may impede the growth of the tree or shrub.
- e. There shall be no obstruction within ten (10) feet of a fire hydrant.
- f. Landscape material shall not restrict the sight distance to adjacent roadways.

4.21 LOGGING / TIMBER HARVESTING

The removal of timber from areas greater than five (5) acres on any one (1) ownership of land in any one (1) calendar year shall be a permitted activity subject to the following:

1. Where an applicant wishes to conduct a logging / timber harvesting operation the area to be timbered shall be reviewed by a consulting forester and a forestry management plan shall be submitted with an application to the building department and highway department on forms provided.
2. The applicant should also notify the regional office of the New York State Department of Environmental Conservation, Regional Forester.
3. The operation must be approved by the highway superintendent in his/her sole discretion as to appropriate vehicle site access, vehicle weight limitations, and the routing of vehicles upon local roadways.
4. The applicant shall submit a reclamation plan that also encompasses the removal all debris created by the applicant.
5. Any issued permit shall not be transferrable, any new owner or operator must receive a permit.

4.22 MANUFACTURED HOME PARKS (MOBILE HOME PARKS)

1. No new manufactured home parks will be permitted within the Town of Livingston. Existing Manufactured Home Parks will therefore become nonconforming.
2. Any home park in existence prior to 1991 has the right to expand thereafter but the total expansion allowed shall not exceed 50% of the original park, provided that such expansion shall occur on vacant land contiguous to and under single ownership with said existing Manufactured Home Park and further provided that such expansion shall not exceed fifty percent of the total number of lots legally approved for said existing manufactured home park as of the effective of this local law.
3. Any preexisting, non-conforming Mobile Home Park shall must first comply with all other provisions of the zoning law before expansion with current zoning regulations.

4.23 MANUFACTURED HOME SALES AND SERVICE

1. Each mobile home sales establishment shall have a landscaped area at least twenty (20) feet wide along side and rear lot lines suitably planted and maintained to provide a visual screen from adjacent properties. At the discretion of the Planning Board, existing natural screening may be substituted for new plantings.
2. Sales areas shall be paved with an asphaltic, concrete or crushed stone material.

4.24 MINES and MINING

1. For Mines For Mines subject to New York State Department of Environmental Conservation (DEC) permitting and regulation, the following requirements apply:
 - a Local Town Roads that are used to ingress and egress the mine site shall be constructed or improved to the Town of Livingston Road Specifications:
 - i The Road requirements may be enhanced at the discretion of the Board based on actual site-specific conditions.
 - b The application shall contain the following information for the Board to review and consider:
 - i The appropriate depth of the buffer area from the area of operation and adjoining property lines, 75ft. minimum;
 - ii Appropriate barriers in the discretion of the Board that may be needed to restrict access to the site (including such items as gates, fencing, signage);
 - iii A minimum of 50 feet of the haul road from where the haul road intersects the public road will be paved to prevent dust and debris. Additional paving may be required in the discretion of the Board. The Board may impose additional measures for the site that will be implemented to control fugitive dust from migrating off-site;
 - iv Hours of operation that would be reasonable based upon the character of the area that the mine is proposed;
 - v Reasonable measures to mitigate any other appreciable impact that may arise as a result of the mining operation;
 - vi Copies of all documentation between applicant and DEC, specifically including but not limited to: the mining application, mining plan, reclamation plan, reclamation bond, environmental review forms decisions and determinations, engineering reports, and renewal application(s);
 - vii Any other information deemed relevant in the consideration of the scope of the mining operation as determined by the Board, including but not limited to trucks and truck traffic, equipment use, equipment noise emissions, number of employees.
 - c At all times of operation, the applicant shall maintain a valid, in force DEC Mining Permit. Any Permit issued by the Town of Livingston will expire simultaneously with the expiration of the Mining Permit issued by DEC. Upon expiration of the Town Permit, the owner must make application for a new permit in compliance with this law.
 - d At all times, the applicant shall be required to operate in compliance with the DEC Mining Permit.
 - e At all times, the applicant shall be required to possess and maintain a valid, in force reclamation bond as required by DEC.
 - f The Town Building Inspector and/or Zoning Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation, except that the owner, agent, or person in charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction in order to enable such inspection.
2. For Mines not subject to New York State Department of Environmental Conservation (DEC)

permitting and regulation, as set forth in the New York Environmental Conservation Law §23-2711, removing less than 750 yards or 1000 tons, but more than 400 yards during a 12 successive month period, the following requirements apply.

- a The application shall contain the following information for the Board to review and consider:
 - i The appropriate depth of the buffer area from the area of operation and adjoining property lines, 75 ft. minimum;
 - ii Appropriate barriers in the discretion of the Board that may be needed to restrict access to the site (including such items as gates, fencing, signage);
 - iii Measures that will be implemented to control fugitive dust from mitigating off site;
 - iv Hours of operation that would be reasonable based upon the character of the area that the mine is proposed;
 - v Reasonable measures to mitigate any other appreciable impact that may arise as a result of the mining operation;
 - vi A mining plan setting forth in reasonable detail the proposed mine site, length of operation (life of mine), and type and quantity of materials to be removed;
 - vii At all times proposed mining activities shall not enter or influence the water table;
 - viii A reclamation plan to provide for restoration of the proposed site;
 - ix A reclamation bond or other suitable financial security in an amount determined suitable in the discretion of the Board to ensure compliance with the reclamation plan.
 - b The Town Building Inspector and/or Zoning Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation, except that the owner, agent, or person in charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction in order to enable such inspection.
3. Excavations and Mining activities that propose to remove less than 400 yards of material during a 12 successive month period are deemed to be a permitted use after issuance of a building permit in zones that permit mining as set forth in the Schedule of Permitted Uses, section 3.2 pursuant to the following conditions:
- a The application shall contain the following:
 - i The depth of the buffer area from the area of operation and adjoining property lines shall be no less than 40 feet;
 - ii Mining shall occur only during daylight hours;
 - iii The application for a permit shall include a narrative and sketch detailing the operation, materials to be removed, equipment to be utilized and traffic patterns on the site;
 - iv The application shall include a restoration plan for the site at the mined areas.
 - v At all times proposed mining activities shall not enter or influence the water table;
 - vi A permit issued pursuant to this section is valid for a period of one year.
 - b The Town Building Inspector and/or Zoning Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation, except that the owner, agent, or person in charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction in order to enable such inspection.
4. Any Mining activity permitted by the Town of Livingston pursuant to this section must commence within 12 months from the issuance of the permit.

4.25 MOTOR VEHICLE REPAIR AND SERVICE STATIONS

1. No site plan shall be approved unless the Planning Board finds that the proposal contains adequate safeguards to prevent pollution of surface or groundwater. The site plan must show any school, playground, place of public assembly, surface water, drainage channel, or environmentally-sensitive area such as wetlands, within five hundred (500) feet of the proposal.
2. A hedge, fence or wall adequate for year-round screening of the filling station shall be installed along any residential property line and shall be of a design, location, and material approved by the Planning Board.
3. Pumps and other dispensing devices, except air pumps, shall be located fifty (50) feet from any property line.
4. All motor fuel, oil or similar substances shall be stored at least twenty-five (25) feet from any property line. In addition, all motor fuel shall be stored underground and in conformity with the latest edition of the National Fire Code.
5. As much as possible, all repair work shall be performed indoors. All vehicles awaiting repair, dismantled vehicles, and automobile parts shall be stored indoors or within a screen conforming to the setback required for buildings.
6. No damaged, wrecked or partly disassembled motor vehicle shall be parked or stored on the premises for more than sixty (60) days.
7. Premises shall not be used for the display of automobiles, trailers, mobile homes, boats or other vehicles, unless specifically permitted by Planning Board site plan approval.
8. A single car washing bay is allowed as part of a motor vehicle service station, subject to Section 4 Car Washes.

4.26 MOTOR VEHICLE SALES AND RENTALS

1. The storage of vehicles or equipment shall not be permitted within any required setback area.
2. As much as possible, all repair and service work shall be accomplished indoors.
3. All automobile parts, dismantled vehicles and similar articles shall be stored within a building or screened from view.
4. No inoperative vehicle shall be stored on the premises for more than two (2) weeks. All such vehicles shall be screened from view.
5. Year-round screening of the facility shall be provided along any residential property line, in a manner to be determined by the Planning Board.

4.27 OFF-STREET PARKING AND LOADING

1. General Provisions

- a. All structures and land uses hereafter erected, enlarged, moved, created, changed in intensity or substantially altered shall be provided with the amount of off-street parking and loading space required by the terms of this law to meet the needs of persons using or occupying such structures or land.
- b. The plans for any new building or any expansion of an existing building, when submitted for site plan approval, shall specifically show the location, size and type of improvements of the off-street parking and loading space required to comply with this law and the means of access to such space from the public streets or highways.
- c. No certificate of occupancy shall be issued for any building or land use until the required off-street parking space has been provided.
- d. Required off-street parking facilities which, after development, are later dedicated to and accepted by the Town shall be deemed to continue to serve the uses or structures for which they were originally provided.

2. Existing Structures and Uses - Structures and land uses in existence or for which building permits have been approved at the time of the adoption of this law shall not be subject to the parking or loading space requirements of this law, provided that any parking and loading facilities then existing to serve such structures or uses shall not be reduced except where they exceed such requirements, in which case they shall not be reduced below such requirements.

- a. Required parking and loading facilities shall, however, be provided as a condition for the issuance of any building permit for any enlargement or change in use of such structures or uses in the future.

3. Location - Required parking and loading spaces shall be provided upon the same lot as the use or structure to which they are accessory, except that off-street parking spaces required for structures or land uses on two (2) or more adjacent lots may be provided in a single common facility on one (1) or more of said lots. Required setbacks may be waived for this purpose. A legal instrument, satisfactory to the Town Attorney, shall assure the continued existence of the parking facility to serve said structures or land uses as long as they may exist. Such agreements shall also guarantee that, upon the termination of such joint use, each subsequent use of the premises will provide off-street parking facilities for its own use in accordance with all requirements of this law.

4. Size of Parking Spaces

- a. Each parking space shall be at least nine (9) feet wide and eighteen (18) feet long.
- b. Backup and maneuvering aisles between rows of parking spaces shall be at least twenty-four (24) feet wide, except where parking spaces are arranged at less than a ninety-degree angle and one-way access is provided. In such cases, aisles of the following width shall be provided:
 - i. Parking at a 60-degree angle 22-foot aisle

- ii. Parking at a 45-degree angle 16-foot aisle
- iii. Parking at a 30-degree angle 14-foot aisle

c. Grades, Drainage, Paving and Marking

- i. All required parking facilities shall be graded, surfaced, drained and maintained throughout the duration of their use to the satisfaction of the Planning Board to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands.
- ii. In multifamily residential developments and in nonresidential developments, the Planning Board shall require the provision of suitable markings to indicate individual parking spaces, maneuvering areas, entrances and exits.

d. Traffic Circulation

- i. In order to encourage safe and convenient traffic circulation, the Planning Board may require the interconnection of parking areas via access drives within and between adjacent lots. The Board shall require written assurance and/or deed restrictions, satisfactory to the Town Attorney, binding the owner and his heirs and assignees to permit and maintain such internal access and circulation and inter use of parking facilities.
- ii. Unobstructed access to and from a street, so designed as to not require the backing of any vehicle across a sidewalk or a traffic lane, shall be provided for all parking and loading spaces.
- iii. Adequate access to buildings by use of fire lanes shall be provided and maintained in all off-street parking and loading areas.

e. Off-Street Parking and Loading Requirements

- i. Off-street motor vehicle parking facilities shall be provided as follows, except as may be modified in other provisions of this section or where additional parking requirements may be made as a condition of the issuance of a special permit.
- ii. Fractional Space - Whenever a fraction of space is required for the sum requirements, a full space shall be provided.
- iii. Schedule of Parking Requirements.

Use	Minimum Required Off-Street Parking Spaces
Accessory apartment	2 per dwelling unit
Animal hospital, kennel	4 per doctor, plus 1 per employee, but in no case less than 1 per 400 square feet of gross floor area
Bank, Office	1 per employee, but not less

Use	Minimum Required Off-Street Parking Spaces
	than 1 per 250 square feet of gross floor area
Car Wash	1 parking space shall be provided for every 3 employees
Club	1 for every 2 memberships
Funeral home	1 per employee, plus 1 per 25 square feet of gross floor space in assembly rooms
Hotel, other overnight accommodations	1 per guest sleeping room, plus 1 for every 2 employees
Light industry and manufacturing	1 per employee on largest shift, but not less than 1 per 400 square feet of gross floor area
Motor vehicle repair And service stations	1 per 1,000 square feet of site area; spaces within service areas of buildings and at pumps and access lanes shall not be counted
Nursing home	1 ½ per resident bed
Research and development laboratory	1 per employee, but not less than 1 per 600 square feet of gross floor space
Residence, multi-family	2 per dwelling unit
Residence, two-family	2 per dwelling unit
Restaurant, bar	1 for every 3 seats but not less than 1 per 100 square feet of gross floor area.
Retail or service business of gross floor area	1 for every 150 square feet
School	1 per employee plus 1 for every 5 students

Theater, place of worship, other place of assembly	1 for every 5 fixed seats; 1 per 100 square feet in places
Use	Minimum Required Off-Street Parking Spaces
<hr/>	
Wholesale, storage, utility,	1 per employee, but not less than 1 per 1,000 square feet of gross floor space
Other uses not listed	Reasonable and appropriate

Schedule of Off-Street Loading Requirements - Reasonable and appropriate off-street loading requirements shall be determined in each case by the Planning Board, which shall consider all factors entering into the loading needs of each use as part of its site plan review.

5. Off-Street Loading and Unloading Facilities

- a. Off-street loading space shall not bar access to the off-street parking area or any parking space.
- b. Each off-street loading space shall be at least fifteen (15) feet in width, forty (40) feet in length and fourteen (14) feet in height, exclusive of access and turning areas, except that adjacent loading spaces may each be twelve (12) feet in width. Where delivery service will be by tractor trailer, the minimum length shall be sixty (60) feet, and the minimum width shall be fourteen (14) feet.

4.28 OUTDOOR WOOD BOILERS / FURNACES

Any outdoor wood boiler/furnace to be installed after adoption of this local law shall be installed in compliance with the following:

1. Outdoor wood boilers/furnaces shall require site plan review pursuant to the Zoning Law of the Town of Livingston.
2. Outdoor wood boilers/furnaces shall only be permitted in the LDR-2 and CON-7 districts upon parcels with a lot size of two (2) acres or greater.
3. Outdoor wood boilers/furnaces shall have a minimum setback of 175 feet from the property lines of the parcel.
4. Outdoor wood boilers/furnaces are only allowed if they carry the US EPA White Tag or are otherwise documented as meeting or exceeding the US EPA's Phase 2 emissions levels.
5. Outdoor wood boilers/furnaces shall not be located in the front yard of the parcel.
6. Any outdoor wood boilers/furnaces in existence prior to the effective date of this Chapter are not to be considered pre-existing non-conforming uses, but shall be permitted to remain and operate after the owner or operator receives a permit from the zoning enforcement officer and/or building inspector and found in compliance with Section 8 herein. Said units shall not be substantially replaced unless in full conformance with these regulations.
7. General Regulations. All outdoor wood boilers/furnaces must operate in compliance with the following:
 - a. An application for a permit is to be submitted to the building department on forms provided.
 - b. The permit shall not be transferrable, any new owner or operator must receive a permit.
 - c. All outdoor wood boilers/furnaces shall be installed, operated and maintained according to the manufacturer's instructions. All instructions or operating manuals shall be provided to the Town with the permit application.
 - d. Outdoor wood boilers/furnaces shall be operated only between September 1 and May 15.
 - e. All outdoor wood boilers/furnaces shall be equipped with properly functioning spark arrestors, or be in conformity with manufacturer's specifications for that unit with regard to the release of sparks.
 - f. There shall be a collapse zone around the outdoor wood boiler/furnace of at least twenty (20) feet from the boiler and its structures to any adjacent structure.
 - g. Only seasoned natural firewood or other unit manufacturer approved solid fuels are permitted to be burned in any outdoor boiler/furnace. Burning of any and all other materials in an outdoor boiler/furnace is prohibited. No outdoor wood boiler/furnace shall be used as a waste incinerator.
 - f. All outdoor wood boilers/furnaces must be operated in full compliance with any applicable state and/or federal regulations now in effect or hereinafter adopted.

4.29 OVERNIGHT ACCOMMODATIONS

1. Bed and Breakfast Establishments

- a. Such establishments must be limited to ten (10) guestrooms.
- b. They must meet all parking, signage, landscaping and other applicable zoning requirements before any special permit shall be granted.
- c. The proprietor may serve meals to guests. A public dining room and bar is expressly prohibited.
- d. A bed and breakfast in a residential district will be permitted only if it is compatible with its immediate neighborhood.

2. Inns

- a. Inns must be limited to twenty (20) rooms.
- b. If converted from an existing structure, inns are subject to special permit review. No special permit shall be granted unless all parking, signage, landscaping and other applicable requirements will be met.
- c. Inns may include an accessory restaurant and other facilities for the use of guests not to exceed twenty-five (25) percent of the total floor area. No commercial uses except those that are designed specifically for guests shall be allowed. Dining facilities and bar, if open to the general public, will be treated as separate uses and shall conform to additional provisions for restaurants.

3. Hotels and Motels

- a. Hotels and motels may include accessory restaurant and other facilities for the use of guests, not to exceed twenty-five (25) percent of the total floor area. Dining facilities and bar, if open to the general public, will be treated as separate uses and shall conform to additional provisions for restaurants.

4.30 PUBLIC UTILITIES AND TRANSMISSION LINES

1. The Planning Board may review site plans for the construction, erection or installation of structures and facilities of essential services upon the furnishing of proof of public necessity. Therefore, such proof shall require demonstration that the applicant is a duly constituted public utility, that the property site is necessary to enable the applicant to render safe and adequate service and that no alternative sites are available which could be used with less disruption of the Town Master Plan and Zoning Ordinance. The Board, in granting such permit, may impose reasonable restrictions and conditions which will protect private property in the vicinity and promote the health, safety, and general welfare of the community.
2. Public utility substations and similar utility structures, where permitted, shall be surrounded by a fence set back from the property lines in conformance with the district bulk regulations. Any use permitted under this section shall conform to the standards of Section 4.20, as well as all other applicable regulations.
3. Public utility structures shall not contain offices or have any outdoor equipment, machinery or storage of materials.
4. The provisions of this section shall not apply to telephone, electric light and power lines carrying five thousand (5,000) volts or less fifteen thousand (15,000) volts or less if enclosed in a common sheath cable and suspended from wooden poles] and usually located along public highways, or to local underground conduits, cables, gas, sewer and water mains or pipes.
5. Public utility transmission lines may be permitted by the Planning Board, provided that it is clearly demonstrated that such lines will not endanger the public or surrounding property.
6. In built-up areas, the Planning Board may require that transmission lines be located underground.

4.31 RESTAURANTS AND FAST FOOD ESTABLISHMENTS

1. Vehicle stacking lanes for any drive-up service must be adequate so that adjacent sidewalks or streets will not be obstructed.
2. The Planning Board may require that no restaurant with drive-up service shall be located within five hundred (500) feet of another restaurant with drive-up service.
3. Signs for restaurants shall conform to the criteria for all signs. They shall be designed to be in harmony with the rural and historic character of the Town of Livingston.
4. Hours of operation for restaurants in the Commercial District shall be compatible with adjacent residential uses.

4.32 SATELLITE DISH ANTENNAS

1. Satellite antennas are allowed as-of-right provided that they are in rear yards and meet all applicable provisions of this section and as approved by the Zoning Administration. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side or front yard of the property, subject to setback requirements contained in the Schedule of Bulk Regulations. If a usable satellite signal cannot be obtained by locating the antenna on the rear, side or front yard of the property, such antenna may be placed on the roof of the dwelling structure.
2. Not more than one satellite dish antenna shall be allowed on any lot.
3. All satellite dish antennas shall be properly anchored as determined by the Zoning Administrator.
4. The construction and installation of satellite dish antennas shall conform to all applicable building codes and other regulations and requirements.
5. Satellite dish antennas shall be adequately grounded.
6. Satellite dish antennas shall be designed and located to minimize visual impact on adjacent property and roadways. The color of the antenna should be compatible with its surroundings.
7. An evergreen planting screen shall be provided for any ground mounted satellite dish antenna to screen it from the view of adjacent lots and public view, provided that the screening does not interfere with signal reception.
8. A satellite dish antenna shall not be located less than ten (10) feet from any property line or easement.
9. A ground-mounted satellite dish antenna shall not exceed a diameter of sixteen (16) feet or a grade height of twenty (20) feet.
10. Wiring between a ground-mounted satellite dish antenna and a receiver shall be placed beneath the surface of the ground.
11. Roof-mounted satellite dish antennas shall not be mounted on chimneys, towers, spires or trees. Where practical, the antenna should be placed below the ridgepole of the roof. Such antennas shall not extend more than twenty (20) feet above the roof and shall not exceed a diameter of sixteen (16) feet.

4.33 SIGNS

1. All new signage erected in the Town should serve:
 - a. To promote and protect the public health, welfare and safety.
 - b. To protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of developed areas of the community, and preserve the scenic and natural beauty of less developed areas.

4.34 SWIMMING POOLS, PRIVATE

1. Such pool shall not be located in any required setback area or in front of the permitted principal use.

4.35 SWIMMING POOLS, PUBLIC

1. The principal structure shall be set back two hundred (200) feet from the street line.
2. No public pool shall be constructed within two hundred (200) feet of any existing residential structure or within one hundred (100) feet of any lot line.
3. Screening shall be established along lot lines where residential uses abut public pools.

4.36 TELECOMMUNICATIONS TOWERS, OR TRANSMITTING/RECEIVING FACILITY

1. Definitions. For the purposes of Telecommunications Towers or Transmitting/Receiving Facility, the following additional definitions shall apply:
 - a. Antenna - A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio-navigation, radio, television, wireless and microwave communications.
 - b. Co-location - The use of the same telecommunications tower or structure to carry two or more antennae for provision of transmitting/receiving telecommunications signals.
 - c. FCC -Federal Communications Commission. The federal agency responsible for regulating telecommunications in the United States.
 - d. Telecommunications -The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.
2. Purpose - The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town of Livingston; to provide standards for the safe provision of telecommunications services consistent with applicable federal and state regulations; to protect the natural features and aesthetic character of the town by minimizing the total number of telecommunication towers through the encouragement of co-location on future and existing towers and through use of buildings and other structures; by careful siting of telecommunication facilities; and by thorough town review of such facilities. These regulations are not intended to prohibit or have the effect of prohibiting the provision of wireless communication services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with federal regulations.
3. Application of Special Exception Regulations
 - a. No telecommunication tower or transmitting/receiving facility, except those approved prior to the effective date of this section and those specifically exempted below, shall be used unless in conformity with these regulations. No telecommunication tower or transmitting/receiving facility shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations and the provisions of Zoning Law. No existing structure shall be modified to serve as a telecommunication tower or transmitting/receiving facility unless in conformity with these regulations and the provisions of Zoning Law.
 - b. Specifically exempted are the following wireless telecommunication facilities: police, fire, ambulance and other emergency dispatch, citizen's band radio, personal equipment for domestic household radio and television use, and amateur radio towers used exclusively by a federally licensed amateur radio operator.
4. Siting Preferences - An Applicant for a telecommunication tower or transmitting/ receiving facility shall locate and erect the same in accordance with the following priorities, with one (1) being the highest priority and five (5) being the lowest priority.

- a. Co-location on an existing telecommunication tower;
 - b. Location on a site with an existing Telecommunication tower;
 - c. Location on an existing tall building or structure;
 - d. Location in the Commercial Districts (C-1, LC-1)
 - e. Location in the Agricultural Development / Light Industrial District (AD/LI-1);
 - f. Location in other town zones with the exception of Central Hamlet (CH-2) and High Density Residential District (HDR-2) zones from which they are excluded.
 - g. Applicants for a telecommunication site with a priority lower than (a) herein shall indicate why location of a site with a higher priority is not possible.
5. Notice of Application and Public Hearing - In order to keep neighboring property owners and municipalities informed and to facilitate the possible co- use of existing telecommunications towers or other structures, an applicant who proposes a new telecommunication tower or transmitting/receiving facility shall notify in writing the legislative body of each municipality that borders the Town of Livingston and shall notify in writing the Columbia County Planning Board of the submission of an application to the Town of Livingston Planning Board. The applicant shall also notify all property owners within 2,600 feet of the boundaries of the property or properties upon which a tower is to be located of the submission of an application to the Town of Livingston Planning Board. Such notification shall include the exact location of the proposed telecommunication tower or transmitting/receiving facility and a general description of the project, including, but not limited to, the height of the tower and its capacity for future shared use, and the date, time and place of the presentation before the Planning Board. The applicant shall make such notification in all cases by certified mail, return receipt requested. The original return receipts from this notification shall be submitted to the Planning Board at or before the public hearing on the application. All other provisions of Section 6.6 shall also be complied with.
6. Application for Co-Location - In addition to the application and public hearing procedure of the Zoning Law, an applicant proposing to co-locate on an existing telecommunication tower or other structure shall be required to submit:
- a. Documentation of intent from the owner of the existing structure to allow shared use. Co- location shall not be deemed a second use on the same property.
 - b. In addition to the site plan requirements of the Zoning Law, the applicant shall show all guy wires and anchors. Any methods used to screen, conceal or camouflage the modification of the existing structure shall be indicated on the site plan.
 - c. An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and explaining what modifications, if any, will be required in order to certify to the above.
 - d. Instead of a long form Environmental Assessment form, the applicant shall submit a completed short Environmental Assessment Form (EAF) with a completed visual EAF addendum, signed by the applicant and owner.
 - e. A copy of the Federal Communications Commission (FCC) license for the proposed telecommunication facility.

7. Location of a New Telecommunication Tower on a Site with an Existing Telecommunication Tower
 - a. The location of a new telecommunication tower on a site with an existing telecommunication tower shall not be considered a second use of the property.
 - b. In addition to the regular application for a permit, the applicant shall be required to present to the Planning Board a report inventorying all existing telecommunication facilities and structures within 8 miles of the proposed construction site. The report shall outline opportunities for shared use of existing facilities and structures as an alternative to sharing of the proposed tower site. The report shall set forth all efforts to secure siting on existing facilities and structures, as well as documentation of the physical, technical and/or financial reasons why co-location is not practical in each case. Written requests for such co-location and responses received to those requests shall be submitted to the Planning Board.
 - c. The applicant must provide documentation from the owner of the existing tower site of said owner's consent to shared use of the site.
 - d. The application for the new telecommunication tower on an existing site will also be subject to the requirements of Section (h) hereof.
8. Application for a New Tower at a Location not used for a Telecommunications Facility or for Shared Use of a Site with an Existing Telecommunications Tower.
 - a. The Planning Board may consider a new telecommunication tower on a site not developed with a tower or other structure when the applicant demonstrates that co-location on an existing telecommunication tower or structure, or shared use of a site with an existing telecommunication tower is not feasible or impractical.
 - b. The applicant shall be required to present a report inventorying all existing tall structures and existing or approved sites within 8 miles of the boundaries of the proposed construction site. The report shall outline opportunities for co-location and shared use of existing facilities, structures, or sites as an alternative to the proposed new tower site. The report shall set forth all efforts to secure co-location and shared use on or at existing facilities, structures, and sites as well as documentation of the physical, technical and/or financial reasons why co-location or shared usage is not practical or feasible in each case. Written requests for co-location or shared use, and responses to those requests shall be included in the applicant's submission to the Planning Board.
 - c. The applicant shall design a proposed new telecommunication tower to accommodate, by co-location, the reasonably foreseeable future demand for reception and transmitting facilities. As part of the application for a new telecommunications tower, the applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for co-location upon the proposed tower by other telecommunication providers in the future. The letter shall commit the new tower owner, the property owner, and his/her/their successors in interest to:
 - i. Respond within 90 days to a request for information from a potential co-location applicant.
 - ii. Negotiate in good faith concerning future requests for co-location of the new tower by other telecommunication providers.

- iii. Allow co-location on the new tower if another telecommunication provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation, and all of the costs of adapting the tower or equipment to accommodate a co-location without causing electromagnetic interference.
 - d. In addition to the site plan requirements of the Zoning Law, the site plan shall show all existing and proposed tower(s), guy wires, anchors and supports, documentation of the proposed intent of the tower and justification for any site clearing required.
 - e. The applicant shall submit a completed short EAF, a complete visual EAF, visual EAF addenda, signed by the applicant and owner.
 - f. The applicant shall also submit a copy of its FCC license.
 - g. The applicant shall submit a report certified to the Town of Livingston by a licensed engineer(s) that the proposed tower is structurally sound and will be in compliance with FCC guidelines for electromagnetic emissions.
9. Lot Size and Setbacks for all Newly Constructed Telecommunications Towers
- a. Lot size of parcels containing a tower shall be determined by the greater of the minimum lot size as provided in the Zoning Law for parcels in the zoning district where the proposed tower is located, or the amount of land required to meet the setback requirements set forth herein.
 - b. Telecommunication towers shall comply with all existing setback requirements of the Town of Livingston Zoning Law for the zoning district in which it is situated, or shall be located with a minimum setback from any property boundary equal to one and one-half times the height of the tower to be used or constructed, whichever is greater. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.
10. Visual Impact Assessment - The Planning Board may require the applicant for a telecommunication tower or transmitting/receiving facility to undertake a visual impact assessment that may include, but is not necessarily limited to:
- a. A zone of visibility map with indicated locations from which the tower may be seen.
 - b. Pictorial representations of before and after views from key viewpoints both inside and outside the town including, but not limited to, state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers.
 - c. Assessment of alternative tower designs and color schemes.
 - d. Assessment of the visual impact of the tower base, guy wires, accessory buildings, and overhead utility lines from abutting properties and streets.

- e. The Board, at its discretion, may require use of a balloon to test the visual impact of a proposed tower. In such a case, the applicant shall arrange to fly, or rise upon a temporary mast, a three-foot diameter, brightly colored balloon at the maximum height of the proposed tower, at the applicant's expense. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant at seven and fourteen days in advance of the initial date in the newspaper of record for the Town of Livingston. The applicant shall inform the Town Board and the Planning Board in writing of the dates and times of the test at least fourteen days in advance. The balloon shall be flown for at least eight consecutive hours sometime between sunrise and sunset of the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a weekday. The applicant shall submit, as part of the application, proof of the publication of notice as required herein.

11. New Tower Design - Alternative designs shall be considered for all new towers, including lattice, guyed, and single-pole (monopole) structures. The design of a proposed new tower shall comply with the following:

- a. Any new tower shall be designed to accommodate future shared use by at least one other telecommunication provider with antenna arrays equal to or greater than the applicant's.
 - i. Unless specifically required by other federal or state regulations, a tower shall have a finish, either painted or unpainted, that minimizes degree of visual impact.
 - ii. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend with the natural surroundings.
 - iii. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose including, but not limited to, company name, phone numbers, banners, and streamers.
 - iv. Unless required by Federal Aviation Agency requirements, no night lighting of a tower is permitted, except for manually operated lights for use only when personnel are on site.
 - v. A new tower shall not exceed the minimum height necessary to provide adequate coverage for the telecommunications facilities proposed for use on it. The applicant shall provide a detailed explanation for the requested tower height as part of the application.

12. Site Requirements for all Telecommunications Towers or Transmitting/Receiving Facility.

- a. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four inches in diameter measured at a height four feet off the ground shall take place prior to the approval of the special permit.
- b. The Board at its discretion may require the applicant to provide landscaping and plantings to screen portions of the tower and accessory structures from view.

- c. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- d. Parking shall be provided to assure adequate emergency and service access. The Board shall determine the number of required spaces based upon the recommendation from the applicant. No parking spaces shall be located in any required yard setback area.
- e. The tower and any accessory structures shall be adequately enclosed by a gated fence, the design and height of which shall be approved by the Planning Board and not necessarily restricted by height requirements in the Zoning Law. Use of razor wire is not permitted in such a fence.
- f. There shall be no signs on the site except the following: a sign no greater than two square feet indicating the name of the telecommunication tower's owner(s) and operator(s) and a twenty- four hour emergency telephone number shall be posted adjacent to the entry gate. In addition, No Trespassing or other similar warning signs may be posted on the fence. All signs shall also conform to any other applicable governmental regulations.

13. Use of Consultants - The Planning Board shall have the right to retain consultants to review all aspects of an application for a telecommunication tower or transmitting/receiving facility, and to provide expert testimony at any meetings of the Board in which the application is discussed. Consultants shall be qualified, licensed professionals with a record of service to municipalities in one or more of the following fields, as appropriate: telecommunications engineering; structural engineering; monitoring of electromagnetic fields; other areas of expertise as determined by the Board. Applicants shall grant permission for these consultants to conduct any necessary site visits or obtain permission from the owner of the proposed site for any such visits. All reasonable expenses for consultants retained by the Board shall be borne by the applicant. An applicant shall deposit with the town funds sufficient to reimburse the town for these costs. The initial deposit shall be \$7,500. These funds shall accompany the filing of an application and the town shall maintain a separate escrow account for all such funds. The town's consultants shall bill or invoice the town no less frequently than monthly for services rendered in reviewing the application, providing testimony as necessary, and monitoring tower output for compliance with FCC regulations. If at any time during the review process, this escrow account falls below a balance of \$500, additional funds must be submitted to the town before any further action or consideration is permitted on the application. If at the conclusion of the review and initial monitoring process of this section, the cost of consultant services is more than the amount available in escrow, the applicant shall pay the difference prior to issuance of any permit. In the event that the amount in escrow is greater than the total final consulting fees, the difference shall be promptly refunded to the applicant. At the conclusion of the review process, the applicant shall receive a full, itemized explanation of how funds in the escrow account were disbursed.

14. Monitoring and Evaluation of Compliance

- a. Initial monitoring. In order to determine that any telecommunication tower or transmitting/receiving facility constructed with the approval of this Board is in compliance with FCC regulations on electromagnetic emissions, the applicant shall, after granting of the permit and within thirty days of the initiation of transmissions from that facility, pay for an independent consultant, hired by the Town of Livingston, to monitor electromagnetic frequency radiation around the tower site. The consultant shall use the most current, industry standard protocols in its monitoring. The consultant will prepare a report of the monitoring results and submit copies to the Town Board, the Planning Board, the Zoning Enforcement Officer, the Town Clerk and the Applicant.
- b. Ongoing monitoring. After initial monitoring, the applicant shall pay for an independent consultant, hired by the town, to conduct annual monitoring tests of electromagnetic frequency radiation from the facility to assure that emissions are in compliance with current FCC regulations. The consultant will use the most current, industry-standard protocols in its monitoring. The consultant will prepare a report of the monitoring results and submit copies to the Town Board, the Planning Board, the Zoning Enforcement Officer, the Town Clerk and the applicant.
- c. As a condition of any permit granted under this law, the applicant will give access to the site for purposes of monitoring. Failure to grant such access or to pay for the monitoring tests shall result in a revocation of the permit.
- d. Excessive Emissions. Should the monitoring of electromagnetic frequency radiation from a telecommunication facility site reveal the emissions exceed FCC guidelines, the owners of facilities utilizing the site shall be so notified by the Zoning Enforcement Officer. The owners of the facilities shall submit to the Town Board, the Planning Board, and the Zoning Enforcement Officer a plan for the reduction of emissions to a level in compliance with FCC guidelines within ten working days of receipt of the notice of non-compliance. The plan shall describe how emissions will be reduced to the FCC standard within fifteen days of the initial receipt of the notice of non-compliance. Failure to accomplish this reduction within the time frame specified above shall be a violation of the permit and subject to revocation of the permit.
- e. Structural Inspection. The owner(s) of a telecommunication tower or transmitting/receiving facility shall pay for an independent consultant (a licensed professional structural engineer), hired by the town, to conduct inspections of the tower's structural integrity and safety. Towers shall be inspected every five years after the date of completion of the telecommunication tower or transmitting/receiving facility. The independent consultant shall prepare a report of the results of the inspection and submit copies to the Town Board, the Planning Board, the Building Inspector, the Town Clerk and the applicant.
- f. Unsafe Structure. Should the structural inspection reveal any defects in the telecommunications tower or transmitting/receiving facility that, in the opinion of the independent consultant, render it unsafe, the owner(s) of the tower and/or facility shall, within ten business days of receipt of the notification of the unsafe condition(s), submit a plan to remediate the condition(s) to the Town Board, the Planning Board, and the Building Inspector. The owner(s) of the tower and/or facility shall apply for a building permit and construction pursuant to the plan shall begin within ten days of submission of the remediation plan and shall be completed as soon as is reasonably possible. Failure to comply with the provisions of this clause shall be a violation of the special permit and subject to penalties and fines as a zoning violation.

15. Removal Requirements - Any telecommunication tower or transmitting/receiving facility that ceases to operate for a period of one year shall be removed at the expense of the applicant or his, hers, or its successors. Cessation of operation for the purposes herein is defined as not performing the normal functions associated with telecommunications and its equipment on a continuous and ongoing basis for a period of one year. At that time, the telecommunications tower or transmitting/receiving facility shall be removed and a plan for the removal or reuse of accessory structures shall be presented to the Planning Board for its approval.
16. Performance Guarantees - The applicant, as a condition of the granting of a special use permit, shall post a performance bond in a reasonable amount and form as determined by the Planning Board. This bond shall be in force to cover the costs of the remediation of any damage to the landscape that occurs during the clearing of the site for construction and to cover the cost of the removal of the telecommunications tower or transmitting/receiving facility, and remediation of the landscape should the telecommunications tower or transmitting/receiving facility cease to operate.
17. Insurance - A telecommunication tower or transmitting/receiving facility and structures and facilities associated with them shall be insured by the owner(s) against damage to persons or property in an amount to be determined by the Planning Board. The owner(s) shall provide a certificate of insurance to the Town Board on an annual basis.
18. Permit Expiration and Renewal - Notwithstanding anything to the contrary in this Zoning Law, any special permit granted under this section shall lapse if the applicant fails to begin construction on the telecommunication tower or transmitting/receiving facility and associated structures and facilities within a two-year period dating from the issuance of the special exception permit. All permits granted under this section shall be granted for five years. The Planning Board shall renew a special exception permit for additional five-year periods if the Board, upon receipt of an application filed prior to the expiration of any five-year period, determines that the telecommunications tower or transmitting/receiving facility and its associated facilities and structures remain in compliance with all terms and conditions of the Zoning Law and all conditions placed upon the original special exception permit when granted.

4.37 TEMPORARY BUILDINGS

1. Temporary buildings shall be used for construction or development purposes only. The temporary building shall be removed within thirty (30) days of the completion of a construction or development project.

4.38 SUPPLEMENTAL HOUSING

1. Where a four (4) acre or larger lot is already improved by a one-family dwelling, a manufactured home (mobile home) may also be placed on that lot, provided that the placement of the manufactured home (mobile home) results in both the existing one-family dwelling and the manufactured home (mobile home), in relation to each other and generally, being in compliance with all applicable set back, yard frontage and other zoning and subdivision requirements as if there were the requirement that the 4 acre or larger lot be subdivided into two lots, with the one-family dwelling on one lot and the manufactured home (mobile home) on the other, and with the resultant boundary line between said two lots. Regarding the immediately foregoing requirement, under no circumstance shall it be permitted that the distance between the existing one-family dwelling and the manufactured home (mobile home) be less than eighty (80) feet. Only one manufactured home (mobile home) may be placed on a 4 acre or larger lot already having an existing one-family dwelling upon it. The existing one-family dwelling and the manufactured home (mobile home) may use the same well and septic system only with approval from the Columbia County Board of Health.

**ARTICLE V
NONCONFORMING STRUCTURES AND USES**

5.1 GENERAL PROVISIONS

1. A nonconforming use, building, other structure, site development or lot is one which existed lawfully, whether by variance or otherwise, on the date the zoning law or any amendment hereto became effective and which fails to conform to one (1) or more of the provisions of this law or amendment hereto.
 - a. Except as otherwise provided in this article, any nonconformity may be continued even though such nonconformity does not conform to the provisions of this law.
 - b. It is the intent of this article that non-conformities are not to be expanded without limits to insure compatibility with neighboring land uses and that the existence of any nonconformity shall not of itself be considered grounds for the approval of a variance for any other property.
 - c. All determinations in this article shall be made by the Zoning Board of Appeals.
 - e. Non-conformities may be changed so that they are similar or less nonconforming as determined by the Board. The Board must determine that the proposed use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. The Board may impose conditions on the site plan approval to minimize the impact of the proposed non-conforming use.
 - f. If any nonconformity ceases for any reason for a continuous period of more than one (1) year or is changed to a conforming use, then any future use of such building and the land on which it is located shall be in conformity with all provisions of this law.
 - g. It is expressly determined herein that any pre-existing gun club, that permits or allows the discharge of firearms or longbows shall be allowed to continue said use. Any proposed adjoining uses shall take into consideration, and provide reasonable safeguards necessary due to the existence and operation of said pre-existing gun club.
 - h. At all times the burden of proof as to all nonconformities shall be on the party alleging the existence of the nonconformity.

5.2 NON-CONFORMING USE OF LAND

1. Any non-conforming pre-existing use of land that existed prior to enactment of the zoning law that would be enlarged must file an application for a special use permit through the Zoning Board. No such expansion shall be permitted beyond 50% of the original non-conformity.
2. If such nonconforming use of land or any portion thereof ceases for any reason for a continuous period of more than one (1) year or is changed to a conforming use, any future use of such land shall be in conformity with all provisions of this law.

5.3 NONCONFORMING USE OF BUILDINGS

1. Expansion of a Nonconforming Use - The Zoning Board shall hear and decide applications for a permit for an expansion of the nonconforming use of a building and the following standards:

- a. Any nonconforming pre-existing buildings that would be enlarged or extended or a new building that would be enlarged or increased beyond an extent exceeding 50% of the gross floor areas of the existing building(s) must file an application for a special use permit through the Zoning Board.
 - b. Where a nonconforming use involves the nonconforming parking of commercial vehicles, the number of vehicles that exceeds 50% of the Cubical content of the vehicles must file an application for a special use permit through the Zoning Board.
 - c. The application to the Zoning Board shall include dates of any previous enlargements or extensions.
2. Any existing natural or man-made screening of nonconforming uses shall not be removed or replaced except as permitted by the Zoning Board. Such screening shall be maintained in a good state of repair.
3. If any building legally nonconforming in use shall be removed or partially or totally destroyed by fire or any other means, it may be repaired or reconstructed to the same size and on the same location or at the location specified for new buildings in the district in which such use is located. All repairs or reconstruction for such nonconforming use shall be completed within two (2) years of the date on which the destruction occurred.
4. Normal maintenance and repair to a building that is nonconforming in use shall be permitted.
5. No change shall adversely affect the public health, safety and welfare, the character of the neighborhood, or property values in the area of the use.

5.4 NONCONFORMING LOTS

1. A lot which fails to meet the area, shape, frontage or any other applicable requirements of this law pertaining to lots even if contiguous to other lots in the same ownership, may be used as a lot, provided it will meet building codes and Health Department regulations.

5.5 NONCONFORMING SITE DEVELOPMENT

1. Except as provided elsewhere in this law, a structure or element of a site which may be conforming in use but does not conform to the height, yard, building coverage, or other dimensional requirements, or to the parking, landscaping, buffering, sign, lighting, drainage, or other site plan standards or supplementary regulations of this law shall be allowed to remain, provided that:
 - a. No permit shall be issued nor shall any changes be made in such structures, land, or site development that will result in any increase of such nonconformity, and
 - b. The nonconformity shall not constitute a hazard to public health and safety.

5.6 EXEMPTION OF SUBSTANDARD LOTS

1. Substandard Lots - A single family dwelling may be constructed on a lot having an area of less than that which is required for the district in which it is in, provided that the lot has previously been granted final subdivision approval by the Planning Board or if the lot was in existence prior to the creation of such Planning Board. Setback requirements must still be met.
 - a. The extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this section shall be permitted.

- b. A nonconforming land use may be permitted to expand to an extent not exceeding in aggregate area fifty percent (50%) of the nonconforming use size but cannot extend into another district.
- c. When extension is to utilize additional adjacent property, one homogeneous lot shall be created. Buildings altered or created on the homogeneous lot shall be under a special use permit issued by the Board.
- d. The Board in issuing special use permits, shall provide for adequate screening between the nonconforming use and adjacent properties.

**ARTICLE VI
ADMINISTRATION AND ENFORCEMENT**

6.1 GENERAL

1. This law shall be enforced by the Zoning Administrator who shall be appointed by the Town Board. No building permit, demolition permit or certificate of occupancy shall be issued that would not be in full compliance with the provisions of this law. Any such permit or certificate issued or approved in violation of any provision of this law and other applicable provisions shall be null and void.

6.2 DUTIES OF THE ZONING ADMINISTRATOR

2. Except as otherwise provided, it shall be the duty of the Zoning Administrator to enforce the provisions of this law and of all rules, conditions and requirements specified by the Board of Appeals and the Planning Board.
3. The Zoning Administrator shall approve all applications, in writing, prior to the issuance of a building permit, demolition permit, or certificate of occupancy. Before granting such approval, the Zoning Administrator shall refer each application to the appropriate board(s) for review, if applicable.
4. The Zoning Administrator or a duly authorized assistant, upon the showing of proper credentials, may enter upon any land at any reasonable hour in the course of their duties provided that the Zoning Administrator has notified the owner and/or tenant a minimum of twenty-four (24) hours prior to conducting any inspection.
5. The Zoning Administrator shall keep a record of every identifiable complaint of a violation of any of the provisions of this law and of the action taken on each complaint. These records shall be public records.

6.3 DUTIES OF THE BUILDING INSPECTOR

1. It shall be the duty of the Building Inspector to issue building permits, demolition permits and certificates of occupancy, upon approval of the Zoning Administrator.
2. The Building Inspector or a duly authorized assistant shall have the right to enter any building or enter upon any land at any reasonable hour in the course of their duties, provided that the Building Inspector has notified the owner and/or tenant a minimum of twenty-four (24) hours prior to conducting any inspection.
3. The Building Inspector shall maintain files of all applications for building permits and plans submitted therewith and for demolition permits and certificates of occupancy and records of all such permits and certificates issued. These files and records shall be public records.
4. The Building Inspector shall report to the Town Board, at monthly intervals, summarizing for the period since the previous report all building permits, demolition permits and certificates of occupancy issued.
5. The Building Inspector shall administer and enforce the provisions of the State Building Code and any local law covering the disposition of unoccupied or unsafe buildings or structures.

6.4 BUILDING PERMITS

1. No person shall commence the erection, construction, enlargement, alteration, repair, removal, improvement, demolition, or conversion of any building or structure greater than two hundred (200) square feet requiring a building or demolition permit, or cause the same to be done, until such permit has been approved by the Zoning Administrator and issued by the Building Inspector for each building structure.
2. No building permit shall be issued for a building to be used for any use allowed by special permit of the Planning Board until such special permit has been issued by said Board.
3. No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board except in conformity with the plans approved by said Board.
4. No excavation shall be made for any building or structure requiring a building permit until such permit has been issued. Any excavations left open after the expiration of the permit period must be filled. Failing to comply with this requirement, the owner shall, within ten (10) days after written notification from the Building Inspector, cause the excavation to be filled. If the owner fails to comply, the Town is empowered to fill the excavation and any cost incident thereto shall be paid by the owner.
5. A building permit shall be void if construction is not started within a period of one (1) year or substantially completed within a period of three (3) years of the date of said permit.
6. The issuance of a building permit shall constitute authority to the application to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building laws, ordinances or regulations. All work shall conform to the approved application, plans and specifications.
7. Any amendments to the application or to the plans and specifications accompanying the same must be filed at a time prior to the commencement of the work on said proposed changes and subject to the approval of the Zoning Administrator and the Building Inspector. If the change involves a change in the special permit or site plan, the applicant shall gain approval from the reviewing board.
8. Application - Application for a building permit shall be made to the Building Inspector on forms provided by him and shall contain the following information:
 - a. A description of the land on which the proposed work is to be done;
 - b. A statement of the use or occupancy of all parts of the land and of the building or structure;
 - c. A brief description of the nature of the proposed work;
 - d. The evaluation of the proposed work;
 - e. The full name and address of the owner, the applicant, and the responsible officers of any corporation;
 - f. Three copies of plans and specifications required as set forth hereafter within (j) below;
 - g. Evidence of County Health Department approval, if necessary;

- h. Evidence of a driveway permit from the appropriate authority (New York State Department of Transportation, Columbia County Department of Public Works, Town Highway Department);
 - i. Such other information as may reasonably be required by the Building Inspector or Zoning Administrator to establish compliance of the proposed work with the requirements of the applicable building and zoning laws, ordinances and regulations. When requested, certain application requirements listed in this section may be waived by the Building Inspector or Zoning Administrator.
- 9. Application shall be made by the owner, lessee, or agency of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit from the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- 10. Plans and specifications shall bear the signature of the person responsible for the design and drawings. Plans and specifications shall carry the official seal or stamp of an authorized architect, land surveyor or professional engineer licensed in the State of New York, to attest that they conform to all requirements of the State Building Code except, as specified in the State Education Law, applications for:
 - a. Alterations costing less than thirty five thousand dollars (\$35,000) and not involving changes affecting structural or public safety;
 - b. Farm buildings; or
 - c. Residential buildings of a gross floor area of fifteen hundred (1500) square feet or less.
- 11. Application Review - The Building Inspector shall refer to the Zoning Administrator and shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith within five (5) days. The Zoning Administrator shall approve, disapprove, or refer the application to the Planning Board within thirty (30) days. Upon approval of the application and upon receipt of the applicable fees, the Building Inspector shall issue a building permit to the applicant upon the prescribed form within five (5) days and shall affix the Building Inspector's signature or cause the signature to be affixed thereto. Upon approval of the application, one (1) set of plans and specifications shall be retained in the file of the Building Inspector and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Building Inspector or an authorized representative at all reasonable times. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable zoning and building regulations, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Building Inspector shall cause such refusal, together with the reasons, to be transmitted to the applicant in writing. Such notice shall include information on the appeals procedure.
- 12. Revocation of Building Permit - The Building Inspector may order that an approved building permit be revoked in the following instances:
 - a. Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based;

- b. Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law;
 - c. Where he finds that the work performed under the permit is not being completed in accordance with the provisions of the application, approved plans or specifications;
 - d. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.
13. Stop Work Orders - When the Building Inspector has reasonable grounds to believe that work on any building, structure or site is being performed in violation of the provisions of this law or other applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, or persons performing the work, to suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed, and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail.
14. Appeal - An appeal may be made to the Zoning Board of Appeals from any decision of the Zoning Administrator or the Building Inspector within forty-five (45) days of such decision.

6.5 CERTIFICATE OF OCCUPANCY

1. No land use shall be altered and no building shall be occupied, used or changed in use until a certificate of occupancy has been approved by the Zoning Administrator and issued by the Building Inspector stating that the building or proposed use thereof complies with the provisions of this law and all other applicable laws and regulations. No certificate of occupancy shall be issued until the road or roads have been completed sufficiently to provide proper and reasonable ingress and egress for emergency vehicles. No certificate of occupancy shall be issued without prior approval of sewage facilities by the Columbia County Department of Health.
2. Application - A certificate of occupancy shall be applied for upon completion of construction. Said certificate shall be issued within ten (10) days after the erection or alteration has been approved as complying with the provisions of this law.
3. Temporary Certificates - Upon request, the Building Inspector may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit has been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare. Such permit shall be effective for a period not to exceed thirty (30) days.
4. Refusal - If the Building Inspector, after final inspection, refuses to issue a certificate of occupancy, he shall state such refusal in writing with the cause and immediately mail notice of such refusal by registered mail to the applicant at the address indicated on the application. Such notice shall include information on the appeals procedure.
5. Appeal - An appeal may be made to the Zoning Board of Appeals from any decision of the Zoning Administrator Building Inspector relating to the zoning law within forty-five (45) days of such decision.

6.6 SPECIAL USE PERMITS

1. All uses listed in the Schedule of Permitted Uses as requiring a special permit are declared to possess characteristics of such unique and distinct form that each specific use shall be considered as an individual case, and they shall conform to, but not be limited to, the following general requirements as well as the pertinent supplementary regulations. Special permits must be obtained from the Planning Board before site plan approval from the Planning Board can be granted. Any conditions placed on the special permit shall be conditions of site plan approval.
2. Prior to the issuance of a Building Permit or Certificate of Occupancy in any district, the Zoning Administrator shall require an application for a special permit for the use specified. The application shall include, but not be limited to:
 - a. Completed application forms and fees;
 - b. Environmental Assessment Form(s);
 - c. Written statement and/or rough sketch describing what is proposed;
 - d. Other information deemed necessary by the Planning Board to explain the proposed use, including but not limited to the Site Plan Submittal Requirements necessary for Planning Board Review.
3. The Zoning Administrator shall review the application for completeness and compliance with all applicable regulations and within ten (10) working days:
 - a. Reject the application as incomplete or non-complying; or
 - b. Forward the application to the Planning Board.
4. Review of Application and SEQR Process - The Planning Board shall review the application with the applicant and determine the process for compliance with the State Environmental Quality Review Act.
5. Referral to Columbia County Planning Board - The Planning Board shall comply with the provisions of Article 12B, Section 239-1 and 239-m, of the General Municipal Law, as amended, and refer to the Columbia County Department of Planning such special permit applications as are within its jurisdiction.
6. Notice to Neighboring Property Owners - At least ten (10) days prior to the public hearing, the applicant must mail notices of the hearing by certified mail to all owners of adjacent property.
7. Public Hearing Notice - Within forty-five (45) days of the receipt of a complete application, the Planning Board shall conduct a public hearing. Public notice shall be given by publication in the official town newspaper at least five (5) days prior to the public hearing. Reports from the Columbia County Department of Planning shall be read into the record at the hearing.
8. Decision - Within forty-five (45) days of the public hearing, the Planning Board shall render a decision on the special permit. This time limit may be extended by mutual consent of the applicant and the Planning Board.

9. Filing of Decision - The resolution (including any conditions) of the Planning Board fully setting forth the reasons for approval or denial shall be filed in the office of the Town Clerk, and a copy shall be sent by certified mail to the applicant within five (5) days of the decision.
10. Expiration of Special Permits - A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if said use or uses shall cease for any twelve (12) month period after the date of special permit approval or if the use is not completed within eighteen (18) months of approval.
11. Revocation of Special Permit - Special permits may be revoked by the Zoning Administrator in the event of change of use, increase of intensity from the approved special permit, or violation of the special permit conditions. Revocation of a special permit shall result in revocation of the building permit and certificate of occupancy as well.
12. Planning Board Report, Considerations and Scope - The Planning Board, after public notice and hearing, may approve the issuance of a special permit provided that it shall find that all of the following conditions and standards have been met:
 - a. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it, and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
 - b. The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
 - c. Operations in connection with any special use will not be offensive, potentially dangerous, destructive of property values and basic environmental characteristics, or detrimental to the total interest of the Town and will not be more objectionable to nearby properties by reason of noise, fumes, vibration, electromagnetic radiation, flashing of lights and similar nuisance conditions than would be the operations of any permitted use not requiring a special permit.
 - d. The use conforms in all respects to all the regulations of this law and particularly to the specific supplementary regulations that may apply to such use.
 - e. All structures, equipment and materials shall be reasonably accessible for fire and police protection.
 - f. The level of services required to carry out the proposed activity or use is or will be available to meet the needs of the proposed activity or use.
 - g. Parking areas will be of adequate size for the particular uses, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
 - h. The sewage disposal system must be adequate to accommodate the proposed use.
 - i. The Planning Board shall require additional conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.

13. No special permit shall be issued by the Planning Board for a property which the Planning Board finds not in compliance with the Zoning Law. The property must be brought into compliance prior to the issuance of any special permit.

6.7 SITE PLAN REVIEW

1. The Planning Board shall review and make recommendations concerning plans for all non-residential uses, public and semi-public buildings, two-family and multi-family residential units, whether or not such development includes subdivision or re-subdivision of a site. The construction of a single-family dwelling shall not be covered by this section. The Planning Board shall be guided in its review by the following:
 - a. The proposed use, building and layout shall meet the provisions of the zoning law and other regulations and ordinances of the Town of Livingston and shall meet the intent of the master plan.
 - b. The proposed use and design layout will be of such a location and in such size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.
 - c. The proposed use and layout will be of such a nature that it will not make vehicular or pedestrian traffic hazardous. Factors for the Planning Board to consider in this determination are the turning movements in relation to traffic flow, proximity to and relationship of intersections, adequacy of site distance, location and access of off-street parking and provisions for pedestrian traffic.
 - d. The proposed location and height of buildings or structures, walls and fences, parking, loading, and landscaping shall be such that it will not interfere or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonably affect its value.
 - e. Signage shall be designed and located so as to not present a hazard, glare or unattractive appearance to either adjacent property or to motorists.
 - f. Submittal Requirements - Any application for site plan approval shall include a completed Environmental Assessment Form and a map at a convenient scale of the applicant's entire holding and all surrounding properties. The map shall also include:
 - i. The names of all owners of record of adjacent property.
 - ii. Existing school, zoning and special district boundaries within five hundred (500) feet of the tract.
 - iii. Boundaries of the property and existing lot lines as shown on the existing Tax Map.
 - iv. Existing public streets, easements or other reservations of land.
 - v. Location of all existing buildings, structures and signs on the site, as well as those on adjacent properties within one hundred (100) feet of the subject lot line.

- vi. The proposed location and use of any building, structure or sign.
- vii. All existing and proposed means of vehicular access and egress to and from the site.
- viii. Location and design of all driveways and parking and loading areas.
- ix. Proposed storm water drainage system.
- x. Proposed fencing, screening and landscaping.
- xi. Existing and proposed contours, at intervals of five (5) feet or less, extending fifty (50) feet beyond the tract.
- xii. Location of existing watercourses, wooded areas, rock outcrops and single trees with a diameter of twelve (12) inches or more.
- xiii. A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract.
- xiv. Plans and elevations of all proposed buildings or structures or accessory structures, including all proposed outdoor signs.
- xv. Where the applicant wishes to develop the project in stages, a site plan indicating ultimate development of the entire parcel.
- xvi. For site plans involving more than one (1) dwelling, application must be made for subdivision and shall be approved as a condition of site plan approval.
- xvii. The design of proposed sewage systems approved by the Columbia County Department of Health.

6.8 ZONING BOARD OF APPEALS

1. The Town Board shall appoint a Board of Appeals consisting of five members, shall designate its chairman and may also provide for compensation to be paid to said members, experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding in all the appropriations that may be made by the Town Board for such Board of Appeals. No person who is a member of the Town Board or Planning Board shall be eligible for membership on such Board of Appeals.
2. Of the members of the Board first appointed, 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, one for the term of five years from and after his appointment; provided, however, that the Town Board may, by resolution, increase the number of members of the Board to seven, and provide for their compensation and thereafter such additional members shall be first appointed for terms of two and four years respectively. A Town Board that has increased the number of members of the Board to seven may, by resolution, decrease the number of members of the Board to five to take effect upon the next two expirations of terms.

3. Their successors, including such additional members as may be appointed by the Town Board, shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term. The Town Board shall have the power to remove any member of the Board for cause and after public hearing.
4. All meetings of the Board of Appeals shall be held at the call of the chairman and at such other times as such Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Meetings of such Board shall be open to the public to the extent provided in Article Seven of the Public Officer Law. Such Board 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. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Town Clerk and shall be a public record.
5. Appeals - Such Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator or any administrative official charged with the enforcement of any law adopted pursuant to this article. It shall also hear and decide all matters referred to it or upon which it is required to pass under any such ordinance, including interpretations of the language or intent of such law or of the location of zoning district boundaries. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such law or to effect any variation in such law. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town.
6. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, or if none, within thirty (30) days, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.
7. 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 a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

8. The Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and, at least five days before such hearing, give public notice thereof by publication in the official newspaper, and mail notices thereof to the parties; to the regional state park commission having jurisdiction over any state park or parkway within five hundred feet of the property affected by such appeal; and to the county, metropolitan or regional planning agency, as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal. Additionally, the applicant/appellant must mail notices of the hearing by certified mail to all owners of adjacent property. Upon the hearing, any party may appear in person, or by agent or attorney. The Board of Appeals shall decide such appeal or other matter within sixty (60) days after the final hearing. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken.
9. Referral to the Columbia County Planning Board - The Board of Appeals shall comply with the provisions of Article 12B, Section 239-1 and 239-m, of the General Municipal Law, as amended, and refer to the Columbia County Department of Planning such appeal applications as are within its jurisdiction.
10. Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by subdivision eight of this section, the appeal is denied.
11. Variances - The Board of Appeals shall hear and decide appeals from any decision made by the Zoning Administrator in accordance with the following provisions. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this law, the Board of Appeals shall have the power in passing upon provisions of such law relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of the law shall be observed, public safety and welfare secured and substantial justice done.
 - a. Area Variance - In the case of an area variance, the applicant is seeking modification of dimensional standards, such as yard requirements, setback lines, lot coverage, frontage requirements or density regulations, so that the property may be utilized for one of the uses permitted by the zoning law.
 - i. Notwithstanding the fact that the appeals board is appellate in function only: (1) where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the appeals board for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulation; (2) 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 appeals board for an area variance without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulation. The Board of Appeals shall have the power to grant area variances as defined herein.

- ii. In making its determination, the 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: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the request area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) 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.
 - iii. The Board of Appeals, in the granting of area variance, shall grant the minimum variance that it shall deem necessary and adequate and must at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 - iv. The Board of Appeals, in granting area variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- b. Use Variance - An individual who wants to utilize property for a use that is not permitted by the zoning law must apply for a use variance. No such variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove unnecessary hardship the applicant must demonstrate to the Board of Appeals that (1) under applicable zoning regulations the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) the alleged hardship has not been self-created.
- i. The Board of Appeals, in the granting of use variances, shall grant the minimum variance it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and must at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

- ii. The Board of Appeals, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- 12. Application - All applications for variances shall be filed with the Zoning Administrator and shall include required fees and five (5) copies of:
 - a. Completed building permit application, including plans and specifications;
 - b. Completed variance application showing:
 - i. Written proof or other evidence of financial hardship as required by the board; all commercial properties shall also submit income and expense statements as required by the board.
 - ii. Evidence of the uniqueness of the property in comparison with other properties in the zoning district.
 - iii. Statement regarding the effects of the proposal on the character of the neighborhood.
 - iv. Environmental Assessment Form(s).
 - v. Other relevant information as may be requested by the Zoning Board of Appeals which shall be provided by the applicant or obtained at the applicant's expense.
- 13. Rehearing - Upon motion initiated by any member and adopted by the unanimous vote of the members present, but not less than a majority of all the members, the Board of Appeals shall review at a rehearing held upon notice given as upon an original hearing, any order, decision or determination of the Board not previously reviewed. Upon such re-hearing, and provided it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision or determination reviewed will not be prejudiced thereby, the Board may, upon the concurring vote of all of the members then present, reverse, modify or annul its original order, decision, or determination.
- 14. Referral to Columbia County Planning Board - The Zoning Board of Appeals shall comply with the provisions of Article 12B, Sections 239-l and 239-m, of the General Municipal Law, as amended by referring to the Columbia County Department of Planning such variance applications as are within its jurisdiction.
- 15. Appeals to Supreme Court - Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department, board or bureau of the town, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision in the office of the Town Clerk.

6.9 AMENDMENTS

1. The Town Board may, from time to time on its own motion, or on petition, or on recommendation from the Planning Board, amend the regulations and districts established under this law after public notice and hearing in each case. All petitions for any amendment of the regulations or districts herein established shall be filed in writing on a form as required by the Town Board, and shall be accompanied by the appropriate fee.
2. Advisory Report by Planning Board - Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of forty-five (45) days from the date of receipt of notice, the Town Board may act without such report. If the Planning Board disapproves the proposed amendment, or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reason for such contrary action.
3. Criteria for Amending the Zoning Law - When considering zoning amendments, especially those involving changes to the official zoning map, the Town Board shall consider the following factors in making its determination:
 - a. Whether the proposed change would be contrary to the Town Master Plan.
 - b. Whether the change is compatible with the existing land use pattern.
 - c. The possible creation of an isolated district unrelated to adjacent and nearby districts.
 - d. The population density pattern and possible increase of overtaxing of the load on public facilities such as schools, utilities or streets.
 - e. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.
 - f. Whether change or changing conditions make the passage of the proposed amendment necessary.
 - g. Whether the proposed change will adversely influence living conditions in the neighborhood.
 - h. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety.
 - i. Whether the proposed change will create a drainage problem or negatively impact subsurface water resources.
 - j. Whether the proposed change will seriously reduce light and air to adjacent areas.
 - k. Whether the proposed change will adversely affect property values in adjacent areas.
 - l. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.
 - m. Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.

- n. Whether the proposed change will induce growth, subsequent development or related activities.
4. Public Notice and Hearing - The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:
 - a. By publishing a notice of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town not less than ten (10) days prior to the date of public hearing.
 - b. By giving written notice of hearing to any required municipal, county, regional, metropolitan, state or federal agency in the manner prescribed by law.
 - c. The applicant shall provide evidence that the applicant has notified adjacent property owners of the nature of the proposed zoning change.
 5. Protest By Owners - In the event of a protest against a change to the zoning law or map signed by the owners of twenty (20) per centum or more, either of the area of the land included in such proposed change, or of that immediately adjacent extending one hundred (100) feet therefrom, or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of the members of the Town Board.
 6. Minutes of the Town Board - Every amendment to the zoning law, including any map incorporated therein, adopted in accordance with New York State Town Law shall be entered in the minutes of the Town Board stating the effective date of the amendment.

6.10 SEQRA

1. All applications or zoning changes must comply with the regulations for the State Environmental Quality Review Act (SEQRA), Title 6 NYCRR Part 617, or any regulations adopted by the Town pursuant thereto.

6.11 REFERRAL TO THE COLUMBIA COUNTY PLANNING BOARD

2. In accordance with the policy and procedures provided for by the General Municipal Law, any proposed special use permit, site plan, variance, or amendment affecting real property within five hundred (500) feet of:
 - a. the boundary of the Town of Livingston;
 - b. the boundary of any existing or proposed county or state park or other recreational area;
 - c. the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
 - d. the existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines; or
 - e. the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated shall be referred to Columbia County Planning Department.

- f. situations shall be referred to Columbia County Planning Board as per their written criteria.
3. If the Columbia County Planning Board fails to report within thirty (30) days after receipt of a full statement of such referred material or a longer time period that has been agreed upon by the referring agency, the agency may act without such report.
4. If the Columbia County Planning Board recommends modifications thereof, the referring agency shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution setting forth the reason for the contrary action.
5. Within thirty days of final action, the referring agency shall submit a report of its action to the County Planning Board.

6.12 CONSULTANTS

1. If the Zoning Administrator, Town Board, Planning Board or Zoning Board of Appeals deem it necessary, expert advice may be obtained regarding any construction or development proposal, with the cost of such advice paid for in advance by the applicant as a condition of further consideration of the application. The report of any expert consultants shall be mailed to the applicant within five (5) days of its acceptance as complete by the Town Board, Planning Board, Zoning Board of Appeals or Zoning Administrator.

6.13 VIOLATIONS

1. Compliance Orders.

The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by USPS certified mail return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by USPS certified mail return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

2. Appearance Tickets.

The Code Enforcement Officer and each Inspector are authorized to issue Appearance tickets for any violation of the Uniform Code.

3. Civil Penalties.

In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Town.

4. Injunctive Relief.

An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town.

4. Remedies Not Exclusive.

No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

**ARTICLE VII
MISCELLANEOUS**

7.1 SEPARABILITY CLAUSE

1. If any section, subsection, sentence, clause, phrase or other part of this law, is, for any reason, held by any court of jurisdiction to be invalid, such decision shall not affect the validity of the remaining portion of this law. The Town Board hereby declares that it would have passed this law and each section, subsection, sentence, clause, phrase, and other parts thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or other parts be declared invalid.

7.2 CONFLICTING STANDARDS

2. In interpreting and applying this law, the requirements contained herein are declared to be the minimum requirements for the protection of the public health, morals, safety, comfort, convenience and general welfare. Where the provisions of any other statute, bylaw, ordinance or regulation require a greater width or size of yards or other open spaces or a lower height of building or a fewer number of stories or a greater percentage of lot area to be left unoccupied or otherwise impose greater restrictions than are required by this law, the provisions of such statute, bylaw, ordinance or regulation shall govern.