

Town of Montezuma Zoning Ordinance

Cayuga County, New York

**Adopted
July 16, 2019**

TABLE OF CONTENTS

ARTICLE I.	GENERAL PROVISIONS	
SECTION 1.01	SHORT TITLE	PG. 1
SECTION 1.02	PURPOSE	PG. 1
SECTION 1.03	APPLICABILITY	PG. 1
SECTION 1.04	PROCEDURES	PG. 1
ARTICLE II.	ADMINISTRATION	
SECTION 2.01	CONFORMANCE REQUIRED	PG. 2
SECTION 2.02	CODE ENFORCEMENT OFFICER POWERS AND DUTIES	PG. 2
SECTION 2.03	ZONING PERMITS	PG. 3
SECTION 2.04	SPECIAL PROVISIONS FOR ISSUANCE OF PERMITS IN FLOOD HAZARD AREAS	PG. 4
SECTION 2.05	CERTIFICATION OF OCCUPANCY	PG. 4
SECTION 2.06	FEES	PG. 4
SECTION 2.07	VIOLATIONS	PG. 4
SECTION 2.08	FINES AND PENALTIES	PG. 5
ARTICLE III.	DEFINITIONS	
SECTION 3.01	GENERAL	PG. 6
SECTION 3.02	SPECIFIC DEFINITIONS	PG. 6
ARTICLE IV.	ESTABLISHMENT OF ZONING DISTRICTS	
SECTION 4.01	PURPOSE	PG. 19
SECTION 4.02	ZONING MAP	PG. 20
SECTION 4.03	INTERPRETATION OF DISTRICT BOUNDARIES	PG. 20
ARTICLE V.	USE REGULATIONS	
SECTION 5.01	APPLICABILITY	PG. 21
SECTION 5.02	GENERAL USE REGULATIONS	PG. 21
SECTION 5.03	USES SUBJECT TO OTHER REGULATIONS	PG. 21
SECTION 5.04	PERMITTED USES	PG. 21
SECTION 5.05	PROHIBITED USES	PG. 21
SECTION 5.06	USE TABLE	PG. 22
SECTION 5.07	USES SUBJECT TO SPECIAL CONDITIONS	PG. 23
SECTION 5.08	PLANNED DEVELOPMENT DISTRICTS	PG. 28
ARTICLE VI.	NATURAL RESOURCE PROTECTION	
SECTION 6.01	FLOODPLAIN OVERLAY DISTRICT	PG. 34
SECTION 6.02	RIPARIAN BUFFER REGULATIONS	PG. 34
SECTION 6.03	STEEP SLOPE REGULATIONS	PG. 35
SECTION 6.04	WETLAND PROTECTION REGULATIONS	PG. 44
SECTION 6.05	STORMWATER MANAGEMENT REGULATIONS	PG. 44
ARTICLE VII.	DIMENSIONAL REQUIREMENTS	
SECTION 7.01	BULK TABLE	PG. 46
SECTION 7.02	SIDE SETBACK OF CORNER LOTS	PG. 46
SECTION 7.03	EXCEPTIONS TO MINIMUM LOT SIZES AND WIDTHS	PG. 46
SECTION 7.04	EXCEPTIONS TO BUILDING HEIGHT	PG. 46
SECTION 7.05	TRAFFIC VISIBILITY ACROSS CORNERS	PG. 46
SECTION 7.06	ESSENTIAL SERVICES	PG. 47

ARTICLE VIII.	SPECIAL USE PERMITS	
SECTION 8.01	PURPOSE AND INTENT	PG. 48
SECTION 8.02	APPLICABILITY	PG. 48
SECTION 8.03	PROCEDURE FOR OBTAIN A SPECIAL USE PERMIT	PG. 48
SECTION 8.04	GENERAL REQUIREMENTS AND STANDARDS	PG. 49
SECTION 8.05	EXPIRATION AND REVOCATION OF SPECIAL USE PERMITS	PG. 50
SECTION 8.06	REQUIREMENTS FOR DEFINED SPECIAL USES	PG. 50
ARTICLE IX.	NON-CONFORMITIES	
SECTION 9.01	CONTINUATION	PG. 64
SECTION 9.02	ALTERATION OR EXTENSION	PG. 64
SECTION 9.03	RESTORATION	PG. 64
SECTION 9.04	ABANDONMENT	PG. 65
SECTION 9.05	CHANGES	PG. 65
SECTION 9.06	DISPLACEMENT	PG. 65
SECTION 9.07	DISTRICT CHANGES	PG. 65
SECTION 9.08	ZONING PERMIT REQUIRED	PG. 66
ARTICLE X.	LANDSCAPING REQUIREMENTS	
SECTION 10.01	PURPOSE AND INTENT	PG. 67
SECTION 10.02	APPLICABILITY	PG. 67
SECTION 10.03	GENERAL REQUIREMENTS	PG. 67
SECTION 10.04	LANDSCAPING PLAN	PG. 68
ARTICLE XI.	OFF-STREET PARKING AND LOADING REGULATIONS	
SECTION 11.01	INTENT	PG. 69
SECTION 11.02	APPLICABILITY	PG. 69
SECTION 11.03	LOCATION OF REQUIRED SPACES	PG. 69
SECTION 11.04	REQUIRED OFF-STREET PARKING AND LOADING SPACES	PG. 69
SECTION 11.05	ALTERNATE PARKING	PG. 71
SECTION 11.06	NON-CONFORMING PARKING AND LOADING	PG. 71
SECTION 11.07	DESIGN STANDARDS FOR OFF-STREET PARKING	PG. 71
SECTION 11.08	DESIGN STANDARDS FOR LOADING FACILITIES	PG. 72
ARTICLE XII.	SIGN REGULATIONS	
SECTION 12.01	DEFINITIONS	PG. 73
SECTION 12.02	GENERAL REGULATIONS	PG. 73
SECTION 12.03	SIGNS PERMITTED IN ALL DISTRICTS	PG. 74
ARTICLE XIII.	SITE PLAN REVIEW AND APPROVAL	
SECTION 13.01	APPLICABILITY	PG. 76
SECTION 13.02	SKETCH PLAN CONFERENCE	PG. 76
SECTION 13.03	PRELIMINARY SITE PLAN APPLICATION	PG. 76
SECTION 13.04	PLANNING BOARD REVIEW OF PRELIMINARY SITE PLAN	PG. 78
SECTION 13.05	PLANNING BOARD ACTION ON PRELIMINARY SITE PLAN	PG. 79
SECTION 13.06	FINAL SITE PLAN APPROVAL PROCEDURE	PG. 80
SECTION 13.07	REFERRAL TO COUNTY PLANNING BOARD	PG. 80
SECTION 13.08	PLANNING BOARD ACTION ON FINAL SITE PLAN	PG. 80
SECTION 13.09	REIMBURSABLE COSTS	PG. 81
SECTION 13.10	SURETY	PG. 81
SECTION 13.11	INSPECTION OF IMPROVEMENTS	PG. 81
SECTION 13.12	INTEGRATION OF PROCEDURES	PG. 81

ARTICLE XIV.	SUBDIVISION REGULATIONS	
SECTION 14.01	AUTHORITY FOR APPROVAL & COMPLIANCE WITH POLICY	PG. 82
SECTION 14.02	APPLICABILITY AND LEGAL EFFECTS	PG. 82
SECTION 14.03	TYPES OF SUBDIVISIONS AND PROCEDURES	PG. 83
SECTION 14.04	COORDINATION WITH COUNTY HEALTH DEPARTMENT	PG. 84
SECTION 14.05	CONSULTATION AND REIMBURSABLE COSTS	PG. 84
SECTION 14.06	PLAT REVIEW OF UNCOMPLETED SUBDIVISIONS	PG. 84
SECTION 14.07	DEFINITIONS	PG. 84
SECTION 14.08	SUBDIVISION PROCEDURES	PG. 86
SECTION 14.09	MINOR SUBDIVISION REVIEW PROCEDURE	PG. 87
SECTION 14.10	MAJOR SUBDIVISION PRELIMINARY PLAT REVIEW PROCEDURE	PG. 89
SECTION 14.11	MAJOR SUBDIVISION FINAL PLAT APPLICATION	PG. 93
SECTION 14.12	ENDORSEMENT OF STATE AND COUNTY AGENCIES	PG. 95
SECTION 14.13	REQUIRED IMPROVEMENTS	PG. 95
SECTION 14.14	PUBLIC HEARING AND REVIEW OF FINAL PLAT	PG. 95
SECTION 14.15	PLANNING BOARD ACTION ON FINAL PLAT	PG. 96
SECTION 14.16	FINAL APPROVAL OF SUBDIVISION PLAT	PG. 96
SECTION 14.17	MODIFICATION OF DESIGN IMPROVEMENTS	PG. 97
SECTION 14.18	INSPECTION OF IMPROVEMENTS	PG. 97
SECTION 14.19	PUBLIC STREETS AND RECREATION AREAS	PG. 97
SECTION 14.20	CLUSTER SUBDIVISION	PG. 98
SECTION 14.21	GENERAL REQUIREMENTS AND DESIGN STANDARDS	PG. 100
SECTION 14.22	WAIVER OF CERTAIN IMPROVEMENTS	PG. 107
ARTICLE XV.	REGULATION OF TELECOMMUNICATION FACILITIES	
SECTION 15.01	APPLICABILITY AND PURPOSE	PG. 108
SECTION 15.02	GENERAL CRITERIA	PG. 108
SECTION 15.03	COLOCATION	PG. 108
SECTION 15.04	DIMENSIONAL STANDARDS	PG. 109
SECTION 15.05	LIGHTING AND MARKING	PG. 109
SECTION 15.06	APPEARANCE AND BUFFERING	PG. 110
SECTION 15.07	ACCESS AND PARKING	PG. 110
SECTION 15.08	SECURITY	PG. 111
SECTION 15.09	ENGINEERING AND MAINTENANCE	PG. 111
SECTION 15.10	REMOVAL	PG. 111
ARTICLE XVI.	SMALL WIND ENERGY SYSTEMS	
SECTION 16.01	APPLICABILITY AND PURPOSE	PG. 112
SECTION 16.02	DEFINITIONS	PG. 112
SECTION 16.03	SPECIAL PERMIT REQUIREMENTS FOR INSTALLATION	PG. 113
SECTION 16.04	REQUIREMENTS	PG. 113
SECTION 16.05	GENERAL PROVISIONS	PG. 113
SECTION 16.06	PENALTIES FOR OFFENSES	PG. 115
ARTICLE XVII.	SOLAR ENERGY SYSTEMS	
SECTION 17.01	APPLICABILITY AND PURPOSE	PG. 116
SECTION 17.02	DEFINITIONS	PG. 116
SECTION 17.03	NON-UTILITY SCALE SOLAR ENERGY SYSTEM REQUIREMENTS	PG. 117
SECTION 17.04	UTILITY SCALE SOLAR ENERGY SYSTEM REQUIREMENTS	PG. 117

ARTICLE XVIII. BOARDS

SECTION 18.01	PLANNING BOARD	PG. 121
SECTION 18.02	ZONING BOARD OF APPEALS	PG. 123
SECTION 18.03	REFERRALS TO COUNTY PLANNING BOARD	PG. 128
SECTION 18.04	AGRICULTURAL DATA STATEMENTS	PG. 129
SECTION 18.05	FEE REIMBURSEMENT	PG. 130

ARTICLE XIX. AMENDMENTS

SECTION 19.01	PROCEDURE	PG. 131
---------------	-----------	---------

ARTICLE XX. SEVERABILITY, REPEALER AND EFFECTIVE DATE

SECTION 20.01	SEVERABILITY	PG. 132
SECTION 20.02	REPEALER	PG. 132
SECTION 20.03	EFFECTIVE DATE	PG. 132

APPENDIX I. ZONING MAP

PG. 133

APPENDIX II. STEEP SLOPES MAP

PG. 134

APPENDIX III. NATURAL RESOURCE PROTECTION MAP

PG. 135

ARTICLE I: GENERAL PROVISIONS

Section 1.01 – Short Title

- A. This Local Law shall be known and cited as the “Zoning Ordinance of the Town of Montezuma, Cayuga County, New York.”

Section 1.02 – Purpose

- A. This Local Law is adopted in accordance with the Town of Montezuma Comprehensive Plan and is designed to promote the health, safety, and general welfare of the community; lessen congestion in the streets; help to secure safety from fire, flood and other dangers; provide adequate light and air; prevent overcrowding of land; avoid concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public needs.
- B. Under and pursuant to Article 16 of the Town Law of the State of New York, the purpose of this Ordinance is also to establish regulations concerning the size of buildings and other structures; the percentage of lot that may be occupied; the size of yards; the density of populations; and the use of buildings, structures, and land for trade, industry, residence, or other purposes.

Section 1.03 – Applicability

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

Section 1.04 – Procedures

- A. The procedures for complying with the terms of this Ordinance are enumerated in Article II: Administration. Generally, the procedure for all construction, alterations, and usage change of buildings in the Town require:
- (1) Issuance of a permit by the Code Enforcement Officer in accordance with the provisions in Article II.
 - (2) Issuance of a Certificate of Occupancy/Compliance by the Code Enforcement Officer in accordance with the provisions of Article II.

ARTICLE II: ADMINISTRATION

Section 2.01 – Conformance Required

- A. No building or land shall be used or occupied and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein set forth for the district in which it is located.

Section 2.02 – Code Enforcement Officer Powers and Duties

- A. The provisions of this Ordinance shall be administered and enforced by the Code Enforcement Officer who shall be appointed by the Town Board. The Code Enforcement Officer shall have the duty and power to:
- (1) Receive and examine all applications for Zoning and Building Permits.
 - (2) Receive and refer applications for Special Use Permits, Site Plans, and Subdivisions to the Planning Board for their review and approval.
 - (3) Issue zoning permits, Certificates of Compliance, and certification of occupancy only when there is compliance with the provisions of this Ordinance and with other Town Ordinances provided, however, the issuance of a Zoning Permit shall not be deemed a waiver of the requirements of any Town Ordinance.
 - (4) Following refusal of a permit, receive applications for appeals from alleged error of the Code Enforcement Officer and variances and forward these applications to the Board of Appeals for action thereon.
 - (5) Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Ordinance.
 - (6) Issue stop, cease, and desist orders, and order in writing correction of all conditions found to be in violation of the provisions of this Ordinance. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Code Enforcement Officer to be violating the terms of this Ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the Code Enforcement Officer, and any person violating any such order shall be guilty of a violation of this Ordinance.
 - (7) With the approval of the Town Board, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct, or abate such violation, so as to prevent the occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
 - (8) Revoke by order, a zoning permit or building permit issued under a mistake of fact or contrary to the law or the provisions of this Ordinance.
 - (9) Maintain a map showing the current zoning classification of all land.
 - (10) Upon the request of the Town Board, the Planning Board or the Zoning Board of Appeals, shall present to such bodies facts, records, or reports which they may request to assist them in making decisions.

Section 2.03 – Zoning Permits

- A. No structure shall be erected, constructed, extended, or moved and no land or building changed in use until a Zoning Permit has been secured from the Code Enforcement Officer. Upon completion or changes in use or construction, reconstruction, extension, or moving of structures, the applicant shall notify the Code Enforcement Officer of such completion.
- B. No permit shall be considered as complete or as permanently effective until the Code Enforcement Officer has noted on the permit that the work or occupancy and use has been inspected and approved as being in conformity with the provisions of this Law.
- C. Zoning Permits shall not be required for general maintenance work, painting, clearing woodlands, building ponds, tilling the soil, raising animals, landscaping, or constructing fences, terraces, steps, and other similar features. However, all such activities shall abide by the requirements of this Law.
- D. Zoning Permits shall be issued with a one (1) year life, renewable for two (2) consecutive years, provided, however, that if the work is not commenced within six (6) months after the issuance of the Zoning Permit, the permit shall automatically expire and a new permit shall be required before such work or change in uses commences.
- E. Application Requirements for Zoning Permits.
 - (1) All applications for Zoning Permits shall be made in writing by the owner, tenant, vendee under contract for sale, or authorized agent on a form supplied by the Town, and shall be filed with the Code Enforcement Officer. The applicant shall:
 - (a) Include a statement as to the proposed use of the building or land.
 - (b) Include a site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses and any existing buildings in relation to property and street lines.
 - (c) Include the number, location, and design of parking spaces and loading spaces if applicable.
 - (d) Include the size, dimensions, location, and methods of illumination for signs, if applicable.
 - (e) Include any additional plans and information reasonably necessary for the Code Enforcement Officer to ascertain whether the proposed use, change in use, erection, alteration, or addition complies with the provisions of this Law.
 - (2) A permit for any new use or construction which will involve the on-site disposal of sewage or waste, or a change in use or an alteration which will result in an increase in the number of bedrooms in a dwelling unit or an increased volume of sewage or waste to be disposed of on the site, or which will require a new or modified water supply, shall not be issued until a certificate of approval has been issued by the Cayuga County Health Department.
- F. Issuance of Zoning Permits.
 - (1) Zoning Permits shall be granted or refused within fifteen (15) days after the completed written application has been filed with the Code Enforcement Officer except as provided

elsewhere in this Law. Upon completion of the activity authorized by the Zoning Permit, the holder of such permit shall notify the Code Enforcement Officer.

- (2) All applications with accompanying plans and documents shall become, and be preserved as, a public record, subject to disposition of the Town Board.

Section 2.04 – Special Provisions for Issuance of Permits in Flood Hazard Areas

- A. When reviewing applications for Zoning Permits in areas of any district designated as flood hazard areas by the National Flood Insurance Program, the Code Enforcement Officer shall, in addition to the regular duties, act as the Floodplain Administer, and determine if the proposed development is consistent with the need to minimize flood damage.
- B. The Code Enforcement Officer, in reviewing all applications for construction in flood hazard locations within the Town, shall require that any such proposed construction shall:
 - (1) Be designed and anchored to prevent the flotation, collapse, or lateral movement of the structure or portions of the structure due to flooding.
 - (2) Use construction materials and utility equipment that are resistant to flood damage.
 - (3) Use construction methods and practices that will minimize flood damage.
 - (4) Provide adequate drainage in order to reduce exposure to flood hazard.
 - (5) Locate public utilities and facilities, including sewer, gas, electrical, and water systems, on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage.
 - (6) Provide a topographic survey showing the proposed structures and their elevations.

Section 2.05 – Certification of Occupancy

- A. No land shall be used or occupied and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy or certificate of completion has been issued by the Code Enforcement Officer stating that the building(s) or proposed use thereof complies with the provisions of this Law of the Town of Montezuma.

Section 2.06 – Fees

- A. The applicant, at the time of application for a Zoning Permit, shall pay to the appropriate Town Official the fee for said permit as established by the Town Board by resolution. All fees are non-refundable. The Town Board may, from time to time, amend the fee schedule. Fees shall be established by the Town Board by resolution.

Section 2.07 – Violations

- A. In the case that any building or structure is erected, constructed, reconstructed, altered, or converted, or any building, structure; or land is used in violation of this Ordinance, the proper local authorities of the Town, in addition to other agencies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or

about such premises; and upon the failure or refusal of the proper local officer, board, or body of the Town to institute any such appropriate action or proceeding for a period of ten (10) days after written request by a resident taxpayer of the Town so to proceed, any three (3) taxpayers of the Town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board, or body of the Town is authorized to do.

Section 2.08 – Fines and Penalties

- A. For any and every violation of the provisions of these Regulations, the following shall be liable, upon conviction thereof, to a fine or penalty not to exceed \$250.00, or by imprisonment for a period not to exceed 15 days or by both such fine and imprisonment:
- (1) The owner, general agent, or contractor of a building or premises where such violation has been committed or shall exist;
 - (2) The owner, general agent, contractor, lessee, or tenant of any part of a building or premises in which part such violations have been committed or shall exist;
 - (3) The general agent, architect, building contractor, or any other person who knowingly commits, takes part, or assists in any such violation, or who maintains any building or premises in which any such violation shall exist.

ARTICLE III: DEFINITIONS

Section 3.01- General

- A. Unless a contrary intention clearly appears, the following words and phrases shall have for the purpose of this Ordinance the meanings given in the following clauses.
- B. For the purpose of this Law words and terms used herein shall be interpreted as follows:
 - (1) Words used in the present tense include the future.
 - (2) The singular includes the plural.
 - (3) The "person" includes a corporation, partnership, and association as well as the individual.
 - (4) The word "lot" includes the word "plot" or "parcel".
 - (5) The term "shall" is mandatory.
 - (6) The word "used" or "occupied" as applied to any land or building and shall be construed to include the words "intended, arranged or designed to be occupied".
- C. Any word or term not defined herein shall be used with a meaning of standard usage.

Section 3.02- Specific Definitions

- A. When used in this Ordinance, unless otherwise expressly stated, the following words and phrases shall have the meanings hereinafter set forth. Certain specific words and terms used in this Ordinance shall be interpreted and defined as follows:

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

Accessory Dwelling Unit - A second subordinate unit that is: (1) contained with the existing primary single dwelling unit; (2) an addition to the existing primary dwelling unit; (3) an adaptive reuse of an existing permanent detached accessory structure such as a barn, carriage house or garage on the same parcel as the primary dwelling unit; or (4) designed into new construction of a single dwelling unit.

Agriculture - The use of farmland and resources for the production of food, fiber, fuel, and for agri-tourism activities in accordance with the accepted agricultural practices of land, nutrient, and farm management as defined by the New York State Department of Agriculture & Markets including but not limited to: the raising, harvesting, and selling of crops; feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals, or honeybees; dairying and the sale of dairy products; any other aquacultural, floricultural, horticultural, silvicultural, or viticultural use; animal husbandry, agricultural support industries, or by any combination thereof; and the use of land for the primary purpose of stabling or training equines including, but not limited to, providing riding lessons, training clinics, and schooling shows; and as further defined in "Agricultural Practices" elsewhere in this Ordinance.

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

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

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

Airport - The use of land, buildings, or structures for facilitating the take-off, landing, and handling of aircraft and their passengers and freight and; without limiting the generality of the foregoing, accessory uses may include ticket offices, confections, luggage-checking facilities, and parcel-shipping facilities.

Airstrip - An aircraft landing field, usually with one runway without normal airport facilities.

Alteration - Any modification made to a parcels building(s) or structures; (1) the modification or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or to means of egress; (2) an enlargement of a building or structure, whether by extending on a side or by increasing in height or roof coverage; (3) the relocation of any permanent or movable structure from one location another on the same parcel; or (4) any modification whereby a structure is adapted to another or different use, including any separation into rooms or spaces by the installation of new walls or roofs; or (5) the installation, replacement or modification of utilities serving the parcel.

Animal Husbandry - A branch of agriculture for the raising or nurturing and management of animals, including breeding, pasturing, ranching, and sales of animals

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

Apartment - One or more rooms or suites with private bath and kitchen facilities comprising an independent self-contained dwelling unit not owned in fee simple, located in a building containing three (3) or more such rooms or suites.

Apartment Building - Any building containing three (3) or more apartment dwelling units as defined elsewhere in this Ordinance.

Bed and Breakfast - Lodging facilities located in an owner-occupied private residence, having one (1) to five (5) guest rooms and serving breakfast to guests only. The period of accommodation shall be of a clearly temporary nature. Such use shall not be construed as a Boarding House.

Buffer Area - An area of land area covered with grass, vegetation, trees, fencing, embankments, or earth berms, designed to provide a physical and visual barrier utilized to reduce noise, dust, odor, light, litter or any other elements generally thought to be objectionable in nature.

Building - A structure enclosed within exterior walls, built, erected and framed of a combination of materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property.

Building Coverage - That percentage of the plot or lot area that is covered by the building area.

Building Height - A vertical distance measured from the mean elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs; to the deck lines of mansard roofs; and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Camp - A seasonal dwelling not intended for year round habitation but still provides the basic necessities such as potable water, heat source, kitchen, and sanitary waste disposal. A camp may be a permanent structure or movable but shall meet all district setbacks; intended for occupancy during certain seasons of the year.

Campground - An area to be used for seasonal transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind.

Certificate of Compliance - A certificate issued by the Code Enforcement Officer upon completion of the change in use of an existing building or upon the completion of a project requiring site plan approval. Said certificate shall acknowledge compliance with all requirements of the Town's Code, Ordinances, Local Laws, Variances, and Conditional use permits in existence as of the date of the issuance of the Certificate of Compliance.

Certificate of Occupancy - A certificate issued by the Code Enforcement Officer upon completion of construction or alteration of a building. Said Certificate shall acknowledge compliance with all of the requirements of the New York State Uniform Fire Prevention & Building Code, and shall deem the building safe for human habitation.

Cluster Development - A development of residential lots, some of which may contain less area than the minimum lot area required for the zone within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

Community Center - A building to be used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed.

Conservation, Open Space - Lands protected from development under permanent easement that may include pasture, woodland, agricultural fields, nature or game preserves, wildlife sanctuaries, public parks, and non-commercial recreation areas.

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

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

Dwelling - A building or a portion thereof, designed, used, or intended to be used for human habitation whether inhabited or not.

(1) **Single-Family Dwelling** - A dwelling having only one (1) dwelling unit from ground to roof, independent access, and open space on all sides.

(2) **Two-Family Dwelling** - A building designed for, or occupied exclusively by, two (2) families living independently of each other.

(3) **Multiple-Family Dwelling** - A building used, designed, or occupied as a residence for three (3) or more families living independently of each other.

Family - One (1) or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

Farm Stand - A structure or vehicle, whose principal use is the seasonal display and sale of agricultural and value added products.

(1) **Agricultural Product** - Any agricultural or aqua-cultural product of the soil or water, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, and fruit juice.

(2) **Value Added** - The increase in the fair market value of an agricultural product resulting from the processing of such product.

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

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

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

Gasoline Station - That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity.

Home Based Business - An activity customarily carries on in a dwelling unit or in a building or other accessory structure to a dwelling unit, for profit, by members of the immediate family residing in that dwelling unit; and which activity is clearly incidental to the principal use of any dwelling. In particular, a home based business is such that clients or customers come and go from the location as business is carried out from within the dwelling or accessory structure. Examples include the following or similar uses: accountant, billing service, or bookkeeper; architect or engineer, artist or graphic designer studio; auto repair; beauty or barber shop; chiropractor or massage therapist; dressmaking or tailor shop; financial planner; handcrafts shop; lawyer; mailing service; management consultant; photographer; software engineer or developer; tutor and/or educational services; web designer; and boat or auto repair and storage. Any business activity where customers come and go from the property. The following uses would also be considered to be home occupations: shooting ranges using either guns or archery equipment; auto body works; auto sale; heavy equipment repair and storage; firearm and ammunition sales and repair; manufacturing; machine tool shop; monument or stone cutting sales and service; pet sitter; taxidermy; and welding services.

Home Office - An accessory use of a residential dwelling where business or office activities are conducted by phone, computer or by hand. Typically the office would be an ancillary use for a primary business or office located elsewhere. A home office only involves the use of the residence by persons residing at the dwelling utilizing written correspondence, phones, computers, and/or other common office related equipment. The home office would not include the storage of business related goods for sale nor would customers come and go from a Home Office.

Industrial Uses - The manufacture, fabrication, processing, or reduction of any article, substance, or commodity or any other treatment thereof in such a manner as to change the form, character or appearance thereof. In addition, it shall include trucking facilities, warehousing, storage facilities, businesses serving primarily industry, and similar enterprises.

Junk - Any worn out or discarded materials including but not necessarily limited to scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

Junkyard - Any parcel of land or portion thereof in area of 200 square feet or more, including any accessory structure thereon, which is used for buying, selling, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition, and metals, glass, paper, plastics, rags, and rubber tires. A lot on which three or more inoperable vehicles are stored shall be deemed a junkyard. A junkyard includes an automobile wrecking yard.

Kennel - Any premises, except where accessory to an agricultural use, where domestic animals, such as dogs and cats, are boarded, trained, or bred

- (1) **Boarding** - Any kennel where pet animals owned by another person are temporarily boarded for pay, trade, barter, commission, or remuneration of any sort; provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians.
- (2) **Breeding** - Any kennel lawfully located on a premises one acre or more in size zoned for such use and where no more than 10 dogs, registered with a nationally recognized

registration organization, over the age of six months are owned, kept, or harbored for the purpose of breeding purebred or pedigreed dogs, provided, however, this definition shall not apply to zoos or to animal hospitals operated by veterinarians.

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

Lot: A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Ordinance.

- (1) **Lot, Corner**: A parcel of land at the junction of and fronting on two or more intersecting streets.
- (2) **Lot, Depth**: The average distance between the front and the rear lot lines.
- (3) **Lot, Flag**: A lot not meeting minimum lot frontage requirements and where access to a public or private street is provided by means of a long, narrow driveway between abutting lots.
- (4) **Lot, Through**: An interior lot having frontage on two parallel or approximately parallel streets.
- (5) **Lot Lines**: The property lines bounding the lot.
 - (a) **Lot Line, Front**: The line separating the lot from a street right-of-way.
 - (b) **Lot Line, Rear**: The lot line opposite and most distant from the front lot line.
 - (c) **Lot Line, Side**: Any lot line other than a front or rear lot line. A side lot line separating a lot from a street right-of-way is called a side street lot line.
- (6) **Lot Width**: The width of the lot between side lot lines at the front building line as prescribed by the front setback regulations.
- (7) **Lot Area**: The computed area contained within the lot lines.
- (8) **Lot Coverage**: The percentage of the lot covered by buildings, structures, and all other impervious materials.

Manufactured Home - As used in this Ordinance, the terms manufactured home or mobile home are defined by the terms of the Residential Code of the NYS Uniform Fire Prevention and Building Code Chapter 2 Section R202 as adopted or hereafter amended. The terms "mobile home" and "manufactured home" shall not include any self-propelled recreational vehicle or Park Model Recreational Unit.

Manufactured Home Park - A contiguous parcel of land which has been planned, developed, and improved for the placement of manufactured homes residential use with single control or ownership by an individual, firm, trust, partnership, public or private association, or

corporation. Any grouping of four or more manufactured homes or manufactured home lots shall be considered a manufactured home park.

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

Mining and Extraction of Natural Resources - The extraction or removal of sand, shale, soil, gravel or other minerals from the ground or the breaking of the surface soil, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a building permit has been made. This term shall not include excavation or grading when conducted for farm improvement.

Mixed-Use Development - The development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, in a compact urban form.

Nonconforming Lot, Structure, or Use -

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

Nursing and Convalescent Home - A facility where elderly, sick, invalid, infirm, or convalescent persons are housed or provided lodging, furnished with meals and long-term nursing care and related medical services on a 24-hour per day basis to two or more individuals. Such facility may be established for profit or nonprofit, and provides care for those persons not in need of hospital care.

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

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

- (1) **Permit, Building** - A permit issued by the duly designated building official authorizing the erection, construction, reconstruction, alteration, repair, conversion, or maintenance of any building, structure, or portion thereof. Such a permit shall not be issued without the signature of the Code Enforcement Officer, certifying compliance with this Ordinance.
- (2) **Permit, Occupancy** - The written approval of the Code Enforcement Officer certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this Ordinance and that such structure is habitable and in conformance with all applicable sections of the

NYS Uniform Fire Prevention and Building Code. Also referred to as a Certificate of Occupancy.

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

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

Place of Worship - Land including structures thereon for public worship and/or religious services. Includes additional buildings which serve as single-family dwelling for religious leaders

Private Club - Any organization catering to members and their guests, or a building or premises used for purposes such as, social gathering, recreational use, associative training, indoor or outdoor athletic use or other purposes not open generally to the public. Clubs shall not be conducted primarily for gain, and vending stands, merchandising, or commercial activities shall not be conducted except as required for the membership and purposes of such club. For the purpose of this Local Law, this term shall include: religious organizations; lodges; fraternal organizations; mutual benefit societies; snowmobiling, archery or hunting clubs; and other similar organizations.

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

- (1) **Indoor** - A commercial recreational land use conducted entirely within a building. Typical uses may include, but are not limited to an arcade, arena, bowling alley, community center, gymnasium, pool or billiard hall, skating rink, swimming pool, or tennis court.
- (2) **Outdoor** - A commercial recreational land use conducted almost wholly outdoors. Typical uses may include, but are not limited to athletic fields, basketball courts, batting cages, golf driving ranges (not associated with a golf course), laser tag, miniature golf, motorized cart and motorcycle tracks, motorized model airplane flying facilities, paintball, swimming pools, tennis courts, and skateboard parks.

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

Recreational Vehicle Campground - A lot or parcel of land occupied or intended for occupancy by recreational vehicles or tents for travel, recreational, or vacation usage for short periods of stay.

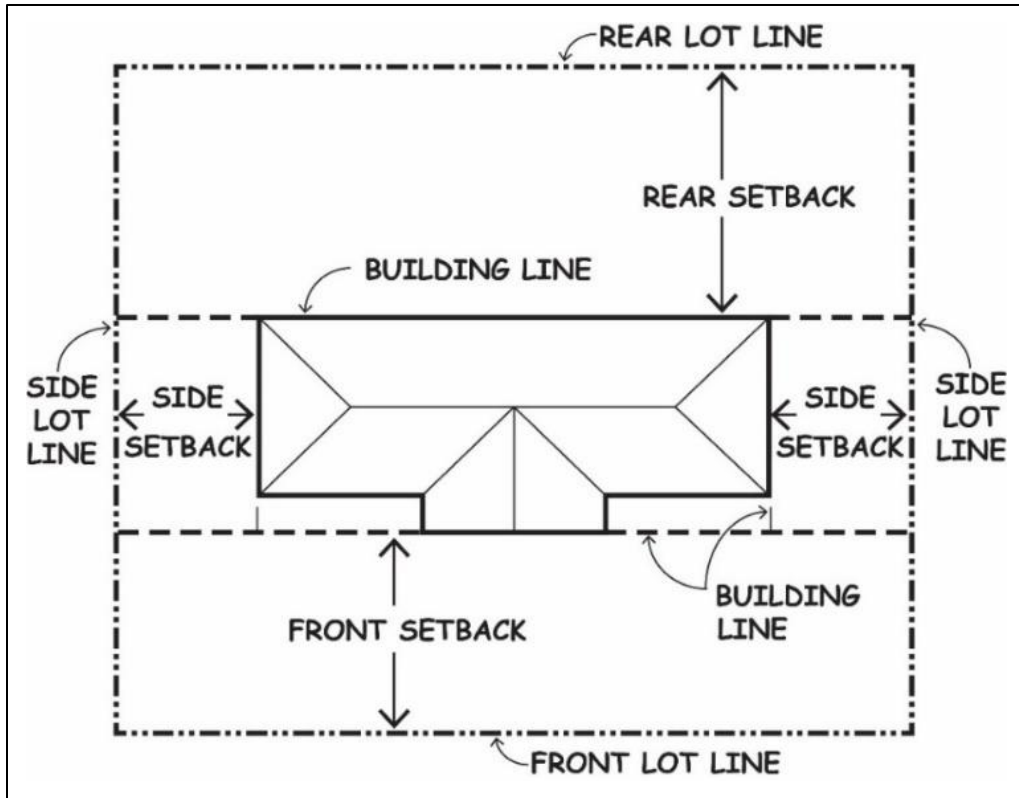
Recycling Facility - Collection, or purchase of recyclable materials from the public. Collection centers include: reverse vending machines a mobile recycling unit, kiosk-type units that may include permanent structures, unattended containers placed for the donation of recyclable materials.

Restaurant - A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute at least 51% of the gross sales receipts for food and beverages.

Retail Business Establishment - A place of business devoted in whole or in part to the sale, rental, or servicing of goods or commodities which are normally delivered or provided on the premises to a consumer. Typical categories of goods and services provided by retail business establishments include, but are not limited to artist and hobby supplies, auto supply stores, books, clothing and clothing accessories, food and liquor, flowers, furniture sales, garden supplies, gifts, hardware and paint, household goods and appliances, newspapers and stationery, pharmacy and medical supplies, sporting goods, and variety goods. The limited production of such goods, which are primarily intended for retail sale on the premises, shall be permitted provided that such production is a necessary adjunct of the retail establishment.

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

Setback - The least required horizontal distance between a property line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps.



Building Setbacks and Lot Lines

Short-Term Rental - The rental of a Residential Property to an individual or a single group for a term of fewer than 30 days in any given 12 month period.

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

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

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

Small Wind Energy Systems - Small Wind Energy Systems are Wind Energy Conversion System (WECS) that are limited in capacity to a maximum of 100 kilowatts and a total height of 200 feet.

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

- (1) **Non-Utility Scale Installation** - Also referred to as Accessory Solar Energy Systems. An accessory use is defined as a secondary activity incidental to the primary use of the property. Non-utility solar installations are designed for a home, business, or agricultural use where the primary use of the property is either household living, a commercial activity, or an agricultural activity; and the energy produced by the solar installation provides electricity directly to the building or buildings on site for the principal use of the property. Non-utility solar installations have a rated capacity of anything under 25 kilowatts and are designed to meet the specific energy needs of the principal use. Non-utility scale solar installations may be rooftop installations, or freestanding installations that are either ground- or pole-mounted. Non-utility scale solar installations must meet at least one of the following criteria: has a disturbance zone equal to or less than two acres; is mounted on or over a building, parking lot, or other previously-disturbed area; or utilizes integrated PV only.
- (2) **Utility Scale Installation** - Considered a public utility and developed as a primary land use. Utility scale solar installations are typically freestanding, and the principal economic function of the land hosting a utility scale solar installation is producing solar power for off-site consumption. Utility scale solar installations have a minimum rated capacity of 25 kilowatts, but are usually multiple megawatts, and may cover tens to thousands of acres of land. These installations primarily supply power for offsite consumption through the electrical grid. Also referred to as a “solar farm”.

Sporting Club - Areas reserved for public or private hunting of wildlife, fishing, boating, instructional training and accessory structures in support of those activities. A sporting club may include facilities, indoor or outdoor for the firing of handguns, rifles, or other firearms, such as target ranges, skeet and trap shooting.

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

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

- (1) **Subdivision, Major** - Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots, or any sized subdivision requiring a new street or extension of municipal facilities. A subdivision of a parcel that has been subdivided in the previous five (5) years shall be considered a Major Subdivision in accordance with the requirements of this Ordinance.
 - (a) **Subdivision, Cluster** - A Cluster Subdivision is a site planning approach that is an alternative to conventional subdivision development. It is a practice of low impact development that groups residential properties in a proposed subdivision closer together in order to utilize the rest of the land for open space, recreation, or agriculture.

- (2) **Subdivision, Minor** - Any subdivision of one parcel into at least two lots but not more than four (4) lots fronting on an existing street; does not include any new street or road; does not require the extension of municipal facilities; does not adversely affect adjacent properties; and is not in conflict with any provision of the Comprehensive Plan, the Official Zoning Map of the Town of Montezuma, or these regulations. For the purposes of these regulations, lot line adjustments shall also be considered a minor subdivision.
- (a) **Lot Line Adjustment** - A realignment of property lines between two (2) existing adjacent parcels, where the land taken from one parcel is added to the adjacent parcel, and where no new lots are created.

Telecommunications - The transmission and reception of audio, video, data and other information by wire, radio and other electronic or electromagnetic systems.

- (1) **Telecommunications Facility** - Telecommunications towers and associated antennas and accessory structures.
- (2) **Telecommunications Tower** - A structure designed to support antennas. It includes, without limit, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology. It is a structure intended for transmitting and/or receiving radio, television, telephone or microwave communications, but excluding those used either for fire, police, and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar communications.
- (3) **Tower** - Any tower, pole, windmill or other structure, whether attached to a building, guyed or freestanding, designed to be used for and/or for the support of any device for the transmission and/or reception of radio frequency signals, including, but not limited to, broadcast, shortwave, citizen's band, FM or AM television, microwave and any wind driven devices, whether used for energy production or not.
- (4) **Utility Substation** - Land occupied by a building, structure or equipment used for private business or by a private or public utility service regulated by the NYS Public Service Commission or a federal agency in the transmission or collection of energy, water, or sanitary waste and may include communication towers, transmission poles and towers, cellular phone towers or antennas, pump stations, and equipment monitoring buildings. It excludes transmission facilities for public broadcasting use; offices for public benefit; vehicles, equipment and material storage; warehousing and similar functions.

Town Engineer - The designated engineer of the Town of Montezuma.

Trade Shop - A shop where an individual involved in a skilled building trade (including carpenter, cabinet/furniture maker, plumber, electrician, for example) assembles custom fixtures, cabinets, furniture, for example, for installation by him/her at a job site location.

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

- (1) **Use, Accessory** - A use located on the same lot with a principle use, and clearly incidental or subordinate to, and customary in connection with, the principle use.

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

Usable Open Space - A required ground area or terrace area on a lot which is graded, developed, landscaped; and equipped, intended, and maintained for either active or passive recreation or both; available and accessible to and usable by all persons occupying a dwelling unit on the lot and their guests. Such areas shall be grassed and landscaped, or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute usable open space

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

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

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

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

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

ARTICLE IV: ESTABLISHMENT OF DISTRICTS

Section 4.01 – Purpose

- A. For the purpose of promoting the public health, safety, and general welfare of the Town of Montezuma, the Town is hereby divided into the following Zoning Districts and Overlay Districts:
- (1) Agricultural/Residential District (AR): The purpose of the Agricultural/Residential District is to accommodate the continued use of existing farms or the establishment of new farms while allowing for low-density residential development in areas of the Town where open space is important, both for the purposes of farming and to maintain the rural character of the community.
 - (2) Hamlet District (H): The purpose of the Hamlet District is to provide for a cluster of moderate density neighborhood housing development and neighborhood services while maintaining the generally rural character of the Town. Small commercial businesses may be in proximity to residential uses; however, large scale businesses or traffic-intensive uses shall be discouraged.
 - (3) Commercial (C): The purpose of the Commercial Zoning District is to acknowledge and sustain the section of the Town that traditionally included commercial uses and enterprises and to establish a zoning district where the primary land use involved the sale and/or manufacture of goods and services carried out for profit.
 - (4) Industrial (I): The purpose of the Industrial Zoning District is to provide adequate and appropriate sites within the municipality to accommodate facilities involved in: assembling, disassembling, repairing, fabricating, finishing, manufacturing, packaging or processing operations of an industrial nature; research and development operations; and shipping and receiving operations. The general goals include, among others, the following specific purposes: to provide a planned district for all types of assembly plants, factories, manufacturing plants, mills, warehouses, truck depots and transfer stations, and processing plants; to protect and buffer abutting districts by establishing setbacks, limiting on-street loading/unloading areas and parking, and establishing landscape screening provisions; to control development so as to minimize the danger of fires, explosions, toxic and noxious matter, radiation, offensive noise, vibration, smoke, odor and other objectionable influences or hazards; to protect the character of the area and established patterns in adjacent development, thereby maintaining land values and protecting the municipality's tax revenues.
 - (5) Open Space/Recreational (OR): The purpose of the Open Space/Recreational Zoning District is to ensure compatibility between development and the environment by protecting sensitive environmental areas in the community. Large areas of land within this District are identified as protected wetlands and/or floodplains and therefore are subject to severe developmental limitations. Proximity of this District to the Seneca River offers the opportunity to establish recreational activities which can benefit the general public. These benefits are only derived when development is sensitive to the natural environment in which it is established.

- (6) Floodplain Overlay District (F): The purpose of the Floodplain Overlay District is to assist in controlling the alteration of natural floodplains and help minimize the potential for public and private losses due to flood conditions that can be attributable to the cumulative effect of obstruction in the floodplain causing increases in flood elevations and velocities, and by the presence uses, which are inadequately elevated, flood proofed, or otherwise protected. The intent of the Floodplain Overlay District is to protect the public health, safety, and welfare from damage and other losses, to the extent practical, from future flooding damage within the flood hazard areas in the Town of Montezuma as determined, mapped, and updated by the Federal Emergency Management Agency (FEMA). It is also the intent of the Town to ensure future development in this overlay district adheres to the requirements of the Federal Flood Insurance Program, especially where base flood elevations have been determined, by requiring site plan review for all future development. As an overlay district, this zone does not impact the underlying zoning district with regard to permitted uses, uses permitted by special permit, lot size, or dimensional requirements.
- (7) Planned Development District (PDD): The purpose of the Planned Development District is to provide flexible land use and design regulations through the use of performance criteria and land impact considerations so that developments incorporating individual building sites, common property, singular land use, and mixed land uses may be planned and developed as a unit; such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily requiring the participation of other buildings and developments.

Section 4.02 – Zoning Map

- A. The Town of Montezuma Zoning Districts are bounded as shown on a map entitled “Town of Montezuma Zoning Map” certified by the Town Clerk, which accompanies and which, with all explanatory matter there on, is hereby made a part of this Ordinance.

Section 4.03 – Interpretation of District Boundaries

- A. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as show on the zoning map, the following rules shall apply:
 - (1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
 - (2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be such boundaries.
 - (3) Where district boundaries are so indicated that they are approximately parallel to the center lines, street lines, or right-of-way lines of highways, such district boundaries shall be construed to be parallel thereto and at such distance there from as shall be determined by the use of the scale shown on the zoning map.
 - (4) In case of further uncertainty as to the true location of a zoning district boundary line in a particular instance, the Code Enforcement Officer shall determine the locations of such boundary.

ARTICLE V: USE REGULATIONS

Section 5.01 – Applicability

- A. Except as provided by law or in this Ordinance, in each district, no building, structure, or land shall be used or occupied except for the purposes permitted in Section 5.06, Table 1 for the zoning districts so indicated.

Section 5.02 – General Use Regulations

- A. The following provisions shall apply to all zoning districts:
- (1) Fences. Fences shall meet a minimum side and rear setback of two feet (2 ft) from the lot line. The front setback shall be twenty-five feet (25 ft) measured from the middle of the road. In the case of a state highway, the front setback shall be thirty-five feet (35 ft) measured from the middle of the road. The finished side of the fence shall face outward toward adjacent properties or roads.
 - (2) Dumping of Waste Material. Dumping, piling or accumulation of refuse, garbage (other than in closed containers which are regularly emptied in a lawful manner), waste material, scrap or other noxious substances is strictly prohibited.

Section 5.03 – Uses Subject to Other Regulations

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

Section 5.04 – Permitted Uses

- A. The following describes the categories of uses as outlined in Section 5.06, Table 1:
- (1) Uses permitted by right with a building permit as required. (Denoted by “**P**”)
 - (2) Uses permitted by right, but subject to Special Conditions, as defined in Section 5.07. Review by the Code Enforcement Officer is required before a permit will be issued. (Denoted by “**SC**”)
 - (3) Uses permitted upon issuance of a Special Use Permit subject to review and approval by the Planning Board and subject to the requirements of Article VIII. (Denoted by “**SP**”).
 - (4) Uses that require Site Plan Review subject to the requirement of Article XIII as part of the approval process are denoted by “*”.
 - (5) A use that is not permitted in a particular zoning district is denoted by “-”.

Section 5.05 – Prohibited Uses

- A. Any uses not expressly stated as permitted by right, permitted subject to special conditions, or permitted upon issuance of a special use permit in Section 5.06, Table 1 are prohibited in the Town of Montezuma.

Section 5.06 – Use Table

Table 1: Town of Montezuma Zoning Ordinance Use Table						
Use Category	Zoning District					Section Reference
	AR	H	C	I	OR	
Accessory Building	SC	SC	SC	SC	SC	§5.07, A(1)
Accessory Dwelling	SC	SC	SC	-	-	§5.07, A(2)
Accessory Use	P	P	P	P	P	
Agriculture	P	-	-	-	P	
Agricultural Sales And Service	P*	-	P*	P*	-	
Agri-Tourism	P*	-	P*	-	-	
Airport	-	-	-	SP*	-	§8.06, A
Airstrip	SP*	-	-	SP*	-	§8.06, A
Animal Care Facility	SP*	SP*	SP*	-	-	§8.06, B
Apartment Building	-	P*	P*	-	-	
Bed And Breakfast	SP*	SP*	SP*	-	-	§8.06, C
Campground	SP*	-	-	-	-	§8.06, D
Cemetery	P	P	P	P	P	
Community Center	-	SP*	P*	-	-	§8.06, E
Conservation, Open Space	P	P	P	P	P	
Cultural Establishments	-	P*	P*	-	-	
Day Care Facility	SP*	SP*	SP*	-	-	§8.06, F
Electric Vehicle Charging Stations	SC	SC	SC	SC	-	§5.07, A(3)
Farm Stand	SC	SC	SC	-	-	§5.07, A(4)
Farm Worker Housing	SP*	-	-	-	-	§8.06, G
Gasoline Station	-	-	SP*	P*	-	§8.06, H
Home Based Business	SC	SC	SC	-	-	§5.07, A(5)
Home Office	P	P	P	-	-	
Industrial Uses	-	-	-	SP*	-	§8.06, I
Junk Yard	-	-	-	SP*	-	§8.06, J
Kennel, Boarding or Breeding	SP*	-	SP*	-	-	§8.06, K
Light Industrial Uses	-	-	SP*	SP*	-	§8.06, I
Manufactured Home Park	SP*	-	-	-	-	§8.06, L
Marina	-	-	P*	P*	-	
Mass Gathering (assemblies greater than 100 people)	SP*	SP*	SP*	SP*	SP*	§8.06, M
Mining and Extraction of Natural Resources	SP*	-	-	SP*	-	§8.06, N
Mixed-Use Development	-	P*	P*	-	-	
Multi-Family Dwelling	-	P*	P*	-	-	
Nursing or Convalescent Home	SP*	SP*	SP*	-	-	§8.06, O
Office, Professional	-	P*	P*	-	-	

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

Table 1: Town of Montezuma Zoning Ordinance Use Table (Continued)

Use Category	Zoning District					Section Reference
	AR	H	C	I	OR	
Personal Service Shop	-	P*	P*	-	-	
Place of Worship	P*	P*	P*	-	-	
Private Club	P*	P*	P*	-	-	
Recreation, Indoor	-	P*	P*	-	-	
Recreation, Outdoor	P*	P*	-	P*	P*	
Recreational Vehicle, Habitation	SC	SC	SC	-	-	§5.07, A(6)
Recreational Vehicle Campground	SP*	-	-	-	-	§8.06, D
Recycling Facility	-	-	-	P*	-	
Restaurant	-	P*	P*	-	-	
Retail Business Establishment	-	P*	P*	-	-	
School, Public or Private	P*	P*	P*	-	-	
Single-Family Dwelling	P	P	P	-	-	
Short-Term Rental	SC	SC	SC	-	-	§5.07, A(7)
Small Wind Energy Systems	SP*	SP*	SP*	SP*	-	§8.06, Q
Solar Energy System, Non-Utility Scale Installation	SC	SC	SC	SC	-	§5.07, A(8)
Solar Energy System, Utility Scale Installation	-	-	-	P*	-	§5.07, A(8)
Sporting Club	P*	-	-	P*	P*	
Telecommunications Facility	SP*	-	SP*	SP*	-	§8.06, R
Temporary/Emergency Occupancy	SC	SC	SC	-	-	§5.07, A(9)
Trade Shop	-	P*	P*	P*	-	
Two-Family Dwelling	P	P	P	-	-	
Utility, Public or Private	SP*	SP*	SP*	SP*	SP*	§8.06, S
Vehicle Sales	-	-	P*	P*	-	
Vehicle Service or Repair	-	-	SP*	SP*	-	§8.06, P
Warehousing, Freight Terminal, Wholesale Distribution	-	-	P*	P*	-	

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

Section 5.07 – Uses Subject To Special Conditions

A. No Zoning Permit or Building Permit shall be issued by the Code Enforcement Officer for any land use or activity listed in Section 5.06, Table 1 as having Special Conditions applicable (SC), until the Code Enforcement Officer is satisfied that the applicable regulations set forth below have been complied with as well as any other relevant requirements of this Ordinance.

(1) Accessory Building.

- (a) Unattached accessory buildings, including but not limited to noncommercial greenhouses, tool sheds, detached garages, farm buildings and structures, or swimming pools may be erected in any district, but shall be erected only in accordance with the following restrictions:

- (b) No accessory building, except for detached garages and farm buildings and structures, shall be located closer than fifteen (15) feet to the side and rear lot lines. No accessory building, except for detached garages and farm buildings and structures, shall be located closer to the street than the street wall of the principal structure.
 - (c) No accessory building, except for detached garages and farm buildings and structures, shall be located closer to a principal structure than ten (10) feet.
 - (d) Height cannot exceed sixteen (16) feet to the peak.
 - (e) The accessory building must not exceed 140 square feet of floor space.
 - (f) Every outdoor in-ground swimming pool shall be completely surrounded by a fence or wall not less than four (4) feet in height; such fence or wall shall have no holes or gaps larger than four inches (4") in any dimension, except for doors and gates Which shall be self-closing and self-latching and shall have locking devices to secure the doors and gates at all times when the pool is not in. actual use.
- (2) Accessory Dwelling.
 - (a) An accessory dwelling unit shall not be used as a rental unit.
 - (b) Accessory dwelling units shall be subordinate in area to the principal dwelling unit. The accessory dwelling unit shall contain a maximum of fifteen hundred (1,500) square feet, but in no event shall an accessory dwelling unit exceed fifty percent (50%) of the existing principal dwelling unit.
 - (c) A maximum of one accessory dwelling unit shall be allowed on any one lot and shall be attached to the principal dwelling unit.
 - (d) No accessory dwelling unit shall contain more than two (2) bedrooms.
 - (e) All accessory dwelling units shall be designed such that the appearance of the principal building remains that of a single-family dwelling.
 - (f) Accessory dwelling units shall utilize common water, septic, and electric facilities with the primary dwelling unit.
 - (g) All accessory dwelling units shall comply in all other respects with the provisions of local, state, and federal laws, ordinances, rules, and regulations, specifically including the New York State Uniform Fire Prevention and Building Code.
- (3) Electric Vehicle Charging Station, Level 2 and Level 3.
 - (a) Public Use.
 - (i) The dimensional requirements for electric vehicle parking spaces shall be the same as those for traditional vehicle parking spaces as provided in Article XI. The installation of electric vehicle supply and charging equipment shall not occupy any portion of the required area for parking the vehicle.
 - (ii) Installation of electric vehicle supply and charging equipment shall meet the standards in the National Electric Code Article 625.

- (iii) Charging station outlets and connectors shall be no less than 36 inches and no higher than 48 inches from the surface where mounted.
 - (iv) Adequate electric vehicle charging station protection, such as concrete-filled steel bollards, shall be installed. Curbing may be used in lieu of bollards, if the charging station is setback a minimum of 24 inches from the face of the curb.
 - (v) Adequate site lighting should be provided unless charging is for daytime purposes only.
 - (vi) If time limits or vehicle removal provisions are to be applied, regulatory signage including parking restrictions, hours and days of operation, towing, and contact information shall be installed immediately adjacent to, and visible from, the electric vehicle charging station.
 - (vii) When electric vehicle supply and charging equipment is placed in a sidewalk or adjacent to a walkway, it shall not interfere with the minimum pedestrian clearance widths as defined in Chapter 11 of the New York State Uniform Fire Prevention and Building Code: Accessibility. Cords, cables, and connector equipment shall not extend across the path of travel within a sidewalk or walkway.
 - (b) Electric Vehicle Charging Station, Restricted Use. Electric vehicle charging stations that are designed for private use shall be located in a manner that will not allow public access to the charging station; however, all requirements in subsection (a) items (i) through (iv) and (vii) above shall be met.
- (4) Farm Stand
- (a) No less than 51% of the items for sale shall be produced upon the farm with which it is associated.
 - (b) A farm stand shall be no larger than 200 square feet
 - (c) A farm stand shall be located no nearer than 100 feet from the edge of pavement
 - (d) A farm stand shall not be located within 100 feet of an intersection.
 - (e) Parking for vehicles shall be provided off the street pavement.
- (5) Home Based Business:
- (a) Is customarily carried on in a dwelling unit, or in a building or other accessory structure to a dwelling unit, by members of the immediate family residing in that dwelling unit. In particular, a home based business includes the following or similar uses: art studio; home office of a lawyer, engineer, architect, writer, accountant; beauty or barber shop; chiropractor; massage therapist; dressmaking or tailor shop; handcrafts shop; financial planner. Any business related activity that has associated customers coming and leaving from the location.
 - (b) Is an accessory use and as such is clearly incidental and secondary to the use of the dwelling for residential purposes.
 - (c) Conforms to the following regulations:

- (i) The home based business shall be carried on wholly indoors and within the principal or other structure accessory hereto.
 - (ii) There shall be no use of show windows or display of advertising visible outside the premises to attract customers or clients other than home based business announcement signs under ten (10) square feet.
 - (iii) There shall be no external alterations, additions, or changes to the structure shall be permitted in order to accommodate or facilitate a home based business, if such in any way alters the residential character of the building.
 - (iv) The home based business shall be carried on only by members of the immediate family residing in the dwelling unit plus not more than three (3) additional employees.
 - (v) No articles shall be sold or offered for sale except such as may be transported in the owner's automobile or pickup truck, or delivered through the postal service.
 - (vi) Repetitive servicing by truck for supplies and materials is prohibited.
 - (vii) The floor area devoted to a home based business shall not be more than two thousand (2,000) square feet.
- (d) Among the uses that shall not be interpreted to be a home based business are the following: animal hospital, commercial stables and kennels, restaurant, junkyard, or dismantling business.
- (6) Recreational Vehicle, Habitation. Recreational Vehicles located outside of a designated recreational vehicle park may be occupied only as follows:
 - (a) With a Temporary Permit, issued by the Code Enforcement Officer, a recreational vehicle may be occupied for a period of up to sixty (60) days, renewable by new application, but in no case shall exceed six (6) months per calendar year. Recreational Vehicles shall not be rented for on premise habitation.
 - (b) Applicant must provide:
 - (i) Garbage removal plan;
 - (ii) Waste water removal plan;
 - (iii) Sewage removal plan;
 - (c) Permit must be prominently displayed in window, visible from the road.
 - (d) Location of occupied recreational vehicle on lot must meet all setback requirements.
 - (e) No decks, porches, roofs, or sheds shall be affixed to any recreational vehicle.
 - (f) An unoccupied recreational vehicle shall be stored no closer than twenty (20) feet to any rear or side lot line and no closer than twenty (20) feet to the road right-of-way. The recreational vehicle shall not obscure the view by neighbors or oncoming traffic. When so stored, no connections shall be permitted except electrical.
- (7) Short-Term Rental

- (a) Management of Short-Term Rental Properties.
 - (i) It shall be the obligation of every owner of a Residential Property in the Town who permits the property to be used for Short-Term Rental to register said property with the Town Clerk. Such registration shall be completed by the property owner or their agents not fewer than ten (10) days prior to the first occupancy of the Short-Term Rental Property. Each owner shall provide information to the Town such that the owner may be contacted by telephone at any time of day or night with complaints by the public. The owner must be able to respond to complaints about the Short-Term Rental Property and take necessary action to resolve the complaint within thirty (30) minutes after notice is given to the contact telephone number.
 - (ii) The Town Clerk shall maintain a Registry of Short-Term Rental Properties which shall contain the information in each registration form.
 - (iii) Every registration shall be on a registration form adopted by the Town Board. The information entered on the registration form shall be a public record.
 - (iv) If the owner of the Short-Term Rental Property does not reside within the Town, the owner must designate an Agent to represent the owner's interests and obligations. The Agent shall provide information to the Town such that the Agent may be contacted by telephone at any time of day or night with complaints by the public. The Agent must be able to respond to complaints about the Short-Term Rental Property and take necessary action to resolve the complaint within thirty (30) minutes after notice is given to the contact telephone number.
 - (v) The name and telephone number of the Owner or Agent to be contacted with complaints shall be posted on the Short-Term Rental Property in a durable and readable form, and such information shall be visible at all times from beyond the boundaries of the property.
- (b) Fees.
 - (i) There shall be an annual registration fee imposed for registration of Short-Term Rental Properties. The amount of the fee shall be established in a Fee Schedule from time to time by resolution of the Town Board.
- (c) Operational Standards for Short-Term Rentals.
 - (i) Each owner of a Short-Term Rental Property in the Town shall ensure that their rental tenants do not make noise at a level which can be heard beyond the boundaries of the property.
 - (ii) Each owner of a Short-Term Rental Property in the Town shall ensure that their rental tenants do not encroach upon the lands of adjoining owners with trespassing people, automobiles, trailers, boats, or other recreational vehicles
- (8) Solar Energy Systems. All Solar Energy Systems shall meet the requirements of Article XVII.
- (9) Temporary and Emergency Occupancy

(a) Temporary Occupancy

- (i) A zoning permit may be issued for one interim dwelling located on the site of the construction of a one- or two-family dwelling for which a valid zoning and building permit is in effect; for one interim manufactured home unit for commercial or industrial use on the site of the construction of a commercial or industrial use for which a valid zoning and building permit is in effect; or for temporary uses and structures incidental to a construction project for which a valid zoning and building permit is in effect. All interim structures shall be removed within 60 days of the issuance of a certificate of compliance.

(b) Emergency Occupancy

- (i) In the event that a dwelling is rendered uninhabitable by fire, flood, or similar natural or manmade disaster, a zoning permit may authorize the placement, upon the lot where said dwelling is located, of an emergency occupancy.
- (ii) An emergency occupancy shall meet the following specific standards:
- (iii) Permitted only to meet a document emergency need.
- (iv) The maximum length of time such an emergency residence may be on a lot is one year. An extension of one year making a total period of time of two years from the initial permit may be granted by the ZBA in cases of documented hardship. Only a single extension may be granted and the hardship must result from circumstances beyond the control of the applicant which prevents the applicant from complying with the requirements of this section.
- (v) An emergency occupancy must have running water and must be connected to a totally enclosed septic system or public sewer.
- (vi) Such emergency dwelling shall be removed upon the compellation of the repair or replacement of the principal dwelling the dwelling
- (vii) No certificate of occupancy shall be issued until the emergency occupancy is removed from the lot
- (viii) No variance to the requirements of this section, except as outlined in part D above may be granted.

Section 5.08 – Planned Development Districts

- A. Purpose. In Planned Development Districts (PDD), land and buildings may be used for any lawful purpose in any district as authorized by the Town Board; the purpose of the PDD is to provide flexible land use and design regulations through the use of performance criteria and land impact considerations so that developments incorporating individual building sites, common property, singular land use, and mixed land uses may be planned and developed as a unit; such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily requiring the participation of other buildings and developments, where deemed appropriate, the Town Board may replace the set of use and dimensional regulations of the other Articles of this Ordinance with an approval process requiring a zone change, in which the approved plan and a new set of use and dimensional regulations become the basis for continuing land use controls.

B. Objectives. In order to carry out the purpose of this article, a PDD shall achieve at least the following objectives:

- (1) Work as a concentrated whole unit, being self-contained and un-conductive to expansion outside its boundaries at a future date, unless such expansion when added to the original PDD can act with it to create a larger self-contained unit.
- (2) Provide open space as an integral part of the plan.
- (3) Provide convenient, location of commercial and service areas.
- (4) Preserve trees, outstanding natural topography and geologic features, and prevent soil erosion and ground and surface water pollution.
- (5) Make creative use of land and related physical development which allows an orderly transition of land from rural to more urban uses.
- (6) Make efficient use of land resulting in smaller networks of utilities and streets and thereby lowering costs for construction maintenance and housing.
- (7) Provide a development pattern in harmony with the objectives of the Town of Montezuma Comprehensive Plan.
- (8) Provide a more desirable environment for dwelling, working, and/or recreation than would be possible through the application of the other articles of this Ordinance.

C. General Requirements.

- (1) Minimum Area. Under normal circumstances, the minimum area requirements for a PDD shall be twenty-five (25) contiguous acres of land, un-separated by existing major streets, highways or other properties.
- (2) Ownership. The tract of land for a project shall be owned or under legal option to purchase by the applicant who may be a single person, corporation, or a group of individuals or corporations; an application shall be filed by the owner or jointly by the owners of all property included in a project; in case of multiple ownership, the, approved plan shall be binding on all owners.
- (3) Location. The PDD shall be applicable to any area of the Town of Montezuma where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article, and the spirit of this Ordinance.
- (4) Permitted Uses. The use of land and buildings in a PDD may be for any lawful purpose as authorized by the Town Board in accordance with the procedures of this article; the following general uses, or combinations thereof, may be considered.
 - (a) Residential Uses. Residences-may be in a variety of types; in developing a balanced community, the use of a variety of housing types and densities shall be deemed most in keeping with the objectives of this article; the applicant shall demonstrate that he is reaching as broad an economic market as possible.
 - (b) Commercial, Service and Other Non-Residential Uses in Primarily Residential PDD. These uses may be permitted (or required) where such uses are scaled primarily to serve the residents of the residential PDD. Consideration shall be given to the project as it exists in its larger setting in determining the appropriateness of

such uses; however, in no-case shall more than 25% of the gross site area be permitted for commercial and services uses.

- (c) Commercial Uses. If designed and organized toward the purposes and objectives of this Article, a PDD with commercial, uses as the major land use may be approved; all proposed shopping centers in the Town shall be subject to approval through the PDD procedures, except as provided in Article IX. Commercial PDDs are limited to the Commercial District.
 - (d) Industrial Uses: If designed and organized toward the purposes and objectives of this article, a PDD with industrial uses as the major land use may be approved; all proposed industrial parks in the Town shall be subject to approval through the PDD procedures; industrial uses shall not be permitted in combination with any residential uses. Industrial PDD are limited to the Industrial District.
- (5) Intensity of Land Use. Land use intensity and dwelling unit density shall remain the same as provided in other articles of this Ordinance, however, greater land use intensity or dwelling unit-density may be permitted if it is demonstrated that a better overall dwelling, working and/or recreation environment is thereby produced; in determining the suitability of the modified land use intensity or dwelling unit density proposed for a PDD, each case shall be considered separately; proposed land use intensity ratings and/or dwelling unit densities shall be completely documented by all facts, opinions and judgments used to justify the selection-of intensity rate or unit density.
- (6) Common Property. Common property in a PDD is a parcel of parcels of land, together with the-improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites; when common property exists (and such may be required), the ownership of such common property may be either public or private; when common property exists in private ownership, satisfactory arrangements shall made for the improvement, operation and maintenance of such common property and facilities thereon; including but not limited to private streets, drives, service and parking areas, open space and recreation areas.
- D. Application Procedures for PDD Approval. For full approval of a proposed PDD the applicant shall secure a zoning change for the property from its present district to a Planned Development District, which process shall be that of amending the zoning ordinance and map to include the proposed PDD plan and all its related specifications. Further, after the zoning change, it shall be required that the subdivision and platting of all lands in the proposed PDD be subject to Section 7.06 of this Ordinance; and before construction and occupancy of buildings, the proper permits shall be secured by the applicant in accordance with Article XX of this Ordinance. When any PDD is proposed, before any permit for erection of a permanent building in such PDD shall be granted, and before any subdivision plat or any part thereof may be filed in the Cayuga County Clerk's Office, the applicant or his authorized agent shall apply for and secure approval of such PDD in accordance with the following procedures:
- (1) Pre-application Discussion Stage. Prior to formal application the applicant may present the proposed PDD to the Town Planning Board in rough sketch and written descriptive form to get the initial opinions concerning the concepts and general elements of the development, and to make-sure the required procedures for PDD application are fully understood. In this stage it is advised that most of the items in Section 5.08, D, 3 below

be addressed at least in rough form by the applicant; no approval at this stage shall be considered binding.

- (2) Application for PDD Zoning. Application for the establishment of a PDD shall be made to the Town Board in plan (drawn to scale) and written report form; prior to Town Board action, to insure that the proposed PDD is within the intent of the comprehensive planning activities of the Town, the Town Board immediately after receiving the application shall refer the application for the purpose of review and recommendations to the Town Planning Board which shall have thirty (30) days from its next regularly scheduled meeting within which to report; as deemed appropriate, either the Town Board or the Town Planning Board may submit the PDD application to the Cayuga County Planning Board for informal review, and as applicable in accordance with Section 239-m of Article 12-B of the N.Y.S. General Municipal Law, the Town Board shall refer the PDD application for formal review and recommendations to the Cayuga County Planning Board which shall have thirty (30) days or an agreed-upon longer period from its next regularly scheduled meeting within which to submit its report; if either planning board does not report to the Town Board within the specified time period, their inaction shall be construed as meaning "no recommendation."
- (3) Acceptability of a PDD proposal shall be based upon the Town Board's judgment concerning the overall quality of the PDD proposal, and the extent of its impact upon the Town, its citizens, and their properties. In order for the Town Board to adequately evaluate the PDD proposal, the application (in its plan and written report form) shall address the following areas, and information shall be furnished therein in a reasonably complete manner.
 - (a) Project Particulars. Shall include the name and location of the project; names and address(es) of the owner(s); a legal description of the property; the names of the owners of abutting properties.
 - (b) Type of Development. The type of development shall be fully described, including at least the following information:
 - (i) Residential. Total acreage of residential area and each residential portion of the development; total number of dwelling units and number in each residential portion; percentage and numbers of dwelling units by type (single family, garden apartments, townhouses, etc.); dwelling unit density per gross site acreage; estimated population of the development and estimated number of school-age children.
 - (ii) Commercial. Total acreage of commercial area; gross lease-able floor area in square feet; land use intensity rating; general description of commercial types and their general requirements for receiving and delivering goods.
 - (iii) Industrial. Total acreage of industrial area; land use intensity rating; types of industry and industrial processes involved; source, type, general quantities and method of shipment for raw materials; general quantities and method of shipment for products; types of wastes and residuals.
 - (iv) Description and total acreage for each of the park, recreational, open space and other uses.

- (c) Staging of Development. Description on plan and in the written report of the planned staging of the project.
- (d) Natural Site. A description of the natural site shall be included with at least the following information; soil characteristics and limitations; extent of and treatment intended for the site's vegetative cover (especially trees); topographical features (on topographic map); existing and proposed site drainage; foreseeable needs of site for construction precautions; existing conditions of and the projected effects upon the ground and surface waters of the site and community; possible air pollution hazards.
- (e) Site Planning and Design Considerations. Descriptions and illustrations of the following: site ingress and egress; parking; on-site pedestrian and vehicular circulation; general landscaping treatment; general location and arrangement of buildings and other structures; locations of all facilities; and general visual description.
- (f) Transportation and Traffic. Descriptions of at least the following; existing streets serving the area; level of service provided by existing streets in terms of traffic counts and street capacities; expected modifications for existing street systems required by project; estimated daily automobile trips generated by the residential and other uses; major existing traffic generators in general area; availability of public transportation to site; design considerations for deterring on-site and area traffic congestion.
- (g) General Market Information. Describe the need for the proposed land uses in their proposed locations and their proposed quantities; and the intended market structure for the residential units (prices and rents; describe whether low-income, middle-income, luxury, etc.).
- (h) Projected Fiscal Impacts on Town. Calculations of projected Town revenues and costs to be expected by the Town as a result of the proposed development.
- (i) Utilities and Related Services. Describe the following-and detail their intended locations on the plan(s): the method and projected quantities of waste water (sewage) from the development; demand and source of supply for water; level of service needed and available for fire protection; demand for and availability of gas and electricity; projected quantities of and method of disposal for solid wastes.
- (j) General Effects of Development on Neighborhood and Community Appearance and Land Use. Description of effects on the appearance; relationship of project to predominant character and land use in area (compatible).
- (k) Relationship of Proposed PDD to Official Town and County Development policies. Information on how the proposed PDD relates to local and area wide goals and policies as stated in plans and regulations.
- (l) Development, Operation and Maintenance of Open Space and Common Properties. A general statement concerning the responsibility for these and proposed methods for their implementation.

- (m) Developer Competence. Evidence in the applicant's behalf to demonstrate his competence to carry out the plan and his awareness of the scope of the project, both physical and financial.
 - (n) Other. Any other such information as the Town Board deems to be reasonably pertinent to the adequate consideration of the proposed project.
- (4) Public Hearing. Within forty-five (45) days after receiving a report from the Town Planning Board, the Town Board shall schedule and conduct a public hearing for the purpose of considering the change of zoning to PDD for the applicant's plan in accordance with the procedures established under Section of the N.Y.S. Town Law.
- (5) Town Board Action. Within forty-five (45) days after a public hearing the Town Board shall render its decision on the PDD application; if the Town Board grants the PDD zoning, the zoning map shall be so notated, and the Ordinance shall be amended so as to define the legal boundaries of the PDD, but such action shall have effect only of granting permission for development of the specific proposed land uses in accordance with the use and dimensional specifications, plans and related materials filed with the Town Board and related to the specific PDD; such specifications, plans and related materials to include, if deemed necessary by the Town Board to protect the public health, safety and welfare of the Town, any conditions and requirements for the applicant to meet; the approved plan and the related attachments shall be deemed as amendment to this Ordinance and shall serve as continuing land use controls for the specific Planned Development District; the first such zoned PDD shall be designated PDD-1, with subsequent, unrelated Planned Development Districts to be numbered in continuing sequence.
- (6) Annual Review of PDD. The Town Board shall review the PDD annually in order to determine the amount and quality of progress made by the developer toward fulfilling the specifications and plans and any attached conditions; based upon the programs made by the developer, the Town Board may reconsider the PDD and further amend the Ordinance in relation to it, if progress is not to the satisfaction of the Town Board or not in keeping with the staging approved by the Town Board if no progress is made on the site of the PDD within the first year, the Town Board may seriously consider changing the zoning of the property to the original or other district; little or no progress on the PDD by the developer does not guarantee the Town Board will take action to change zoning, especially if the developer demonstrates to the satisfaction of the Town Board that he is acting in continuing good faith and, where applicable, the preliminary plat plans are in preparation.

ARTICLE VI: NATURAL RESOURCE PROTECTION

Section 6.01 – Floodplain Overlay District

- A. Purpose. The purpose of the Floodplain Overlay District is to assist in controlling the alteration of natural floodplains and help minimize the potential for public and private losses due to flood conditions that can be attributable to the cumulative effect of obstruction in the floodplain causing increases in flood elevations and velocities, and by the presence uses, which are inadequately elevated, flood proofed, or otherwise protected.
- B. Intent. The intent of the Floodplain Overlay District is to protect the public health, safety, and welfare from damage and other losses, to the extent practical, from future flooding damage within the flood hazard areas in the Town of Montezuma as determined, mapped, and updated by the Federal Emergency Management Agency (FEMA). It is also the intent of the Town to ensure future development in this overlay district adheres to the requirements of the Federal Flood Insurance Program, especially where base flood elevations have been determined, by requiring site plan review for all future development. As an overlay district, this zone does not impact the underlying zoning district with regard to permitted uses, uses permitted by special permit, lot size, or dimensional requirements.
- C. Procedures for actions in floodplain areas.
 - (1) All activities undertaken in areas designated as a flood hazard area by the Federal Flood Insurance Program on maps prepared by the Federal Emergency Management Agency (FEMA), including any future revisions to said maps, shall comply with applicable regulations of the Town of Montezuma Flood Damage Prevention Law adopted as Local Law No. 1 of 2007. Said law is on file with and available from the Town Clerk and the Code Enforcement Officer.
 - (2) The Code Enforcement Officer is hereby authorized and charged with the responsibility to determine if a subject property is within the Floodplain Overlay District and is also the individual responsible for assuring review of any development within the Floodplain Overlay Zoning District is in compliance with applicable local, state, and federal requirements.

Section 6.02 – Riparian Buffer Regulations

- A. Purpose and Intent: The Riparian Buffer Regulations are designed to protect the Town of Montezuma's watershed areas; to preserve the scenic character and water quality of the Seneca River, the Cayuga-Seneca Canal, and Town of Montezuma's streams; and to reduce the risk of damage due to flooding. These regulations are not intended to be substituted for zoning district provisions, but shall be considered as additional requirements to be met by the applicant prior to project approval.
- B. Requirements. All activities undertaken in areas that require Riparian Buffers shall be subject to site plan review; and shall comply with the following provisions:
 - (1) There shall be a riparian buffer of at least 100 feet wide on each side of the Seneca River and the Cayuga-Seneca Canal.

- (2) There shall be a riparian buffer of at least 100 feet wide on each side of any NYS Department of Environmental Conservation classified stream, Class D or higher.
- (3) There shall be a riparian buffer of at least 50 feet wide on each side of any unclassified perennial stream.
- (4) Cutting of trees and other vegetation within riparian buffers is prohibited.
- (5) Except as otherwise specifically provided, riparian buffers shall be measured starting from the top of the bank outward away from the edge of the river, canal, or stream on each side of the river, canal, or stream.
- (6) No soil disturbance will be permitted, nor will a building permit be issued with respect to property lying within the riparian buffer.
- (7) There shall be no septic systems, permanent structures, or impervious cover within the riparian buffer.
- (8) The use of chemicals, such as fertilizers and pesticides, is prohibited within any riparian buffer.

Section 6.03 – Steep Slope Regulations

- A. Purpose. The purpose of the steep slope regulations established in this section is to provide special controls over land development located in these sensitive environmental areas within the Town of Montezuma. These regulations are designed to preserve, protect and manage sensitive steep slope features with grades of 15% or greater in order to minimize erosion, pollution and environmental damage; reduce soil, pavement and building subsidence; ensure proper emergency access; and preserve and enhance, to the extent practicable, public scenic views as identified in the Comprehensive Plan.
- B. Intent. These regulations are not intended to be substituted for zoning district provisions, but shall be considered as additional requirements to be met by the applicant prior to project approval. The purpose of the steep slope regulations is to provide the Town with an additional level of review and regulation that controls how land development permitted by the Town's zoning districts should occur on slopes of 15% grade or greater and within a 50 foot zone at the top and bottom of such slopes.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated, unless otherwise stated:
 - (1) Site Disturbance: Any activity that removes the vegetative cover from the land surface.
 - (2) Vegetative Cover: Grasses, shrubs, trees, and other vegetation which holds and stabilizes soils.
 - (3) Steep Slope: A ground area with a 15% gradient or greater (a ratio of 15 feet or greater of vertical distance to every 100 feet of horizontal distance) for a vertical height of 35 feet or more and covering a minimum horizontal area of 500 square feet.
 - (a) 15% slope: A ground area with a 15% gradient (a ratio of 15 feet of vertical distance to every 100 feet of horizontal distance) for a vertical height of 35 feet or more and covering a minimum horizontal area of 500 square feet.

- (b) 25% slope: A ground area with a 25% gradient (a ratio of 25 feet of vertical distance to every 100 feet of horizontal distance) for a vertical height of 35 feet or more and covering a minimum horizontal area of 500 square feet.
- D. **Applicability.** The steep slope regulations in Article VI, §6.03 shall apply to all steep slopes within the Town as defined in §6.03, C.; and shall also apply to a 50 foot zone along the top and bottom of such slopes. The Town has the authority to amend or add to these regulations as necessary. Field investigations and/or other environmental analyses may be required in order to determine whether a proposed regulated activity is included within the regulated area. Determination of the status of a particular activity in terms of its presence within or near a steep slope of 15% or greater shall be made by the Code Enforcement Officer. There are two categories of steep slopes that shall be subject to these regulations as follows:
 - (1) Areas with steep slopes equal to or greater than 15% but less than 25% including a 50 foot zone along the top and bottom of such slopes.
 - (2) Areas with steep slopes that are equal to or greater than 25% including a 50 foot zone along the top and bottom of such slopes
- E. **Map.** Approximate boundaries of the areas with steep slopes as defined in §6.03, C. are shown on the Steep Slopes Map in Appendix II, which shall be used for reference purposes only and shall not be used to delineate exact boundaries.
- F. **Steep Slope Permit.** A Steep Slope Permit is required for any regulated activity as defined in Article VI, §6.03, G. Steep Slope Permits shall be issued by the Code Enforcement Officer.
 - (1) If the site is subject to the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) permitting process, the applicant shall submit verification of compliance with those requirements before the Steep Slope Permit is granted.
- G. **Regulated Activities and Exemptions.**
 - (1) No construction, grading, excavation or other activity that results in site disturbance is permitted on any land with a slope of 25% or greater, or within a 50 foot transition zone at the top and bottom of slopes with a 25% grade or greater, unless such activity is a non-structural and non-tillable farming activity or a timber harvesting activity using NYS Forestry Best Management Practices for Water Quality.
 - (2) Any construction, grading, excavation, or other activity that results in site disturbance that takes place on a slope equal to or greater than 15% but less than 25% or within a 50 foot transition zone at the top and bottom of these slopes shall conform to these steep slope regulations, unless exempted by this section. The following activities are exempted by this section:
 - (a) Any planting or installation of landscape materials which does not require disturbance of existing terrain;
 - (b) Emergency situations, as determined by the Code Enforcement Officer, where the disturbance of steep slopes is required to protect persons or property from imminent danger;

- (c) Farming activities using sound management practices in accordance with the Sound Agricultural Practices Guidelines of the New York State (NYS) Department of Agriculture and Markets;
 - (d) Timber harvesting using NYS Forestry Best Management Practices for Water Quality;
 - (e) Routine repair and maintenance of an existing driveway, but not to include reconstruction;
 - (f) Construction, maintenance, and repair of public utilities;
 - (g) Routine and emergency construction, maintenance or repair of public highways by authorized municipal or New York State personnel;
 - (h) Public water and sewer installations;
 - (i) Site disturbance that totals an area of less than 300 square feet.
- (3) No driveway, vehicular access lane, or private road may be constructed that exceeds a 15% slope for more than 5% of its total length.

H. Erosion Sediment Control Plan. Applicants for Steep Slope Permits shall submit an Erosion and Sediment Control Plan (ESCP) that will enable the Planning Board to evaluate the appropriateness of the steep slope site design and the proposed erosion and sediment control measures.

- (1) Contents. The ESCP shall contain provisions to control erosion and sedimentation; and reduce the impacts of stormwater, stormwater infiltration, and runoff from the site during construction and post-construction based on best management practices. The objective of such practices is to minimize soil erosion and sedimentation and ensure slope stability. ESCP contents shall include:
- (a) A complete ESCP shall contain the following: A narrative that provides background information about the scope of the project, site characteristics such as location, type, and size of the project, and describes the plans and maps described in this section. The narrative should highlight the erosion and sedimentation control measures, and measures to maintain slope stability, and why they will be effective.
 - (b) A general location map that shows the proximity of the site to any surface water bodies, wetlands, roads, property boundaries, and other features, and shall include a USGS map as well as a map at a minimum 1:100 scale.
 - (c) An existing condition site plan that shows the grading features as they currently exist, soils, existing vegetation, drainage patterns and stormwater runoff, and the locations and names of the receiving waters.
 - (d) A grading plan and construction timetable that shows the proposed finished contours and drainage patterns, and addresses sequencing of the project and construction activities including clearing, grubbing, excavation, grading, utility and infrastructure installation and any other activity on the site that results in soil disturbance. The plan will also show locations of off-site material, waste, borrow or equipment storage areas, and locations of stormwater discharges. The timetable shall show how each phase of the project relates to the others and how the applicant has taken steps to minimize the amount of exposed soil at all times.

- (e) A site plan and timetable that depicts the location of all erosion and sediment control measures and a timetable that charts the sequencing of control measures. The plan shall include:
- (f) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control, and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.
- (g) The dimensions, material specifications, and installation details for all erosion and sediment control practices including the siting and sizing of any temporary sediment basins.
- (h) Temporary practices that will be converted to permanent control measures.
- (i) Description of the pollution prevention measures that will be used to control litter, construction chemicals, and construction debris from becoming a pollutant source in stormwater runoff.
- (j) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.
- (k) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.
- (l) The names of the receiving waters of new drainage patterns.
- (m) A description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.
- (n) The designation of responsibility for ESCP implementation for each part of the site and phase of the project.
- (o) A description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
- (p) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
- (q) A plan prepared by a licensed professional engineer showing and certifying the following:
 - (i) All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion, and water.
 - (ii) The calculated volume of water run-off from slopes 15% or greater and from the lot in question, as unimproved and improved, during a 2 year, 24 hour storm event.
 - (iii) The existence, location, and capacity of all natural and artificial drainage courses and facilities within 500 feet of the regulated activity, which are used, or will be used, to carry or contain the water runoff from slopes 15% or greater.

- (iv) A description of the effect of any increased water run-off on all adjacent properties and any other property which will be materially affected by increased water run-off and infiltration.
 - (v) Subsurface geology and hydrology that would impact the proposed development, adjacent properties, or areas downstream of impacted water flows.
 - (r) Any additional provisions, methods, or procedures the Planning Board deems necessary in order to do a proper review of the regulated activity.
- I. Content Waiver. The Planning Board may waive any information requirements contained within §6.03, H. with respect to an application for a Steep Slope Permit, so long as a fully informed determination, consistent with the intent of this Section, can be made without the information.
- J. Technical Standards.
 - (1) For the purpose of these regulations, the following documents shall serve as the official guides and specifications for slope protection and erosion and sediment control:
 - (a) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).
 - (b) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).
 - (2) Alternative methods that are not outlined within this section may be used with prior approval of the Town Board based upon a favorable recommendation from all of the following: Town Engineer and County Soil and Water Conservation District, where applicable.
- K. Review Standards.
 - (1) Considerations. In granting, denying or conditioning any application for a Steep Slope Permit, the Planning Board shall consider the following:
 - (a) The effect that the proposed regulated activity will have on the public health, safety and welfare and on the protection or preservation of steep slope areas;
 - (b) The compatibility of the proposed regulated activity with the preservation, protection and conservation of the steep slope and surrounding area; and
 - (c) The degree to which the proposed activity conforms to the standards and criteria of the steep slope regulations, as noted elsewhere in §6.03.
 - (2) Conditions. No permit to undertake a regulated activity within any area of steep slopes shall be issued unless the applicant can demonstrate that the following standards are met to the satisfaction of the Planning Board:
 - (a) There is no reasonable alternative for the proposed regulated activity on that portion of the site not containing steep slopes;

- (b) There shall be no more than nominal degradation to or loss of steep slopes and surrounding areas;
- (c) Lot layouts are designed so that sanitary sewage disposal systems entirely avoid all areas classified as steep slopes and are in compliance with all standards and regulations of the Cayuga County Health Department;
- (d) Wherever possible, erosion shall be prevented by minimizing disturbance to the existing vegetative cover;
- (e) The planning, design and development of buildings and site improvements limits the rate of stormwater runoff to a zero increase with overflow to a municipal drain system where practicable and provides the maximum in structural safety, slope stability, and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain and aesthetic character;
- (f) The terracing of building sites is kept to a minimum;
- (g) Roads and driveways follow the natural topography to the greatest extent possible in order to minimize the potential for erosion, and they are consistent with other applicable regulations and current engineering practices;
- (h) Habitat is quantified and protected, no endangered species of flora or fauna are adversely impacted and any replanting shall be maintained by the applicant for two years and shall consist of indigenous vegetation that at a minimum replicates the original vegetation on the site, in kind;
- (i) Any re-grading blends in with the natural contours and undulations of the land;
- (j) Cuts and fills are rounded off to eliminate sharp angles at the top, bottom, and sides of re-graded slopes;
- (k) The angle of cut and fill slopes does not exceed a slope of one vertical to three horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Town Engineer are used;
- (l) Disturbance of rock outcrops is by means of explosives only if labor and machines are not effective and only if rock blasting is conducted in accordance with all applicable regulations of the Town and the State of New York. The rock shall be effectively stabilized;
- (m) Disturbance of slopes is undertaken in workable units in which the disturbance can be completed and stabilized in one construction season so that areas are not left bare and exposed during the period from December 15 through April 15;
- (n) Disturbance of existing vegetative ground cover does not take place more than seven (7) days prior to grading and construction;
- (o) Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, is applied to an area of disturbance within two days of establishing the final grade, and permanent stabilization is applied within seven (7) days of establishing the final grade;

- (p) Soil stabilization is applied within two days of disturbance if the final grade is not expected to be established within 60 days;
 - (q) All proposed disturbance of slopes is undertaken with consideration of the soil limitation characteristics, in terms of recognizing the limitations of certain soil types on slopes for development and application of all mitigating measures, and as deemed necessary by the Planning Board or Town Engineer;
 - (r) Structures are designed to fit into the hillside rather than altering the hillside to fit the structure, employing methods such as reduced footprint design, step-down structures, stilt houses, and minimization of grading outside the building footprint;
 - (s) Development is sited on that portion of the site least likely to impact the natural landforms, geological features, and vegetation;
 - (t) The construction equipment has adequate access so as not to disturb anything outside the approved limit of disturbance that shall be shown on the plan drawings and, when approved, staked in the field.
- L. Review Process. To the extent practicable, Steep Slopes Permit reviews shall run concurrently and be coordinated with other local approvals.
- (1) Pre-application Erosion and Sediment Control Sketch Plan. The applicant is encouraged to present a sketch plan of the proposal to the Planning Board for informal review and discussion. The Planning Board is not authorized to and shall not take any formal action on sketch plans.
 - (2) Submissions. An application, an Erosion and Sediment Control Plan, and any requests to waive specific ESCP requirements shall be submitted to the Planning Board. All of these materials must be submitted before the application can be reviewed.
 - (3) External Review. The Planning Board may refer the ESCP to a qualified consultant and/or to the County Soil and Water Conservation District for professional advice concerning compliance of the plan.
 - (4) Final Decision. Findings of fact shall be made by the Planning Board for all decisions to permit, not permit, or permit with conditions the regulated activity. "Findings" is a written description of facts relevant to and in support of the decision made and shall be made part of the public record. No Steep Slopes Permit shall be granted unless it is consistent with these regulations.
 - (5) Provisions for Inspection. A Steep Slopes Permit may be approved only after physical inspections of the property have been made by the Town at the times and in the manner described below. The applicant shall arrange with the Town Code Enforcement Officer for scheduling of the following inspections:
 - (a) An initial inspection prior to final approval of the requested Steep Slopes Permit.
 - (b) An erosion control inspection to ensure erosion control practices are in accordance with the approved plan.
 - (c) A burial inspection prior to backfilling of any underground drainage or stormwater conveyance structures.

- (d) A final inspection when all work, including construction of stormwater management facilities, has been completed.
- (e) The Code Enforcement Officer retains the right to inspect permanent post-construction stormwater facilities on an on-going basis and to request records of its maintenance.

M. Enforcement.

- (1) Appeals. Applicants may appeal the determination of steep slope boundaries in the same manner as appeals of Code Enforcement Officer interpretations under Article II.
- (2) Operation and Maintenance of Facilities. The owner or operator of permanent stormwater management practices installed in accordance with this Ordinance shall ensure they are operated and maintained to achieve the goals of this Ordinance. Proper operation and maintenance also includes, as a minimum, the following:
 - (a) A preventative/corrective maintenance program for all critical facilities and systems of treatment and control, or related appurtenances, which are installed or used by the owner or operator to achieve the goals of this law.
 - (b) Written procedures for operation and maintenance and training of new personnel, if applicable.
 - (c) Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with state law.
- (3) Sureties.
 - (a) Completion of Work. To ensure compliance with all requirements of an approved Steep Slopes Permit, the Town Board, at the recommendation of the Planning Board, may require the applicant to provide a performance guarantee or surety, prior to construction in the form of a performance bond, escrow account certification, or irrevocable letter of credit from an insured financial institution. The guarantee shall be for the full cost of all work to be performed on the property subject to the permit and shall be payable solely to the Town of Montezuma. The Town Board shall determine the amount based on the final design plans and actual construction costs.
 - (b) Maintenance of Facilities. Where stormwater management and erosion control facilities are to be operated and maintained by the developer, or by a corporation that owns or manages the development, the Town Board, at the recommendation of the Planning Board, shall require the developer to provide the Town with a performance guarantee/surety in the form of a performance bond, escrow account certification, or irrevocable letter of credit from an insured financial institution, payable to the Town of Montezuma to ensure maintenance of all stormwater management and erosion control facilities which have been approved for the Steep Slopes Permit during the life of the facility.
 - (c) Duration. Sureties will remain in force until the Town releases the responsible party from liability. All accrued interest in any surety account shall be reinvested to the benefit of the account and may be applied only to the purposes originally

established for the surety until the Town releases the responsible party from liability.

- (d) Failure to Comply. If the developer or owner fails to perform as required under the Steep Slopes Permit, the Town may draw any portion of the amount guaranteed for the purpose of work in default under the permit. If the developer, owner, or other named responsible party fails to maintain facilities as required, the Town may draw any portion of the amount guaranteed to pay the costs of operation and maintenance of permitted facilities.

(4) Stop Work Orders.

- (a) The Code Enforcement Officer shall issue, or cause to be issued, a stop work order for any regulated activity found ongoing without a Steep Slope Permit. Disregard of a stop work order shall subject the violator to the penalties described in Article II of this Ordinance.
- (b) The Code Enforcement Officer shall issue, or cause to be issued, a stop work order for any steep slope development found non-compliant with the provisions of this law and/or the conditions of the Steep Slope Permit. Disregard of a stop work order shall subject the violator to the penalties described in Article II of this Ordinance.

(5) Certificate of Compliance.

- (a) In areas with steep slopes it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Code Enforcement Officer stating that the building or land conforms to the requirements of §6.03.
- (b) A certificate of compliance shall be issued by the Code Enforcement Officer upon satisfactory completion of all development in areas with steep slopes.
- (c) Issuance of the certificate of compliance shall be based upon the inspections conducted as prescribed in §6.03, L, (5).

N. Fees. The application shall be accompanied by:

- (1) The applicant, at the time of application for a Steep Slopes Permit, shall pay to the appropriate Town Official the fee for said permit as established by the Town Board. The Town Board may, from time to time, amend the fee schedule. Fees shall be established by the Town Board by resolution.
- (2) Fees for services provided by site inspectors, engineers, planners, attorneys and outside agencies in an amount determined by the Town Board as sufficient to defray the estimated costs of such services rendered to the Town in connection with the application. The applicant shall deposit with the Town Clerk the amount estimated to reimburse the Town for such costs. Any amount remaining after payment for services rendered shall be returned to the applicant upon final approval or upon withdrawal if the application is withdrawn.

Section 6.04 – Wetland Protection Regulations

A. Purpose and intent.

- (1) The purpose of this Section is to promote the health, safety, and welfare of the residents of Montezuma and to implement the recommendations of the Town's adopted Comprehensive Plan by preserving, protecting and conserving wetlands through careful regulation and control so that the multiple functions and benefits they provide may continue, thereby helping to protect property from damages caused by flooding and other losses due to wetlands destruction.
- (2) This Section is intended to regulate the dredging, filling, deposition or removal of materials; degradation of water quality; the diversion or obstruction of water flow; and the placement of structures in, and other uses of, wetlands in the Town in accordance with the New York State Freshwater Wetlands Act and Article 24 of the New York State Environmental Conservation Law and the Clean Water Act of the United States.

B. Procedures for actions in designated wetlands.

- (1) Development activities, including but not limited to, construction of structures, buildings, or utilities; dredging, grading, filling, draining; or discharging into or adjacent to wetlands shall comply with the following regulations:
 - (a) All development activities undertaken in areas designated as a regulated wetlands by the New York State Department of Environmental Conservation (NYS DEC) shall comply with all applicable regulations of the NYS Freshwater Wetlands Permit Requirements (6NYCRR Part 663). A map of the New York State regulated wetlands in the Town of Montezuma is provided in Appendix III.
 - (b) All development activities undertaken in areas designated as a wetland under the Clean Water Act of the United States and mapped through the National Wetland Inventory (NWI) by the US Fish & Wildlife Service shall comply with all applicable regulations of said Act and may be required to obtain a permit for said activity from the US Army Corps of Engineers. A map of the NWI wetlands in the Town of Montezuma is provided in Appendix III.
- (2) Permits. All required permits for development in and adjacent to a wetland; or for the otherwise disturbance of a wetland shall be secured by the landowner or their designated agent prior to the commencement of any development activity. Obtaining such approval or permits is the sole responsibility of the landowner. A copy of the approved permit and all associated paperwork, drawings, etc. shall be submitted to Planning Board as part of the required documents for Site Plan Review, Special Permit Review, and Subdivision Review.

Section 6.05 – Stormwater Management Regulations

A. Purpose and intent.

- (1) The purpose of this Section is to promote the health, safety, and welfare of the residents of Montezuma and to implement the recommendations of the Town's adopted Comprehensive Plan by minimizing stormwater runoff from land development activities in order to reduce flooding, erosion, and pollution caused by stormwater runoff.

- (2) This Section is intended to require landowners and developers to comply with the New York State Department of State (NYS DEC) State Pollutant Discharge Elimination System (SPEDES) general permits as required for activities associated with stormwater discharges and the preparation of Stormwater Pollution Prevention Plans (SWPPPs) for land development activities.

B. Procedures.

- (1) Construction activities disturbing one or more acres of soil must be authorized under the General Permit for Stormwater Discharges from Construction Activities as administered and regulated by NYS DEC. In accordance with NYS DEC regulations, permittees are required to develop a SWPPP to prevent discharges of construction-related pollutants to surface waters.
- (2) SWPPS and associated permits for disturbance are reviewed and approved by NYS DEC. Obtaining such approval or permits is the sole responsibility of the landowner. A copy of the approved SWPPP and any other required permit from NYS DEC along with all associated paperwork, drawings, etc. shall be submitted to Planning Board as part of the required documents for Site Plan Review, Special Permit Review, and Subdivision Review.

ARTICLE VII: DIMENSIONAL REQUIREMENTS

Section 7.01 – Bulk Table

- A. The regulations for each district pertaining to minimum lot width, maximum building coverage, minimum front yard depth, and maximum height shall be as specified in this section, subject to the further provisions of this Law.

Table 2: Town of Montezuma Zoning Ordinance Bulk Table							
District	Minimum Lot Size	Minimum Lot Width	Maximum Lot Coverage	Minimum Building Setback			Maximum Building Height
				Front	Side	Rear	
Agricultural / Residential (AR)	1 acre	150 ft	60%	50 ft	20 ft	35 ft	35
Hamlet (H)	0.5 acre	110 ft	60%	30 ft	20 ft	35 ft	35
Commercial (C)	0.5 acre	110 ft	60%	50 ft	20 ft	35 ft	35
Industrial (I)	5 acres	350 ft	60%	100 ft	100 ft	100 ft	35
(Open Space/ Residential (OR)	1 acre	150 ft	60%	50 ft	20 ft	35 ft	35

Section 7.02 – Side Setback of Corner Lots

- A. The side setback of a corner lot which abuts a street, shall be equal to the required front setback for that street.

Section 7.03 – Exceptions to Minimum Lot Sizes and Widths

- A. The provisions of Article VII shall not prevent the construction of a single-family dwelling, provided the yard requirements are observed, on any lot which was lawful when created and which prior to the effective date of this Law was in separate ownership duly recorded by plat or deed.

Section 7.04 – Exceptions to Building Height

- A. Maximum height regulations shall not apply to farm buildings, church spires, chimneys, wind power facilities, telecommunication facilities, or other structures built above the roof and not devoted to human occupancy.

Section 7.05 – Traffic Visibility Across Corners

- A. On any corner lot, no wall, fence, or other structure shall be erected or altered, or no hedge, tree, shrub, or other growth except agricultural crops shall be maintained which may cause danger to traffic on a public street by obscuring the view. Visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street lines and a straight line drawn between points on such line twenty-five (25) feet from the intersection of the street lines.

- B. Where a private access way intersects a public street, visual obstructions shall be limited to a height of not more than two (2) feet above street level within the triangular area bounded by the street line, the edge of the private access way, and a straight line drawn between points on both the street line and the edge of the access way ten (10) feet from the intersection of said lines. Mail tubes and paper tubes are excluded from this height restriction.

Section 7.06 – Essential Services

- A. The erection, construction, alteration, or maintenance by public utilities, the Town, or other governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, communication 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 therewith reasonably necessary for the furnishing of adequate service by such public utilities, the Town, or other governmental agencies or for the public health, safety, or general welfare, but not including buildings will be permitted, without a permit.

ARTICLE VIII: SPECIAL USE PERMITS

Section 8.01 – Purpose and Intent

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

Section 8.02 – Applicability

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

Section 8.03 – Procedure for Obtaining a Special Use Permit

- A. The Planning Board shall hear and decide upon any application for a Special Use Permit as listed in Article V. Applicants shall have the burden of proof in establishing his/her right to a Special Use Permit.
- B. As part of a Special Use Permit application, Site Plan Review in accordance with the requirements listed in Article XIII is required. The following additional materials must also be provided by the applicant:
- (1) A Special Use Permit Application with all information required therein.
 - (2) A narrative statement with any supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Ordinance.
 - (3) All completed forms and supplemental information as required by Article 8 of the New York State Environmental Conservation Law, known as the State Environmental Quality Review Act, and regulations at NYCRR Part 617 adopted thereunder (collectively, “SQERA”).
- C. Public Hearing and Planning Board Action on Special Use Permits.
- (1) Within sixty-two (62) days of the receipt of a complete application for Special Use Permit, the Planning Board shall conduct a public hearing.
 - (2) The Planning Board shall publish a notice in the official paper at least five (5) days prior to the date fixed for public hearing.
 - (3) The Planning Board shall make a decision on the application within sixty-two (62) days after such hearing and file said decision within five (5) business days after the day such

decision was rendered with the Town Clerk, and mail such decision to the applicant with a copy to the Code Enforcement Officer. The time within which a decision must be rendered may be extended by mutual consent of the applicant and the Planning Board.

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

Section 8.04 – General Requirements and Standards

- A. The Planning Board shall grant a Special Use Permit only if the proposed use will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. A proposed use:
- (1) Will not have an undue adverse effect upon adjacent property, the character of the neighborhood and surrounding areas, traffic conditions, parking, utility facilities, or other matters affecting the public health, safety, welfare, or convenience of the public;
 - (2) Will not create operations or uses that will be considered objectionable to nearby properties by reason of noise, fumes, vibrations, illumination or other outward effects on others in the zone;
 - (3) Will be serviced adequately (as determined by the Planning Board) by essential public facilities and services, including, but not limited to, highways, streets, parking spaces, public transportation, police, ambulance and fire protection, drainage structures, solid waste management and refuse disposal, water and sewage disposal, groundwater protection, schools, energy conservation, and any other services the Planning Board deems appropriate;
 - (4) Will not have an adverse effect on the environment; and
 - (5) Will be in conformance with all applicable requirements of this Ordinance.
- B. In granting a Special Use Permit, the Planning Board may impose conditions regarding layout, circulation, and performance it deems necessary to ensure that any proposed development will secure substantially the objectives of these Regulations. These conditions may include but are not limited to the following:
- (1) Increasing the required lot size or yard dimensions.
 - (2) Limiting the height, size, or location of buildings.
 - (3) Controlling the location and number of vehicle access points.
 - (4) Increasing the number of required off-street parking spaces.
 - (5) Limiting the number, size, location, and lighting of signs.
 - (6) Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
 - (7) Designating areas for open space.

Section 8.05 – Expiration and Revocation of Special Use Permits

A. Expiration of Permits.

- (1) An applicant granted a Special Use Permit shall be given six months in which to begin to put into effect the use permitted by the granted Special Use Permit. The Planning Board may increase this period from six months to a year at its discretion upon request from the permit holder.
- (2) A Special Use Permit shall expire if the special permit use or uses cease for more than 24 consecutive months.

B. Revocation of Special Use Permit: The Planning Board may revoke a Special Use Permit upon reasonable cause should the permittee violate the conditions of the Special Use Permit and fails to terminate such violation within 30 days of receiving a notice of violation; engages in any activity not authorized by the Special Use Permit; or fails to comply with any other provision of this Ordinance. Before a permit may be revoked, a public hearing shall be held by the Planning Board. Notice of the hearing shall be made in the official newspaper at least five (5) days prior to the date thereof. The permit holder shall be notified of the hearing by certified mail at least five (5) days prior to the hearing. At the hearing, the Planning Board shall hear the permit holder and all other persons wishing to be heard on the revocation of the Special Use Permit. If the Planning Board decides to revoke a Special Use Permit, the reasons for such revocation shall be stated in the public hearing minutes. The permit holder shall be immediately notified of the revocation by certified mail.

Section 8.06 – Requirements for Defined Special Uses

A. Airports and Airstrips shall meet the following:

- (1) The establishment of or improvement to privately-owned airports and airstrips shall be reviewed and approved subject to the following state and federal procedures:
 - (a) Establishment of privately-owned airports or airstrips in NYS is subject to the provisions of NYS General Business Law, Article 14, Section 249. The legislation applies to airports and airstrips established after January 1, 1970. In accordance with this legislation, the applicant must request authorization to establish the private airport or airstrip, or improvement to an existing airport or airstrip from the Town of Montezuma Planning Board. Under the same law, the Planning Board, before granting authorization, must request from the NYS DOT Commissioner of Transportation, a determination as to whether or not the establishment of such a privately-owned airport or airstrip, or improvement complies with standards. The NYS DOT Commissioner of Transportation must make findings of fact (1) that operations of such airport or airstrip will not conflict with or affect the safety of public buildings or facilities, or operations on public highways or waterways; and (2) that the volume, character and direction of traffic at such airport or airstrip will not constitute a menace to the safety of operations at other airports or airstrips in the vicinity. The standards prescribed and documents required for investigation of airport or airstrip sites are published in the NYS Official Compilation of Codes, Rules and Regulations, Title 17, Transportation, Volume A, Part 75, Approval of

Privately Owned Airports. Landing areas shall be designed to comply with the Airport Design Guide of the FAA and any State requirements

- (b) In order for the NYS DOT Commissioner of Transportation to issue a determination to the Planning Board, the Commissioner must receive documents that are described in paragraph 75.3 of Part 75 of the NYS Official Compilation of Codes, Rules and Regulations cited above including the following items:
 - (i) Municipal Resolution requesting determination
 - (ii) Topographical Map showing site
 - (iii) Site Plan
 - (iv) FAA Airport Space Determination
 - (v) Proponents Letter of Request to Municipality
 - (vi) Municipal Statement of Owner Consent
 - (c) One of the required documents is a favorable airspace determination issued by the Federal Aviation Administration (FAA). FAA's airspace determination is governed by Federal Aviation Regulation Part 157. An airspace analysis by the Federal Aviation Administration (FAA) for operation under visual flight rules shall be submitted with the application for a special use permit.
 - (d) Once the NYS DOT has received the request for a determination from the Planning Board and all required documents, an inspection of the proposed airport will be conducted with the proponent and the Code Enforcement Officer. The Commissioner's finding may include reasonable conditions for the establishment of the proposed airport or improvement such as the requirement to create a displaced landing threshold to provide needed clearances over roads. Waivers to standards may be considered on a case by case basis.
 - (e) The NYS DOT Commissioner of Transportation will send a letter to the Town with the determination as to whether the proposal meets Department standards. This determination should not be construed to mean State approval of the physical development of the site as the law does not give such authority to the State. Upon receipt of favorable determination, the Planning Board may complete their actions notifying the State as to their final decision.
- (2) Additional requirements and standards that shall be met include:
- (a) A minimum of 50 acres is required.
 - (b) There shall be a no-disturbance buffer located 500 feet of the property line to protect nearby neighbors.
 - (c) A site plan shall be provided to the Planning Board illustrating the runways, location of overhead utilities, lighting, parking areas, and accessory buildings.
 - (d) Each landing, takeoff, and utility area used by self-powered aircraft shall be provided with a dust proof surface.

- (e) The Planning Board may apply conditions related to noise, hours of operation, maximum number of planes to be stored on the premises, and an identification and proof of permits required from outside agencies.
- (f) There shall be a finding by the Planning Board that such airport or airstrip shall not cause a hazard to, or be detrimental to nearby properties and buildings, both in the Town and adjacent municipalities, considering the location of buildings in the vicinity of the airport and take-off patterns and lights.

B. Animal Care Facilities shall meet the following standards:

- (1) The minimum lot size shall be 3 acres.
- (2) No activity or structure shall occur or be placed within 100 feet of a property line adjacent to a residential use.

C. Bed and Breakfast shall meet the following standards:

- (1) The dwelling unit in which the bed and breakfast establishment is located shall be the principal residence of the operator, and said operator shall live on the premises while the establishment is active.
- (2) Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests of the inn.
- (3) No bed-and-breakfast inn shall be located closer than three hundred (300) feet to another bed-and-breakfast inn.
- (4) There shall be a maximum of four (4) rooms for lodging.
- (5) Sufficient landscaping shall be used to screen adjacent residences from parking areas or any outdoor eating area.
- (6) Sign materials are to be comparable with the architecture of the building.
- (7) A sketch plan showing the following shall be submitted for approval.
 - (a) Location and composition of landscaping/planting areas
 - (b) Location of signs
 - (c) Location and number of parking spaces,
 - (d) Location and method of trash removal

D. Campgrounds or Recreational Vehicle Parks shall meet the following standards:

- (1) Campgrounds shall comply with New York State laws governing health. In particular, a safe supply of water and adequate disposal of human wastes and garbage shall be provided and approved by the Cayuga County Health Department.
- (2) No part of any camp shall be closer than 500 feet to any residence.
- (3) Such use shall have a minimum of twenty (20) acres.
- (4) Such uses shall not produce noise levels incompatible with the neighborhood community in which they are to be located.

- (5) Suitable landscaping shall be provided along all property lines and shall be subject to the approval of the Town Planning Board.
- (6) Suitable off-street parking, in accordance with this Ordinance and any special considerations as stipulated by the Town Planning Board, shall be provided.
- (7) Activities shall not be carried on, or building located, within fifty (50) feet of any property line, except for vehicle ingress and egress to the site.
- (8) Adequate provision shall be made for refuse disposal, sanitary facilities and operation, water supply and sewage facilities, and shall be subject to approval by the Cayuga County or other Health Department having jurisdiction.
- (9) Any customary commercial activity or use, such as the sale of food and drink, shall be clearly accessory to the principal use, both in the amount of area utilized and the intent of the use.
- (10) Lighting shall be arranged so as to avoid any undue glare onto adjacent or nearby properties.
- (11) Plans shall be submitted to the Planning Board showing the size, type and location of buildings and other structures on or to be constructed on the premises, and such plans shall show the proposed location and type of use.

E. Community Centers shall meet the following standards:

- (1) Such activity is operated by an educational, municipal, philanthropic, religious institution, or other not-for-profit and not conducted as a private gainful business.
- (2) The minimum lot area shall be 1 acre.
- (3) No outdoor active recreation area shall be located within 50 feet of any lot line.
- (4) Outdoor play areas shall be sufficiently screened and sound insulated as to protect the neighborhood from inappropriate noise and other disturbance.

F. Day Care. In addition to the requirements set by New York State, Day Care facilities shall meet the following standards:

- (1) Any facility accommodating more than 10 children or adults shall have a minimum lot area of 1 acre.
- (2) Outdoor play areas shall be sufficiently screened and sound insulated as to protect the neighborhood from inappropriate noise and other disturbance.

G. Farm Worker Housing shall meet the following standards:

- (1) Farm Worker Housing shall be located on the same farm operation where other farm structures are located.
- (2) Farm Worker Housing shall be located at least 150ft from front, side, and rear property lines.
- (3) Structures shall have a minimum of 30 feet of separation from one another

- (4) Provisions shall be made for adequate water and sewage disposal facilities, in accordance with local, county, and state laws.
- (5) A Site Plan Review for siting considerations shall be required for more than two dwelling units.
- (6) The Town may require a notarized statement from the property owner to certify that the occupants in the Farm Worker Housing are employed on the farm.

H. Gasoline Stations shall meet the following standards:

- (1) In addition to the information required for site plan review, the plan shall also indicate the location, number, capacity, and type of fuel storage tanks, the number of pumps to be installed, and the depth to the tanks. The site plan shall also include a proposed landscaping plan including evergreen trees planted along the 40' buffers between adjacent properties.
- (2) No fuel pump, parking area, or outdoor service facility shall be located within 20 feet of any designated street line or within 40 ft of any property line.
- (3) All fuel tanks shall comply with all New York State Department of Environmental Conservation regulations.
- (4) No fuel service station shall have an entrance or exit for vehicles within 200 feet, as measured along the public street, in which there exists a school, park, public playground, church, chapel, convent, hospital, or public library, and such access shall be not closer to any intersection than 125 feet.
- (5) Fuel stations may include retail sales of food, convenience items, and minor automotive supplies or liquids provided that the sales of such items are within an enclosed structure and are an accessory use. Sales areas outside of the primary structure may be displayed on the pump islands or the building island only.
- (6) Lights or lighted signs shall be installed to reduce glare on adjacent residential property.
- (7) Fuel stations shall be under the control of an attendant at all times during the hours of operation.
- (8) All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than fifty (50) feet to any property line.
- (9) No repair work shall be conducted outside. All damaged or dismantled vehicles, parts and similar articles shall be kept within a building when the fuel station is not open for public business.
- (10) Lots on which fuel stations are located shall be maintained at all times and kept free from paper, cans and other rubbish. Fuel stations shall not include body repair or similarly noisy or noxious activities.

I. Industrial and Light Industrial Facilities shall meet the following standards:

- (1) The minimum land area shall consist of five (5) contiguous acres.
- (2) A minimum frontage of 350 feet shall be required.

- (3) All industries shall have a buffer strip along the side and rear property lines. Such buffer strips shall be at least 50 feet in depth and consist of interlocking trees and foliage acceptable to the Town Planning Board. The maintenance of the buffer strip shall be the continuing obligation of the industry.
- (4) No structures or area for the storage of materials or equipment shall be located closer than 100 feet from the street right-of-way or other property line.
- (5) No structures or area for the storage of materials or equipment shall be located closer than 100 feet from a perennial or intermittent stream, regulated wetland, or floodplain.
- (6) Suitable landscaping, including at least lawns and plantings, shall be installed and maintained and shall be subject to the approval of the Town Planning Board.
- (7) All applicants shall submit plans to the Planning Board including at least the following information.
 - (a) The area dimensions and location of the industry.
 - (b) The number, location, and dimensions of all structures.
 - (c) The location and methods of containment of all outdoor hazardous material storage.
 - (d) Specifications of the water supply, sewage, and refuse disposal facilities, and proof of approval of said facilities from the Cayuga County Health Department.
 - (e) Photometric lighting plan. No light spillage permitted offsite.
 - (f) Any additional information requested by the Planning Board.

J. Junkyards shall meet the following standards:

- (1) A minimum lot size of twenty (20) acres.
- (2) A junkyard shall not be located on a state road.
- (3) A junkyard shall be maintained in as clean, wholesome and attractive state as possible.
- (4) A junkyard or any part thereof shall be located no closer than five hundred (500) feet to any use other than industrial.
- (5) No junk storage area shall be located within:
 - (a) One hundred (100) feet of any adjoining property line;
 - (b) One thousand (1,000) feet of any public park, church, educational facility, nursing home, public building, or other place of public gathering;
 - (c) One thousand (1,000) feet of any stream, lake, pond, DEC and Federal wetland, or other body of water; or
 - (d) One hundred (100) feet from the right-of-way of any public highway.
- (6) Fencing: A junkyard shall be completely surrounded by a fence eight (8) feet in height which screens the contents from view; such fence must have a gate closed and locked except during working hours. No portion of the fence shall be closer than fifty (50) feet to any street or road or body of water. In cases where the applicant can furnish proof that the natural topography or growth of timber or other such natural features are sufficient to

accomplish the same results as the required fence, the Planning Board may waive part or all of the fence requirement, provided such substituted natural features are effectively maintained at all time. Storage of any items or materials shall not be visible from outside the fenced area.

- (7) Screening: Where a junkyard is or would be visible from a public street or from neighboring properties, the fence provided in Section 8.06, J (6) shall be of wood or other opaque materials sufficient to screen the junkyard from view.
- (8) All wrecking and other operations of a junkyard shall be conducted completely within the fenced area.
- (9) Burning: No materials shall be burned in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR Part 215).
- (10) Burying: No junkyard items shall be buried in a junkyard except in compliance with the New York State Solid Waste Disposal Law (see NYCRR Part 360).
- (11) Approved Junkyard Items: No junkyard items shall be stored in any junk storage area other than those items specified on a Special Use Permit approved by the Planning Board pursuant to this Ordinance.

K. Kennels for Boarding or Breeding shall meet the following standards:

- (1) Minimum lot size shall be five (5) acres.
- (2) No wholly or partly non-residential structure housing a kennel shall be closer than two hundred fifty (250) feet to any property line.
- (3) Kennels shall be designed in a manner that provides indoor shelter and outdoor runs. Outdoor runs shall be enclosed by a fence no less than five (5) feet in height.
- (4) In addition to the fencing required for the individual kennel runs, the area surrounding the kennels or collection of kennels shall be enclosed by a fence no less than five (5) feet in height.

L. Manufactured Home Park shall meet the following standards:

- (1) Applications for a Special Use Permit shall include proposed methods of providing sanitary waste collection and disposal (as approved by the Cayuga County Health Department); potable water supply (as approved by the Cayuga County Health Department); fire protection; refuse collection; adequate drainage including a Storm Water Pollution Prevention Plan (if required); electrical service; mail delivery; snow removal; and any additional items the Planning Board may deem necessary.
- (2) Construction and Design Standards:
 - (a) Size. A Manufactured Home Park shall comprise an area of not less than ten (10) acres.
 - (b) Setbacks. No Manufactured Home Park office or service building shall be closer than one hundred (100) feet from any property line. Each residential unit shall have a minimum front setback (measured from the edge of the road within the park) of twenty (20) feet and a minimum rear setback of fifteen (15) feet.

- (c) Spacing. There shall be a minimum spacing of thirty-five (35) feet between residential units.
 - (d) Density. The number of residential units shall not exceed four (4) per gross acre of the Manufactured Home Park.
 - (e) Screening. Manufactured Home Parks shall be screened from neighboring properties as specified in Article X.
 - (f) Streets. Whether public or private, all streets in a Manufactured Home Park shall be constructed to meet the Town's standards for public streets.
 - (g) Layout. The layout and design of individual sites, streets, and recreation areas must preserve, as much as practical, the existing topography to include features such as mature trees, rock outcroppings, or other significant and beneficial aesthetic features.
 - (h) Ground Cover. Exposed ground surfaces shall be protected with grass, plant material, or any other material approved by the Planning Board for the prevention of erosion and the elimination of dust.
 - (i) Utility Lines. All utility lines, including water, sewer, electric, and telephone, shall be installed underground.
 - (j) Accessory Structures. All accessory structures shall have a setback of three (3) feet from rear or side lot lines.
- (3) Zoning Permit Required. There shall be no construction or installation of a manufactured home without first securing a Zoning Permit from the Code Enforcement Officer, after prior approval has been granted by the Planning Board for a Special Use Permit to the Manufactured Home Park owner or operator.

M. Mass Gathering (assemblies of greater than 100 people) shall meet the following standards:

- (1) Written application for a permit for such outdoor public entertainment, amusement, or assembly of more than 100 persons in the aggregate within the Town of Montezuma shall be made to the Planning Board, and said application must be submitted in three (3) copies to the Town Clerk, ninety (90) days or more prior to the first day upon which such outdoor public entertainment, amusement, or assembly is to be held.
- (2) Application for such permit shall include the following:
 - (a) General Information. A narrative including the following:
 - (i) A statement of the name, age, and residence address of the applicant. If the applicant is a corporation, state the names and addresses of all the corporate officers. If the applicant is a partnership, state the names and addresses of all partners.
 - (ii) A statement containing the name and address of the owner(s) of the properties upon which the event is to occur.
 - (iii) The proposed dates and hours during which the event is to be conducted.
 - (iv) The anticipated maximum number of persons and number of automobiles and other vehicles intended to use the property at one time and collectively.

- (b) Circulation. Plans detailing proposed circulation including but not limited to:
 - (i) A statement specifying the plans for parking facilities off public roadways that are able to serve all reasonable anticipated vehicles at a rate of up to 150 passenger cars per acre or 50 buses per acre.
 - (ii) A statement from the County Sheriff, State Police, New York State Department of Transportation, or other law enforcement agency certifying that the traffic control plan is satisfactory.
 - (iii) A plan for limiting attendance, including methods of entering the area, number, and location of ticket booths and entrances, and provisions for keeping non-ticket holders out of the area.
 - (iv) A detailed plan for the use of signs to locate all facilities and roadways.
- (c) Health. Plans detailing the following:
 - (i) The proposed location and distribution system for water supply.
 - (ii) The proposed location of sewage facilities, drainage, toilet and lavatory facilities, and refuse storage.
 - (iii) A detailed plan fully describing the method and means of collection and disposal of all refuse.
 - (iv) A detailed plan showing the facilities for the preparation, storage, sale, and distribution of food and means of servicing such areas.
- (d) Safety and Security. Plans detailing the following:
 - (i) A statement from local fire authorities having jurisdiction over the area verifying that they are aware of the event and are willing to cooperate if needed.
 - (ii) A detailed plan for emergency situations including: medical supplies, facilities and personnel, an evacuation program, and emergency access roads.
 - (iii) A statement specifying whether any private security guards or police will be engaged, together with plans for security enforcement.
- (e) Noise and Lighting. Plans detailing the following:
 - (i) A statement containing the type, number, and location of any radar device, sound amplifier, loudspeaker, sound truck, or other similar equipment.
 - (ii) Plans for amplifying equipment designed to control the noise level at the perimeter of the site to no more than 85 decibels on the “A” scale of a sound level meter which meets the specifications of the American National Standards Institute.
 - (iii) Detailed plans for lighting designed to illuminate the areas of the site.
- (f) Additional Agency Approvals. Where applicable, written approval from the Cayuga County Health Department and the Emergency Management Office shall be submitted prior to Planning Board rendering a decision.

(g) Insurance and Bond.

- (i) The applicant shall provide liability and property damage insurance in a recognized insurance company licensed to do business in the State of New York in an amount not less than five million dollar (\$5,000,000.00) to cover the Town of Montezuma against any risks or hazards in any way arising out of the proposed event, together with a hold harmless agreement to the Town of Montezuma for any loss or damage above and beyond insurance coverage.
- (ii) The applicant shall submit such bonds as the Town of Montezuma may require to ensure that the conditions of the permit are complied with and that all damage or other costs associated with the event are adequately provided for by the applicant.

(3) Additional Requirements for a Mass Gathering Permit.

- (a) A separate permit shall be required for each mass gathering. No mass gathering shall be allowed to continue for a period of more than three (3) days without a new permit being issued.
- (b) A permit may be revoked by the Planning Board, the Code Enforcement Officer, the Cayuga County Health Department, or the State Commissioner of Health, if any of them find that the mass gathering for which the permit was issued is maintained, operated, or occupied in violation of this law.
- (c) A permit issued for the operation of a mass gathering shall be posted or kept on file and made available by the operator on request of any person.
- (d) No permit shall be issued unless the owner and his tenant or lessee, if any, shall furnish the Town with written authorization to permit the Town or its lawful agents to go upon the property at any time for the purpose of inspecting the same, the facilities provided thereon, and the cleaning of the premises after the termination of the assembly.

(4) Violation and Penalty.

- (a) Failure to comply with any provisions of these regulations and/or failure to comply with the terms and conditions of any special use permit issued pursuant to these regulations shall be deemed a violation and shall be punishable by a fine not to exceed two hundred and fifty dollars (\$250.00) and/or imprisonment not to exceed fifteen (15) days.
- (b) An action or proceeding in the name of the Town of Montezuma may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provisions of these regulations and/or any permit issued pursuant to these regulations. Such remedy shall be in addition to penalties otherwise prescribed by law.

N. Mining and Natural Resource Extraction. All mining and natural resource extraction activity undertaken in the Town of Montezuma shall be in compliance with the following regulations which shall govern the location of all mining and excavation activity.

- (1) Mining and extraction shall be permitted only in the Agricultural Residential (AR) and Industrial Districts (I). Mining is prohibited in all other districts.
- (2) The minimum lot size is 20 acres.
- (3) No mine shall emit dust, noise, or vibration beyond the geographical limits of the mine.
- (4) The exterior bounds of the property shall be posted, and fences at least six feet in height shall be maintained, with suitable locking gates, across each roadway or other means of vehicular access to the property.
- (5) The applicant shall give assurance of proper construction and maintenance practices and financial responsibility to protect citizens and properties from injury or damage from fire or other safety air, ground or water pollution, soil erosion or sedimentation, trespass and use of town highways.
- (6) For mines subject to New York State Department of Environmental Conservation (NYS DEC) permitting and regulation, as set forth in the New York Environmental Conservation Law §23-2711 (excavation of more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within 12 successive calendar months; or over 100 cubic yards of minerals from or adjacent to any body of water) the following requirements apply:
 - (a) Local Town roads that are used to ingress and egress from the mine site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.
 - (b) The applicant shall be required to furnish a performance bond in an amount determined by the Town Engineer, approved by the Planning Board and the Town Board; and to be held by the Town Clerk to be sufficient to guarantee the restoration of the Town road to its original condition.
 - (c) The Planning Board may set conditions or restrictions regarding access at their discretion based on actual on-site conditions of roadway.
 - (d) The application shall contain the following information for the Planning Board to review and consider:
 - (i) a map, at a scale of one inch equals no more than 100 feet, showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners. Such map shall also show the present topography at five-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy and source.
 - (ii) There shall be a 100 foot buffer area from the area of operation and adjoining streets or property lines.
 - (iii) Appropriate barriers that may be needed to restrict access to the site.
 - (iv) Hours of operation shall not exceed 7am to 7pm Monday thru Saturday.
 - (v) Measures that will be implemented to control fugitive dust from migrating off-site.

- (vi) Measures to mitigate any other impact that may arise as a result of the extractive or mining operation.
- (vii) Copies of all documentation between the applicant and NYS DEC, specifically including but not limited to: the mining application, mining plan, reclamation plan, reclamation bond(s), environmental impact statement(s), engineering reports, and renewal application(s).
- (viii) An erosion and sediment control plan consistent with Article VI, Section 6.05 of this Ordinance.
- (ix) Any other information deemed relevant in the consideration process by the Planning Board.
- (e) At all times, the applicant shall maintain a valid, in force NYS DEC Mining Permit. Any expirations, renewals, modifications, or changes to the NYS DEC Mining Permit are subject to further review and renewal of the Special Exception permit by the Planning Board.
- (f) At all times, the applicant shall be required to operate in compliance with the NYS DEC Mining Permit.
- (g) At all times, the applicant shall be required to possess and maintain a valid, in force reclamation bond as required by NYS DEC.
- (h) The Code Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation.
- (7) For mines not 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 from the mine site shall be hard surfaced and able to handle the traffic load as certified by the Town Highway Superintendent.
 - (b) The applicant shall be required to furnish a performance bond in an amount determined by the Town Engineer, approved by the Planning Board and the Town Board; and to be held by the Town Clerk to be sufficient to guarantee the restoration of the Town road to its original condition.
 - (c) The Planning Board may set conditions and restrictions regarding access at their discretion based on actual on-site conditions of roadway.
 - (d) The application shall contain the following information for the Planning Board to review and consider:
 - (i) a map, at a scale of one inch equals no more than 100 feet, showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot numbers and names of the landowners. Such map shall also show the present topography at five-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy and source.

- (ii) There shall be a 100 foot buffer area from the area of operation and adjoining streets or property lines.
 - (iii) Appropriate barriers that may be needed to restrict access to the site.
 - (iv) Hours of operation shall not exceed 7am to 7pm Monday thru Saturday.
 - (v) Measures that will be implemented to control fugitive dust from migrating off-site.
 - (vi) Measures to mitigate any other impact that may arise as a result of the mining operation.
 - (vii) A mining plan setting forth in reasonable detail the proposed mine site, length of operation and type and quantity of materials to be removed.
 - (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 Town Board to ensure compliance with the reclamation plan.
 - (x) An erosion and sediment control plan consistent with Article VI, Section 6.05 of this Ordinance.
 - (e) The Town Code Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation.
- O. Nursing/Convalescent Home. In addition to the requirements set by New York State, Nursing/Convalescent Homes shall meet the following standards:
- (1) The minimum lot area shall be 3 acres.
 - (2) All buildings shall not be less than 100 feet from any lot line.
- P. Vehicle Service or Repair shall meet the following standards:
- (1) Vehicle repair garages shall not be used for the storage, sale, rental, or display of automobiles, trucks, trailers, mobile homes, boats, snowmobiles or other vehicles, unless as part of the Special Use Permit application for a Vehicle Service or Repair Use such use is approved by the Planning Board.
 - (2) Any such use shall be buffered from adjacent uses by no less than ten (10) feet. The buffer area shall be in conformance with Article 4 in order to prevent the unwanted transmission of headlight glare across the property line.
 - (3) The entire site area that is traveled by motor vehicles shall be hard surfaced (i.e. asphalt, concrete, or any other surface that does not release dust or debris).
 - (4) Perimeter landscaping along the street frontage(s) shall not be less than ten (10) feet in width.
 - (5) Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.

- (6) All maintenance, service, and repairs of motor vehicles shall be performed fully within an enclosed structure. No motor vehicle parts, partially dismantled motor vehicles, or unlicensed motor vehicles shall be stored outside of an enclosed structure for more than forty-eight (48) hours.
 - (7) A spill prevention plan shall be provided.
- Q. Small Wind Energy System. All Small Wind Energy Systems shall meet the requirements of Article XVI.
- R. Telecommunication Facility. All Telecommunications Facilities shall meet the requirements of Article XV.
- S. Utility, Public or Private, including commercial antenna, micro relay station, transformer station, substation, pumping station, or automatic telephone exchange, shall meet the following standards:
 - (1) Such public service structures shall be permitted only if it is essential to service such districts;
 - (2) No public business office or any storage yard or storage building shall be operated;
 - (3) Suitable landscaping shall be installed; and
 - (4) No supporting wires shall be closer than fifty (50) feet to any lot line.

ARTICLE IX: NON-CONFORMITIES

Section 9.01 – Continuation

- A. The lawful use of any structure or land existing at the effective time of this Ordinance may be continued although such use does not conform with the provisions of this Ordinance except as otherwise provided in this Article.

Section 9.02 – Alteration or Extension

- A. A use of land or structure which does not conform to the regulations of this Ordinance shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:
 - (1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became non-conforming.
 - (2) Any increase in volume, area, or extent of the non-conforming use shall not exceed an aggregate of more than fifty (50) percent of the area allocated to a non-conforming use during the life of the non-conformity.
 - (3) Any increase in volume, area, or extent of the non-conforming use shall be in accordance with the other provisions of this Ordinance.
 - (4) For the purposes if this Section “volume” does not mean volume of business but rather an increase of cubic volume within a structure or on a parcel of land.
- B. A structure which does not conform to the regulations of this Ordinance shall not be altered, reconstructed, extended, or enlarged, except in accordance with the following provisions:
 - (1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the structure became non-conforming.
 - (2) Any increase in volume or area of the non-conforming structure shall not exceed an aggregate of more than fifty (50) percent of the volume or area of the structure from the date it became non-conforming.
 - (3) Any increase in volume or area of the non-conforming structure shall be in accordance with the other provisions of this Ordinance.
 - (4) For the purposes if this Section “volume” means cubic volume within a structure.
- C. A conforming use or structure shall not be altered or extended so that it becomes a non-conforming use or structure.

Section 9.03 – Restoration

- A. No non-conforming structure damaged by fire or other causes to the extent of more than seventy-five (75) percent of its fair market value shall be repaired, reconstructed or used except in conformity with the regulations of this Ordinance. Structure with damage to the extent of seventy-five (75) percent or less of the fair market value may be reconstructed, repaired or used for the same non-conforming use subject to the following provisions:

- (1) The reconstructed structure shall not exceed the height, area or volume of the damaged structure except as provided by Section 9.02 above.
- (2) Reconstruction shall begin within one year from the date of the damage and shall be completed within one year of the issuance of a building permit for reconstruction. Site clearing shall be completed within 60 days from the date of damage.
- (3) If a property owner cannot meet the requirements of sub-section 2 above, they may apply to the Planning Board for a time extension. The property owner shall provide evidence to the Planning Board that there are extenuating circumstances preventing them from starting or completing the reconstruction work. The Planning Board, in consultation with the Code Enforcement Officer, shall determine if an extension is warranted and the length of time appropriate.
- (4) A property owner of a damaged non-conforming structure as defined in Section 9.03 sub-section A, shall not receive more than two time extensions from the Planning Board for restoration work required by one single damaging event.

Section 9.04 – Abandonment

- A. Whenever a non-conforming use has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

Section 9.05 – Changes

- A. Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A non-conforming use may be changed to another non-conforming use only under the following conditions:
 - (1) Such change shall be permitted only by Special Use Permit, under the provisions of Article VIII.
 - (2) The applicant shall show that the non-conforming use cannot reasonably be changed to a permitted use in the district where such non-conforming use is located. The burden of proof is on the owner of the use or applicant for the Special Use Permit being sought.
 - (3) The applicant shall show that the proposed change will be less objectionable in external effects than the existing non-conforming use with respect to:
 - (a) Traffic generation and congestion including truck, passenger car, and pedestrian traffic; noise, smoke, dust, noxious matter, heat, glare, vibration; storage and waste disposal; and appearance.

Section 9.06 – Displacement

- A. No non-conforming use shall be extended to displace a conforming use.

Section 9.07 – District Changes

- A. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses or structures existing or created therein.

Section 9.08 – Zoning Permit Required

- A. Zoning permits shall be issued by the Zoning Officer for all lawful non-conforming uses existing at the effective date of this Ordinance. The zoning permit shall include a statement that the use is non-conforming and shall list the specific conditions under which said use may continue. It shall be signed by both the Zoning Officer and the Owner. The burden of seeking out and securing a Zoning Permit for a non-conforming use is that of the property owner and not the Zoning Officer.

ARTICLE X: LANDSCAPING REQUIREMENTS

Section 10.01 – Purpose and Intent

- A. The following standards are intended to implement the goals and policies of the Comprehensive Plan by assuring an acceptable extent of buffering between land uses, particularly between residential and non-residential uses, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community, and encouraging preservation of existing natural features. Specifically, these regulations are intended to:
- (1) Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands;
 - (2) Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas;
 - (3) Provide natural buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors, and other significant environmental features;
 - (4) Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces, and creating natural wind breaks; and
 - (5) Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

Section 10.02 – Applicability

- A. These landscaping regulations shall apply as follows:
- (1) Major residential subdivisions shall be required to submit landscaping plans in accordance with Article XIV of this Ordinance indicating appropriate landscaping of entrances, common open spaces, recreation areas; and perimeter buffer areas.
 - (2) Development activities requiring site plan approval shall submit, as part of such approval, a landscaping plan in accordance with Article XIII of this Ordinance.

Section 10.03 – General Requirements

- A. Existing site vegetation and unique site features, such as stonewalls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.
- B. Issuance of a Certificate of Occupancy shall require completion of lot grading, seeding, and required landscaping or posting of a performance guaranty acceptable to the Code Officer if the applicant cannot perform the work due to seasonal impracticalities.
- C. All required landscaping shall be of healthy stock, planted according to accepted horticultural practices. Landscaping plans shall clearly indicate who is responsible for plant maintenance

during the first 12 months after planting, and a performance guarantee shall be posted for assuring replacement in-kind of plants, which die or become diseased within that time.

- D. All required landscaping shall be maintained in healthy condition. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this article shall constitute a violation of these regulations.
- E. All plant material adjacent to parking areas, loading areas and driveways shall be protected by barriers, curbs or other means by damage from vehicles or from stormwater runoff.
- F. Where existing conditions make compliance with these regulations not feasible, the Planning Board, at its discretion, may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.
- G. In cases where the edge of pavement within a public right-of-way does not coincide with the front lot line, the property owner shall landscape the area between the front lot line and the edge of the street pavement.

Section 10.04 – Landscaping Plan

- A. Based on the scale and location of the project, the Planning Board shall determine whether the landscaping plan must be prepared by a professional such as a licensed landscape architect or landscape designer. All landscaping plans shall contain the following information:
 - (1) A title block with the name of the project, then name of the person preparing the plan, a scale, north arrow, and date.
 - (2) All existing significant plant materials on the site.
 - (3) Existing and proposed structures.
 - (4) Topographical contours at one-foot intervals.
 - (5) Parking areas.
 - (6) Access aisles.
 - (7) Drainage patterns.
 - (8) Location, size, and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be removed.
 - (9) Other information as may be required by the Zoning Officer and/or the Planning Board.
- B. Alternative landscaping plans may be submitted, provided that they meet the purpose and intent of these regulations.

ARTICLE XI: OFF-STREET PARKING AND LOADING REGULATIONS

Section 11.01 – Intent

- A. The intent of this article is to prevent or alleviate congestion on public streets and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces.

Section 11.02 – Applicability

- A. In all districts, every use shall provide, at the time of any change of use or when any building or structure is erected, enlarged or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of these regulations, especially site plan approval in accordance with Article XIII and landscaping with Article X.
- B. Loading spaces shall be provided and maintained on the same premises with every building or structure erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles of material or merchandise. No such activity shall use public right-of-way or parking area for standing, loading, and unloading services.

Section 11.03 – Location of Required Spaces

- A. Parking and loading spaces shall be located in accordance with the following:
- (1) For single-family and two-family dwelling units off-street parking shall be provided on the same lot with the building it serves.
 - (2) For multi-family dwellings, required off-street parking shall be located as close to the use as possible, given site conditions, and in no case more than 200 feet from the building it is required to serve.
 - (3) The location, dimensions, and signage of handicapped parking shall meet the requirements of the New York State Uniform Fire Prevention and Building Code.

Section 11.04 – Required Off-Street Parking and Loading Spaces

- A. Parking Space. The following off-street parking provisions, provided in Table 11-1, shall constitute the minimum space required for the following buildings and uses hereafter erected, converted, or otherwise established in any district.

Table 3: Town of Montezuma Zoning Ordinance Required Parking Table	
Use Types	Number of Spaces
Animal Care Facility	1 space per 150 square feet of gross floor area
Bed and Breakfast	1 space per guest bedroom, plus one additional space per employee on the premises at one time
Community Center	1 space per 200 square feet of public use area, plus 1 additional space per employee on the premises at one time
Cultural Establishment	1 space per 4 fixed seats

Table 3: Town of Montezuma Zoning Ordinance Required Parking Table	
Use Types	Number of Spaces
Day Care Facility	1 space for every 6 children/adults, plus 1 additional space per employee on the premises at one time
Farm Stand	A sufficient number of off-street parking spaces to accommodate the maximum number of stopping vehicles at any one time, but in no case fewer than three (3) such spaces.
Gasoline Station	1 space or every 500 square feet of store and business office space. Each pump station may be considered as a parking space.
Home-Based Business	2 spaces in addition to the requirements for the dwelling
Home Office	Only the requirements for the dwelling, no additional needed
Industrial & Light Industrial Uses	1 space per 1,000 square feet of gross floor area, plus 1 additional space per employee on the premises at one time
Kennel (Boarding or Breeding)	1 space per 500 square feet of gross floor area
Laundromat	1 space per 500 square feet of gross floor area
Library	1 space per 500 square feet of gross floor area
Manufactured Home Park	1.5 spaces per dwelling unit
Marina	1 space for every 4 boat slips
Multi-Family Dwelling	1.5 spaces per dwelling unit
Nursing or Convalescent Home	1 space for every 4 patient beds
Office, Professional	1 space per 150 square feet of gross floor area
Personal Service Shop	1 space per fixed seat, plus 1 additional space per employee on the premises at one time
Place of Worship	1 space per 4 fixed seats
Recreation, Indoor	1 space per 200 square feet of public use area, plus 1 additional space per employee on the premises at one time
Recreation, Outdoor	6 spaces per gross acre, plus 1 space per 250 square feet of gross floor area, plus 1 additional space per employee on the premises at one time
Restaurants	1 space for each 50 square feet of floor area devoted to customer uses, plus 1 additional space for each employee on the premises at one time
Retail Business Establishment	1 space per 150 square feet of gross floor area
School, Public or Private	5 spaces per classroom, plus 1 additional space per office
Single-Family Dwelling	2 spaces per dwelling unit
Two-Family Dwelling	2 spaces per dwelling unit
Vehicle Service or Repair	1 space per 150 square feet of gross floor area
Warehousing, Freight Terminal, Wholesale Distribution	1 space per 1,000 square feet of gross floor area, plus 1 additional space per employee on the premises at one time
Other Uses	1 space per 500 square feet of gross floor area

- B. Loading and Unloading Space: Off-street loading and unloading space, sufficient to accommodate the maximum demand generated by the use of the lot, shall be provided on any lot on which a building for commercial use is hereafter erected or substantially altered. All off-street loading and unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

Section 11.05 – Alternate Parking

- A. The collective provision of off-street parking areas for two or more buildings or uses located on adjacent lots is permitted. Unless it has been demonstrated that joint use is appropriate in accordance with Subsection C below, the total of such off-street parking facilities shall not be less than the sum required for the various buildings or uses computed separately. Furthermore, the land upon which the collective facilities are located must be owned or leased by one or more of the collective users.
- B. Off-site parking. Off-site parking meeting the location requirements of §11.04 may be used to meet the requirements of this Section. Such off-site parking shall be subject to deed, lease or contract restrictions acceptable to the Municipal Attorney binding the owner, heirs or assigns to maintain the required number of spaces available throughout the life of such use.
- C. Joint use. The off-street parking requirement of two or more use, structures, or parcels of land may be shown by the owners or operators of the uses, structures, or parcels that their operations and parking needs do not overlap at any point in time. If the uses, structures, or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract, or other appropriate written document to establish the joint use.

Section 11.06 – Non-conforming Parking and Loading

- A. Neither building or lot alterations, nor change of use shall be allowed which would increase the degree of non-conformity with the off-street parking and loading regulations of this Article.

Section 11.07 – Design Standards for Off-Street Parking

- A. All parking facilities provided under this article shall be located off the public right-of-way and shall contain an area of at least two hundred (200) square feet per automobile parking space exclusive of access ways, aisles, and maneuvering space. Each space shall have an all-weather surface, which may consist of gravel, crushed stone, concrete, or black top.
- B. Driveways and parking areas for nonresidential uses except home based businesses or home offices shall include, within the property lines, turning areas so constructed and surfaced that a vehicle entering or leaving the property is not required to back onto the street.
- C. All illumination on parking lots shall be shielded so as not to produce a strong dazzling light upon abutting properties.
- D. The size of standard perpendicular off-street parking spaces shall be a minimum of ten feet wide by 20 feet long.
- E. Off-street parking areas shall include landscaping in accordance with Article X.
- F. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures, or fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.

- G. All off-street parking areas of more than 20 spaces shall provide a snow-storage area independent of required parking and loading areas.
- H. No driveway to an off-street parking area shall be located closer than 50 feet to the intersection of any two streets or within 20 feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway. The distances from the driveway to the intersection shall be measured by extending the curbline of the intersecting street until it intersects the curbline, extending if necessary of the driveway in question.
- I. Driveways shall be designed to provide for the safe and efficient movement of traffic between the roadway and the site, to eliminate the potential for stacking of vehicles along the public right-of-way and to minimize interference with pedestrians and vehicles using the site and the public right-of-way.
- J. Curb cuts for ingress and egress onto existing roadways shall be a maximum of 20 feet for residential uses and 35 feet for non-residential uses. The location and distance between curb cuts and to intersections shall be in accordance with NYS Department of Transportation design standards.
- K. No parking areas shall be closer than ten feet (10ft) to any building.

Section 11.08 – Design Standards for Loading Facilities

- A. Required loading spaces shall be 12 feet by 35 feet, with a fourteen-foot height clearance. If tractor-trailer deliveries are expected, at least one loading space 12 feet by 55 feet shall be provided.
- B. All required loading areas shall be independent of required of required emergency access lanes, parking areas and drive-in queuing lanes.

ARTICLE XII: SIGN REGULATIONS

Section 12.01 – Definitions

- A. As used in this article, the following terms shall have the meanings indicated, unless otherwise stated:
- (1) Sign: Sign shall mean and include any permanent or temporary structure or part thereof, or any device attached, painted, or represented directly or indirectly on a structure or other outdoor surface that shall display or include any letter, work, insignia, flag, or representation used as, or which is in the nature of, an advertisement, announcement, visual communication, direction, or is designed to attract the eye or bring the subject to the attention of the public.
 - (2) On-Premises Sign: An on-premises sign is a sign which directs attention to a person, business profession, home occupation, or activity conducted on the same lot. A "for sale" or "for rent" sign relating to the lot on which it is display shall be deemed an "on-premises sign".
 - (3) Off-Premises Sign: An off-premises sign is a sign which directs attention to a person, business, profession, product, home occupation, or activity not conducted on the same lot.

Section 12.02 – General Regulations

- A. General Standards. The following general standards shall apply to all signs:
- (1) Sign measurement.
 - (a) The area of a sign shall be construed to include all lettering, working, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
 - (b) The area of a sign painted upon or applied to a building shall be considered to include all lettering, wording, and accompanying designs or symbols together with any backing associated with the sign.
 - (c) Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
 - (d) In computing square foot area of a double-face sign, both sides shall be considered a separate sign.
 - (2) Permit requirements. All on-premises signs over ten (10) square feet in area and all off-premises signs, except governmental signs regardless of size, shall require the issuance of a zoning permit before erection or replacement. All signs must comply with all of the regulations contained herein, irrespective of whether a permit is required.
 - (3) Projecting signs. Projecting Signs shall not exceed 4 square feet in size; and may be erected or maintained such that the outer face of which may be more than nine (9") inches but less than thirty-six (36") inches from the front or face of a building. In no event may

a sign overhang or project on to any public land or highway right-of-way, except as may be provided in this Article.

- (4) Projecting Signs placed above the Public Right-of-Way. Projecting signs may overhang and/or project onto or over the public right-of-way provided that the sign meets the following criteria:
 - (a) The bottom or lowest elevation of the sign projecting over the public right-of-way is equal to or greater than nine feet (9') above the grade of the public right-of-way directly beneath the projecting sign;
 - (b) The support structure for the projecting sign is designed and installed in a manner that ensures that the sign is secure and stable, to the satisfaction and written approval of the Code Enforcement Officer; and
 - (c) The owner of the projecting sign provides the Town Clerk with proof of property and liability insurance, with the Town of Montezuma named as an additional insured under the policy. As long as the proposed projecting sign is in place above the public right-of-way, such insurance policy must remain in place and in force. Legal counsel for the Town will review and approve the proposed insurance policy/rider as to content and amount prior to authorization to establish the projecting sign above the public right-of-way.
- (5) Setbacks. No sign shall be located within ten (10) feet of any property line.
- (6) No sign shall have visible moving or moveable parts or flashing, animated, or intermittent illumination. Electronic message signs may be permitted with a Special Use Permit from the Planning Board.
- (7) All signs, except temporary signs, shall be constructed of durable material and maintained in good condition and repair.
- (8) Free standing signage in the public right-of-way and in the vehicular sight triangle at corners, unless it is NYS DOT approved directional or safety signage, is prohibited.

Section 12.03 – Signs Permitted in All Districts

A. No sign or other advertising device shall be permitted except as follows:

- (1) On-Premises Signs.
 - (a) Official traffic signs and other official federal, state, county, village, or town government signs.
 - (b) Signs displaying the name and address of the occupant of a dwelling, provided that the area of any such sign shall not exceed three (3) square feet and not more than one (1) such sign shall be erected for each dwelling unit, unless such property fronts on more than one street, in which case one (1) such sign may be erected on each street frontage. Such signs may be non-illuminated or indirectly illuminated only.
 - (c) Temporary signs announcing a campaign, drive, or event of a civic, philanthropic, educational, or religious organization. Such signs shall not exceed ten (10) square feet in area and shall be removed within five (5) days of completion of the campaign, drive, or event.

- (d) Memorial signs or tablets.
 - (e) Free standing signs and signs attached to buildings shall not exceed two hundred (200) sq. feet.
 - (f) Special temporary promotional devices, signs, or displays, such as banners and pennants are permitted, provided their period of display does not exceed two (2) weeks.
 - (g) Except when mounted on the surface of a building, the height of on-premises signs shall not exceed fifteen (15) feet.
- (2) Off-Premises Signs.
- (a) Off-premises signs which are used for directing members, or audience to service clubs, churches, or other non-profit organizations may be erected subject to the following requirements:
 - (i) A sign shall indicate only the name of the organization and the direction to the facility.
 - (ii) Only one (1) sign shall be erected prior to each intersection turning movement necessary to reach such facility
 - (iii) Signs shall not exceed four (4) square feet in area.
 - (b) Signs directing patrons, members, or audience to temporary exhibits, shows or events and signs erected in conjunction with a political election subject to the following requirements:
 - (i) No such sign shall exceed ten (10) square feet in area.
 - (ii) (ii) Signs shall be removed within two (2) weeks after the date of the exhibit, show event, or election.
 - (iii) No permit shall be issued for the erection of such signs until a deposit shall be made with the Town Clerk in accordance with a fee schedule adopted by the Town Board to guarantee removal within the time prescribed. Failure to remove such signs within the time prescribed shall result in forfeiture of the deposit.
 - (c) Official traffic signs and other official federal, state, county, village, or town government signs.

ARTICLE XIII: SITE PLAN REVIEW AND APPROVAL

Section 13.01 – Applicability

- A. Prior to the issuance of a building or zoning permit for any use noted in Section 5.06, Table 1 as requiring site plan review, the Planning Board shall require the preparation and submittal of a site plan for its review and approval in accordance with the standards and procedures set forth in this Ordinance.

Section 13.02 – Sketch Plan Conference

- A. Sketch Plan Conference Required. All applicants for Site Plan Review shall meet with the Code Enforcement Officer and the Planning Board at a regular Planning Board Meeting to conduct a Sketch Plan Review, the purpose of which is to review the basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Comprehensive Plan, the requirements in the Zoning Ordinance, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detail plans are made.
- B. Required Data. Information to be included on the sketch plan is as follows:
- (1) An area map showing the parcel under consideration for Site Plan Review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof, or at the discretion of the Planning Board.
 - (2) A map of site topography at no more than five-foot contour intervals, or at the discretion of the Planning Board, shall be provided. If general site grades exceed 5% or if portions of the site have susceptibility to erosion, flooding, or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.
 - (3) General identification of all existing natural features and utilities on the site and in the area.
 - (4) The location of all existing and proposed structures on the site and designated uses for each.
 - (5) Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site

Section 13.03 – Preliminary Site Plan Application

- A. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Code Enforcement Officer and the Planning Board at the sketch plan conference. All site plan information and building designs shall be prepared by a licensed New York State architect, engineer, surveyor, or landscape architect.

- B. Preliminary site plan checklist. It is important for the Planning Board to have appropriate information tailored to the plan for site development. To accomplish this, a preliminary sketch plan review is conducted to determine those items from the comprehensive list below which will be required for site plan approval. Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist available from the Code Enforcement Officer. The preliminary site plan may include:
- (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - (2) North arrow, graphic scale, and date.
 - (3) Boundaries of the property, plotted to scale.
 - (4) The location of existing property lines, easements, structures, subdivisions, streets, driveways, permanent open space and natural features (subject to other state or federal regulations which may restrict development) within 200 feet of the proposed site or at the discretion of the Planning Board.
 - (5) Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project storm water quantities and the resultant peak flow conditions.
 - (6) Location, proposed use, and height of all buildings.
 - (7) Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
 - (8) Number, location, design, and construction materials of all parking and loading areas, showing access and egress. Location of reserved parking areas as required by the off-street parking regulations of Article XI.
 - (9) Provision for pedestrian access.
 - (10) Location, dimensions, and vehicle capacity of drive-in facilities and related queuing lanes.
 - (11) Building elevation(s) showing building massing, window and door spacing and treatments and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
 - (12) Location, purpose, and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
 - (13) Location, size, and type of material for any proposed outdoor storage.
 - (14) Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences.
 - (15) Description of the type and quantity of sewage expected; the method of sewage disposal and the location, design, and construction materials of such facilities.
 - (16) Description of the type and quantity of water supply needed; the method of securing water supply, and the location, design, and construction materials of such facilities.
 - (17) Location of fire and other emergency zones, including the location of fire hydrants.

- (18) Location, design, and construction material of all energy-distribution facilities, including electrical, gas, wind power, solar energy, and other public utility facilities, such as cable or phone service.
- (19) Location, size, design, and construction materials of all proposed signs.
- (20) Location of proposed buffer areas, including existing vegetative cover.
- (21) Location, type, height, brightness, and control of outdoor lighting facilities.
- (22) Identification of permanent open space or other amenities provided.
- (23) A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
- (24) A landscaping plan and planting schedule in accordance with Article X.
- (25) Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
- (26) All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
- (27) An agricultural data statement if the proposed use is located on or within 500 feet of a farm operation in the Cayuga County Agricultural District.
- (28) For all developments disturbing more than one acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. The owner is required to comply with the NYSDEC's "SPEDES General Permit for Storm Water Discharge from Construction Activity" Permit #G-P-02-01 (or as may be revised).

C. Required fee.

- (1) The fee schedule will be established by the Town Board and said fee shall be paid when the application is made.

Section 13.04 – Planning Board Review of Preliminary Site Plan

- A. The Planning Board shall review all preliminary site plans. The Planning Board's review shall include, as appropriate, but is not limited to, general consideration of the following:
- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities.
 - (2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience. In general sidewalks shall be required along all dedicated roads on lots within 1,000 feet of a school, park, or residential concentration.
 - (3) Location, arrangement, appearance, and sufficiency of off-street parking and loading.

- (4) Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs, and landscaping.
 - (5) Adequacy of storm water calculation methodology and storm water and drainage facilities to eliminate off-site runoff and maintain water quality.
 - (6) Adequacy of water supply and sewage disposal facilities.
 - (7) Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering; and to provide required recreation areas.
 - (8) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
 - (9) Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
 - (10) Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television, and phone service.
 - (11) Making provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof.
 - (12) Conformance with the Town of Montezuma Comprehensive Plan and other planning studies.
 - (13) Conformance with density, lot size, height, yard and lot coverage and all other requirements of the zoning regulations contained in this Ordinance.
- B. Applicant to attend Planning Board meeting.
- (1) The applicant and/or their duly authorized representative shall attend the meeting of the Planning Board where the preliminary site plan is reviewed.
- C. Consultant review. The Planning Board may consult with the Town Board, Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation, and the State Department of Environmental Conservation.
- D. Public hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Town of Montezuma at least ten (10), but not more than thirty (30) days before the public hearing.

Section 13.05 – Planning Board Action on Preliminary Site Plan

- A. Within sixty-two (62) days after Public Hearing or within sixty-two (62) days after the complete application was filed if no Public Hearing was held, the Planning Board shall act on the application for preliminary site plan approval. This time may be extended by mutual

consent of the applicant and the Planning Board. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved, or approved with modifications.

- B. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

Section 13.06 – Final Site Plan Approval Procedure

- A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- B. The following additional information shall accompany an application for final site plan approval:
 - (1) Record of application for and approval status of all necessary permits from local, state, and county officials.
 - (2) An estimated project construction schedule.
 - (3) A legal description of all areas proposed for municipal dedication.
 - (4) A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created.
- C. If no building permit is issued within one calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

Section 13.07 – Referral to County Planning Board

- A. Prior to taking action on the final site plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with Section 239-l, m & n of the New York State General Municipal Law.

Section 13.08 – Planning Board Action on Final Site Plan

- A. Within sixty-two (62) days of receipt of the application for final site plan approval, the Planning Board shall make its final decision to either approve or disapprove of the final site plan. This time may be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall submit a written copy of its decision to the Town Clerk, the Code

Enforcement Officer, and the applicant within five business days of the Planning Board's decision.

- B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and a copy shall be provided to the applicant.
- C. Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. These notifications shall comply with the time frames in sub-section A. above.

Section 13.09 – Reimbursable Costs

- A. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) days of final action by the Planning Board.

Section 13.10 – Surety

- A. No Certificate of Occupancy shall be issued until all improvements shown on the site plan are installed or an irrevocable letter of credit, or other form of surety deemed acceptable by the Town Board, has been posted for improvements not yet completed. The form of surety shall be approved as to form by the Town Attorney and as to amount by the Town Engineer. The member of the Planning Board designated to sign approved site plans shall not sign an approved plan until a surety, if required, has been received by the Code Enforcement Officer and approved by the Town Board.

Section 13.11 – Inspection of Improvements

- A. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvement. The fees for consultant inspection services shall be paid by the applicant in accordance with Section 13.09.

Section 13.12 – Integration of Procedures

- A. Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure pursuant to Article VIII of this Ordinance, or the requirements for the subdivision of land in Article XIV of this Ordinance, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this Article with the procedural and submission requirements for such other compliance.

ARTICLE XIV: SUBDIVISION REGULATIONS

Section 14.01 – Authority for Approval and Compliance with Policy

- A. Approval of Plats. By the authority of the New York State Town Law, Article 16, §276, §277, §278, and §279; and the resolution of the Town Board of the Town of Montezuma, the Planning Board is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to approve preliminary plats within the code enforcement of the Town of Montezuma.
- B. Authority to approve cluster development. The Planning Board of the Town of Montezuma is further authorized to approve cluster development simultaneously with the approval of a plat or plats and to modify area requirements specified in the Town of Montezuma Zoning Ordinance, in accordance with New York State Town Law, Article 16, §278.
- C. Authority to require a reservation land or a fee for recreational use. The Planning Board of the Town of Montezuma is further authorized simultaneously with the approval of a plat or plats to require the applicant to pay a fee for recreational development or reserve open space for parks, playgrounds or other recreational purposes in lieu of a monetary payment in accordance with the provisions of Article XIV, Section 14.24 of this Ordinance.
- D. It is the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town of Montezuma. This means, among other things that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace and that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements.
- E. All proposed lots shall be laid out and of such a size so as to be in harmony with the development pattern of neighboring properties, so that the proposed streets shall compose a convenient system conforming to the Official Map of the Town of Montezuma. Lot layout shall also be properly related to the proposals shown on the Comprehensive Plan; and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection, and to provide access of firefighting equipment to buildings. Proper provisions shall also be made for open spaces for parks, playgrounds, or for natural resource protection.
- F. In order that land subdivisions may be made in accordance with this policy, these regulations shall be known as the “Town of Montezuma Subdivision Regulations.” Failure to notify the Code Enforcement Officer of any conveyance by subdivision shall be a violation of this law and will be enforced by both civil action and financial penalties inclusive of injunctive relief to the effect of terminating such conveyances.

Section 14.02 – Applicability and Legal Effects

- A. Whenever any subdivision or re-subdivision of land is proposed and before any contract for the sale of, or any offer to sell any lots in such subdivision, or any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted, the applicant or a duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the procedures in Section 14.08 hereof.

B. Applicability of These Regulations.

- (1) Any division of a lot into two (2) or more lots, whether new streets, public facilities, or municipal utility extensions are involved or not.
- (2) Any other land transaction which requires filing of a plat with the Cayuga County Clerk.
- (3) Note: Consolidation of lots for tax purposes as initiated by land owners and approved by the Cayuga County Real Property Office shall not be considered a Subdivision but shall be required to be registered with the Code Enforcement Officer.

C. Legal Effect: Land-Use Regulations.

- (1) Whenever any subdivision of land is proposed to be made, and before any site modifications are made, and before any permit for the erection of a structure in such proposed subdivision is granted, the applicant or a duly authorized agent must apply for in writing and receive approval of the proposed subdivision in accordance with these regulations.

D. Legal Effect: Filing Plats with County Clerk.

- (1) Before any plat or licensed survey map of land in the Town of Montezuma is filed with the County Clerk, the plat or licensed survey map must be approved by the Planning Board Chair or the entire Planning Board, as applicable, in accordance with the procedures of this Ordinance and the New York State Town Law, Article 16, §276.

E. Plat Void if Revised After Approval.

- (1) No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat or licensed survey map after approval has been given by the Planning Board Chair or the entire Planning Board and endorsed in writing on the plat or licensed survey map, unless the plat or licensed survey map is first resubmitted to the Planning Board and the Board approves any modifications.
- (2) In the event that any such Subdivision Plat or licensed survey map is recorded without complying with this requirement, it shall be considered null and void, and the Code Enforcement Officer may institute proceedings to have the plat or licensed survey map stricken from the records of the County Clerk.

Section 14.03 – Types of Subdivisions and Procedures

A. General description. The following is a list of key considerations governing the subdivision of land:

- (1) Subdivision. Subdivisions proposed for the Town of Montezuma will be considered either as simple, minor, or major subdivisions.
- (2) Re-subdivisions. Any change to an existing plat is considered a re-subdivision and thus requires approval of the Town Planning Board in accordance with the procedures of this Article.
- (3) Surety. The Town Planning Board may require that appropriate surety be posted to assure the project is constructed as designed or to assure that conditions of approval are met.

- (4) Clustering. The Town Planning Board will consider any proposal for a clustered project, but the Planning Board reserves the right to require clustering to protect environmentally sensitive areas or to preserve open space.
- (5) SEQR. All proposals require appropriate environmental reviews in accordance with the State Environmental Quality Review procedures.
- B. These regulations recognize two (2) types of subdivisions, which are subject to two (2) different review and approval procedures:
 - (1) Minor Subdivision- Review includes two required submissions by the applicant, may include a public hearing if considered desirable by the Planning Board, and approval by the Planning Board.
 - (2) Major Subdivision- Review includes three required submissions by the applicant, at least one (1) public hearing by the Planning Board, and approval by the Planning Board.

Section 14.04 – Coordination with County Health Department

- A. The provisions of the Cayuga County Sanitary Code are in addition to these Subdivision Regulations.

Section 14.05 – Consultation and Reimbursable Costs

- A. The Planning Board may choose at any point in a subdivision review process to request consultants for review, comment, and advice on any aspect of the approval process, subdivision design, engineering specifications, or other pertinent matters.
- B. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed subdivision or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary subdivision approval. Such fees may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) days of final action by the Planning Board.

Section 14.06 – Plat Review of Uncompleted Subdivisions

- A. The Planning Board may, on direction of the Town Board, review, for the purposes of revision or granting an exemption, any plat within the Town municipal boundaries, already on file with the County Clerk as authorized under the New York State Town Law, Article 16, §276.

Section 14.07 – Definitions

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

Applicant - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either personally or on behalf of ownership, lessee or building development, and shall include re-subdivision.

Collector Street - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

Date of Submission - The date on which a complete subdivision application is considered submitted to the Planning Board. A subdivision application shall not be considered complete until a negative declaration or a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a plat shall begin upon the filing of such negative declaration or such notice of completion, provided that all other required application documentation and information has been submitted to the Planning Board prior to the filing of such negative declaration or such notice of completion.

Dead-End Street or Cul-de-sac - A street or portion of a street with only one vehicular traffic outlet.

Drainage Right-of-Way - The lands required for the installation of stormwater sewers or drainage ditches or field tiles are required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

Lot Line Adjustment - A realignment of property lines between two (2) existing adjacent parcels, where the land taken from one parcel is added to the adjacent parcel, and where no new lots are created.

Major Street - A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Major Subdivision - Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots or any sized subdivision requiring a new street or extension of municipal facilities.

Minor Street - A street intended to serve primary access to abutting properties.

Minor Subdivision - Any subdivision of one parcel into at least two (2) lots but not more than four (4) lots fronting on an existing street; does not include any new street or road; does not require the extension of municipal facilities; does not adversely affect adjacent properties; and is not in conflict with any provision of the Comprehensive Plan and Official Zoning Map of the Town of Montezuma, or these regulations. For the purposes of these regulations, lot line adjustments shall also be considered a minor subdivision.

Official Map - A map, adopted by a legislative body through a resolution or ordinance, showing existing streets and approved proposed streets, parks, and other public places.

Preliminary Plat - A drawing or drawings, clearly marked ‘preliminary plat,’ showing the significant features of a proposed subdivision, as specified in Section 14.12, B of this Article, submitted to the Planning Board for the purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

Re-Subdivision - Revision of all or part of an existing filed plat.

Street Pavement - The wearing or exposed surface of the roadway used by vehicular traffic.

Street Width - The width of the right-of-way, measured at right angles to the centerline of the street.

Subdivision - The legal division of any tract of land into two (2) or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, and shall include re-subdivision.

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

Surveyor - A person licensed as a land surveyor by the State of New York.

Town Engineer - The designated engineer of the Town of Montezuma.

Undeveloped Plats - Those plats existing at the time of the enactment of this chapter that have been filed in the office of the County Clerk, where 20% or more of the lots within the plat are unimproved.

Section 14.08 – Subdivision Procedures

- A. Classification of Subdivision. The first stage of subdivision is classification. Classification requires that an applicant schedule and attend a pre-application conference with the Code Enforcement Officer and Planning Board at a regular Planning Board Meeting. For this conference the applicant shall submit a Sketch Plat of the proposed subdivision to the Code Enforcement Officer that provides sufficient detail to classify the action as to the type of review required.
- B. Pre-application conferences. A pre-application conference with the Code Enforcement Officer and the Planning Board at a regular Planning Board Meeting is required before any subdivision is reviewed or approved by the Planning Board. Pre-application conferences serve the following functions:
 - (1) To discuss the preliminary design of the project.
 - (2) To review application requirements and identify specific information that shall be provided on the preliminary plat.
 - (3) To set a probable timetable for review.
- C. The Sketch Plat initially submitted to the Code Enforcement Officer shall be based on tax map information or on some other similarly accurate base map at a scale (preferably not less than 1:500) that enables the entire tract to be shown on one sheet. A submitted Sketch Plat shall show the following information:
 - (1) The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
 - (2) All existing structures, wooded areas, streams, wetlands, flood hazard areas and other significant physical features within the portion to be subdivided and within 200 feet thereof.

- (3) If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
- (4) The names of the owner and of all adjoining property owners as disclosed by the current tax roll.
- (5) The tax map, block and lot numbers of all lots shown on the plat.
- (6) All the utilities available and all streets as they appear on the Official Map.
- (7) The proposed pattern of lots (with dimensions), street layout, recreation areas, systems of drainage, sewerage, and water supply within the subdivided area.
- (8) All existing restrictions on the use of land, including easements, covenants and zoning district boundary lines.

Section 14.09 – Minor Subdivision Review Procedure

- A. Review of a Minor Subdivision Plat is a two-step process consisting of a pre-application conference as required by Section 14.08 hereof and a plat review and approval. A Minor Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements and shall be conducted by the Planning Board.
 - (1) Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.
 - (2) The Planning Board will review the Minor Subdivision Plat taking into account staff reports and the comments of the Town Engineer and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.
- B. Submission of Application. Within six (6) months after the pre-application conference and the classification of a Sketch Plat as a Minor Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Minor Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code Enforcement Officer and Planning Board for reclassification. The Minor Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. The application shall also conform to the requirements listed in Section 14.09, C.
 - (1) Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
 - (a) A complete application form and at least four (4) copies of the Minor Subdivision Plat.
 - (b) Supplemental information as required including SEQR documents.

- (c) The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
- C. Requirements for Minor Subdivision Plat Review. A Minor Subdivision Plat Application shall include the following information:
 - (1) A copy of such covenants or deed restrictions that are intended to cover all or part of the tract.
 - (2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corner of each tract shall also be located on the ground and marked with an approved pin, pipe, or monument and shall be referred to and shown on the plat.
 - (3) All on-site sanitation and water supply facilities (if any) shall be designed to meet the specifications of the Cayuga County Health Department; approval shall be stated on the plat and signed by an officer of the Cayuga County Health Department.
 - (4) The proposed subdivision name (if any), and the names of the Town and County in which it is located.
 - (5) The date, a true-north arrow, the map scale, and the names, addresses, and phone numbers of all owners of record and the applicant.
 - (6) The Minor Subdivision Plat shall be a clear, legible reproduction that meets the standards for filing with the Cayuga County Clerk as prescribed by law.
- D. Applicant to Attend Planning Board Meeting on Minor Subdivision Plat. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board at which a Subdivision Plat is discussed.
- E. Public Hearing on Minor Subdivision Plat. If required by the Planning Board, a public hearing shall be held within 45 days of the date of submission of required materials. The hearing shall be advertised in the official newspaper of the Town at least five (5) days before such hearing. If no public hearing is required, the Planning Board shall have 45 days from the date of submission to make its decision. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage, provided by the Planning Board, and obtained from the Code Enforcement Officer. The applicant shall post this signage at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) days prior to the public hearing.
- F. Action on Minor Subdivision Plat.
 - (1) The Planning Board shall, within 45 days of the date of the public hearing, act to conditionally approve; conditionally approve with modification; disapprove; or grant final approval to and authorize the signing of the Final Subdivision Plat by the Planning Board Chair. This time may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the plat.

- (2) Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon compliance with such conditions and requirements as may be stated in the Board's resolution of conditional approval.
- (3) Within five (5) days of the resolution granting conditional approval, the plat shall be certified by the Chair of the Planning Board as conditionally approved; a copy shall be filed in the Town Clerk's office; and a certified copy shall be mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved plat.
- (4) Upon completion of the requirements in the resolution of approval, the plat shall be signed by the Chair of the Planning Board. Conditional approval of the plat shall expire 180 days after the date of the resolution granting such approval. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances. Such extension is not to exceed two additional periods of 90 days each.

Section 14.10 – Major Subdivision Preliminary Plat Review Procedure

- A. Review of a Major Subdivision Plat is a three-step process consisting of a pre-application conference as required by Section 14.08 hereof, a preliminary plat review and approval, and a final plat review and approval. A Major Subdivision Plat review shall include an environmental review in accordance with NYS SEQR requirements and shall be conducted by the Planning Board.
 - (1) Environmental review. The environmental review is conducted to determine if the project, as proposed, would result in any significant adverse environmental impact and to identify design modifications that would mitigate potential adverse environmental impacts identified. Unless overriding circumstances exist, the Planning Board shall serve as the lead agency for conducting the environmental review on all subdivision proposals.
 - (2) The Planning Board will review the Major Subdivision Plat taking into account staff reports and the comments of the Town Engineer and involved and interested agencies to which the plat was referred. The Planning Board then may refer the applicant to appropriate officials or agencies to resolve any issues of design or legal requirements of the respective agencies.
- B. Submission of Application. Within twelve (12) months after the pre-application conference and the classification of a Sketch Plat as a Major Subdivision by the Code Enforcement Officer and Planning Board, the applicant shall submit an application for approval of a Major Subdivision Plat. Failure to do so shall require resubmission of the Sketch Plat to the Code Enforcement Officer and Planning Board for reclassification. The Major Subdivision Plat shall conform to the layout shown on the Sketch Plat as well as incorporate any recommendations made during the pre-application conference. The application shall also conform to the requirements listed in Section 14.10, C.
 - (1) Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:

- (a) A complete application form and at least nine (9) copies of the Major Subdivision Plat. The applicant may be required to submit additional copies of the application if the Planning Board determines that other officials, agencies, or consultants need to be informed about the project.
 - (b) All copies of the Preliminary Plat shall be clearly marked with the words "Preliminary Subdivision Plat". The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of the New York State Town Law Article 16, §276 and Section 14.10, C of these regulations, except where a waiver may be specifically authorized by the Planning Board.
 - (c) All documents showing construction details of proposed improvements, any supporting materials or engineering reports and a completed environmental assessment form or, if required, a draft environmental impact statement.
 - (d) The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
- (2) The date of submission of the Preliminary Plat shall be considered to be the date on which the Code Enforcement Officer, accepts as complete the Preliminary Plat and all data required by Section 14.10, C hereof. The Code Enforcement Officer shall note the date on the Preliminary Plat.
- C. Requirements for Major Subdivision Preliminary Plat Review. Preliminary Plat maps shall include the following information:
- (1) The proposed subdivision name; the names of the Town and County in which it is located; the date; a true-north arrow; the map scale; and the names, addresses and phone numbers of all owners of record, the applicant, and the architect, engineer, or surveyor including license number(s) and seal(s).
 - (2) The names of the owners of record of all adjacent properties.
 - (3) The zoning district, including exact boundary of districts, where applicable.
 - (4) All parcels of land proposed to be dedicated to public use and the condition of such dedication.
 - (5) The locations of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, and wooded areas.
 - (6) The locations of existing sewers, water mains, culverts, and drains on the property, with pipe sizes, grades, and direction of flow.
 - (7) Contours with intervals of ten (10) feet or less as required by the Planning Board, including elevations on existing roads, and an approximate grading plan if natural contours are to be changed more than two (2) feet.
 - (8) The width and location of any streets or public ways or places shown on the Official Map of the Town of Montezuma within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.

- (9) The approximate location and size of all proposed water lines, valves, hydrants, sewer lines, and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in standards established by the Cayuga County Health Department. Show profiles of all proposed water and sewer lines.
 - (10) All requirements as specified in local laws of the Town of Montezuma governing stormwater runoff; a stormwater management plan indicating the approximate location, construction and size of swales; and proposed lines and their profiles. Ramification of connections to existing or alternate means of disposal.
 - (11) Plans and cross-sections showing the proposed new location and types of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and sub-base; the location of manholes, basins, and underground conduits. New features must comply with the Subdivision Design Standards found in Section 14.21 hereof.
 - (12) Preliminary designs of any bridges or culverts which may be required.
 - (13) The proposed lot lines with the approximate dimensions and area of each lot.
 - (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width, and which shall provide satisfactory access to an existing public highway or other public open space shown on the subdivision or the Official Map.
 - (15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked with an approved pin, pipe or monument as approved by the Town Board, and shall be referred to and shown on the plat.
 - (16) If the application covers only a part of the applicant's holding, a map of the entire tract shall be submitted so that the part of the applicant's holding covered in the application can be considered in the light of the entire holding. This map shall be drawn at a scale of not less than 1:4,800 and shall show an outline of the platted area with its proposed streets, and an indication of any probable future street system with its grades and drainage in the remaining portion of the tract, and any probable future drainage layout of the entire tract.
 - (17) A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.
- D. Applicant to Attend Planning Board Meeting. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.
- E. Study of Major Subdivision Preliminary Plat. The Planning Board shall study the practicability of a Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet

un-subdivided, and the requirements of the Town of Montezuma Comprehensive Plan, the Official Map, and Zoning Regulations.

F. Public Hearing on Major Subdivision Preliminary Plat.

- (1) Within 45 days of the Date of Submission of a Preliminary Plat marked as complete by the Code Enforcement Officer, the Planning Board shall hold a public hearing. When an applicant is notified of the public hearing date, the applicant shall be required to obtain signage provided by the Planning Board by way of the Code Enforcement Officer and to post it at the site, in such a manner as to be readily visible to the public from the nearest adjacent public road, at least ten (10) days prior to the public hearing. The public hearing shall be advertised at least once in the official newspaper of the Town at least five (5) days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such Preliminary Plat.

G. Planning Board Approval of Preliminary Plat.

- (1) Within 45 days of the date of the public hearing, the Planning Board shall approve with or without modification, or disapprove the Preliminary Plat; and the grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Preliminary Plat.
- (2) Conditional Approval of Preliminary Plat. When granting approval to a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to:
 - (a) Modifications to the Preliminary Plat.
 - (b) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and welfare.
 - (c) The required improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Final Subdivision Plat.
- (3) Effect of Approval of Preliminary Plat. Approval of a Preliminary Plat shall not constitute approval of the Final Subdivision Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Subdivision Plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. When approving a Preliminary Plat, the Planning Board shall state in writing the modifications, if any, it deems necessary for submission of the plat in final form. Within five (5) days of the approval of such Preliminary Plat, it shall be certified by the Planning Board Chair as having been granted preliminary approval, and a copy shall be filed with the Town Clerk, a certified copy shall be mailed to the owner, and a copy shall be forwarded to the Town Board. Prior to approval of the Final Subdivision Plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

Section 14.11 – Major Subdivision Final Plat Application

- A. Purpose. This step provides for a refinement of information submitted in the Preliminary Plat review procedure through submission of additional information about site design and improvements. This information permits the Planning Board and the Town Engineer to make decisions concerning the appropriateness of the proposed Major Subdivision. Some important considerations include but are not limited to:
- (1) Conditions of the preliminary plat approval.
 - (2) Mitigating measures identified during the environmental review.
 - (3) Offers of dedication of land for open space and recreation, or of new public roads.
 - (4) Requirements of involved agencies.
 - (5) Drainage considerations.
 - (6) Water metering during construction.
 - (7) Phasing of the proposed project if the project is to be phased.
 - (8) Surety for improvements.
- B. Submission of Application. Within six (6) months after the approval of a Preliminary Plat, the applicant shall submit an application for approval of a Final Subdivision Plat in final form. If the Final Subdivision Plat is not submitted for approval within six (6) months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the Final Subdivision Plat and require resubmission of the Preliminary Plat.
- (1) Applications shall be submitted to the Code Enforcement Officer at least two weeks in advance of the next regularly scheduled Planning Board meeting; and shall include:
 - (a) A complete application form; at least nine (9) copies of the Final Major Subdivision Plat; one (1) original copy in ink on drafting film or an acceptable, equal medium that permits reproductions of the original; the original and one (1) copy of all offers of cession, covenants and agreements; and two prints of all construction drawings.
 - (b) All copies of the Final Plat shall be clearly marked with the words “Final Subdivision Plat”.
 - (c) The application fee established by resolution of the Town Board and may be amended from time to time by resolution of the Town Board. The application fee shall be used to cover part of the cost of the subdivision review process, including administrative costs such as public hearing notices, inspections, communications, etc.
 - (2) Requirements for Major Subdivision Final Plat Review. Final Plat maps shall include the following information:
 - (a) Proposed subdivision name or identifying title and the names of the Town and County in which the subdivision is located; the names and addresses of the owners of record and of the applicant; and the name, license number and seal of the New York State–licensed land surveyor.

- (b) Road lines, pedestrian ways, lots, reservations, easements, and areas to be dedicated to public use.
- (c) Data acceptable to the Code Enforcement Officer as sufficient to determine readily the location, bearing and length of every street line, lot line and boundary line and as sufficient to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State Plane Coordinate System, and in any event should be tied to reference points previously established by a public authority.
- (d) The length and bearing of all straight lines, radii, length of curves, central angles of curves, and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale, and true-north arrow.
- (e) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces whose title is reserved by the developer. For any of the latter there shall be submitted with the Final Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.
- (f) All offers of cession and covenants governing the maintenance of un-ceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- (g) Lots and blocks within a subdivision shall be numbered or lettered in alphabetical order in accordance with the prevailing Town practice.
- (h) Permanent reference monuments shall be shown and shall be constructed in accordance with specifications of a licensed engineer or surveyor. When referred to the State Plane Coordinate System they shall also conform to the requirements of the State Department of Transportation.
- (i) They shall be placed as required by the Town and their location noted and referred to upon the Final Plat.
- (j) All lot corner markers shall be permanently located in a way satisfactory to a licensed engineer or surveyor.
- (k) Pins, pipes or monuments of a type approved by the Town Board shall be set at all corners and angle points of the boundaries of the original tract to be subdivided, and at all street intersections, angle points in street lines, points of curve, and such intermediate points as shall be required by a licensed engineer or surveyor.
- (l) Construction drawings, including plans, profiles and typical cross-sections as required, showing the proposed location, size, and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and sub-base, manholes, catch basins and other facilities.

Section 14.12 – Endorsement of State and County Agencies

- A. Applications for approval on plans for sewer or water facilities shall be filed by the applicant with all necessary Town, County, and State agencies. Endorsement and approval by said agencies shall be secured by the applicant prior to official submission of the Final Subdivision Plat for approval by the Planning Board.

Section 14.13 – Required Improvements

- A. Surety. Before the Planning Board grants final approval of a Major Subdivision Final Plat, the applicant shall follow the procedure set forth in either Section 14.13, B or Section 14.13, C below.
- B. Full Cost Check or Bond. In an amount set by the Planning Board, the applicant shall either file with the Town Clerk a certified check to cover the full cost of the required improvements, or the applicant shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of the New York State Town Law Article 16, §277, and further shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety. A period of one (1) year, or such other period as the Planning Board may determine appropriate, not to exceed three (3) years, shall be set forth in the bond as the time within which required improvements must be completed.
- C. Check or Bond for Completion. The applicant shall complete all required improvements to the satisfaction of the Code Enforcement Officer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board. For any required improvements not so completed, the applicant shall file with the Town Clerk a bond or certified check covering the costs of such improvements. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.
- D. Underground Utilities Map. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by a licensed engineer or surveyor and a map satisfactory to the Code Enforcement Officer has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the applicant completes all required improvements according to Section 14.13, C hereof, then the map shall be submitted prior to endorsement of the plat by the Planning Board Chair. However, if the applicant elects to provide a bond or certified check for all required improvements as specified in Section 14.13, B hereof, such bond shall not be released until such a map is submitted.

Section 14.14 – Public Hearing and Review of the Final Plat

- A. Within 45 days of the date of submission of a Major Subdivision Final Plat in final form for approval, a public hearing shall be held by the Planning Board. This hearing shall be advertised at least once in the official newspaper of the Town and at least five (5) days before the hearing. If, however, the Planning Board deems the final plat to be in substantial agreement with a Preliminary Plat approved under Section 14.10, G hereof; or modified in accordance with the requirements of a conditional approval or approval with modifications, the Planning Board may waive the requirement for such a public hearing.

Section 14.15 – Planning Board Action on Proposed Final Subdivision Plat

- A. Prescribed time for Action. The Planning Board action shall be by resolution to conditionally approve with or without modification; disapprove; or grant final approval to and authorize the signing of the plat by the Planning Board Chair. The action is to be taken within 45 days of the public hearing, if one was held, and if no public hearing was held, within 45 days of the date of submission. This time may be extended by written mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within such time, in the absence of a mutually agreed upon extension, shall constitute approval of the Final Plat.
- B. Conditional Approval. Upon resolution of conditional approval of a Final Plat, the Planning Board shall empower the Planning Board Chair to sign the plat upon completion of such requirements as may be stated in the resolution. Within five (5) days of such resolution, the plat shall be certified by the Planning Board Chair as conditionally approved, and a copy filed in the Town Clerk's office, and a certified copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved Final Plat.
- C. Certification by Planning Board Chair. Upon completion of such requirements, the plat shall be signed by the Planning Board Chair.
- D. Expiration of Approval. Conditional approval of a Final Plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted by the circumstances; such extension is not to exceed two (2) additional periods of 90 days each.

Section 14.16 – Final Approval of Subdivision Plat

- A. Signature of Planning Board Chair. Upon completion of the requirements in Sections 14.11 through 14.15 hereof and notation to that effect upon the Final Subdivision Plat, the Final Plat shall be deemed to have final approval and shall be properly signed by the Planning Board Chair. The approved Final Plat shall also be signed by the Cayuga County Health Department and the Cayuga County Real Property Office before it may be recorded with the Cayuga County Clerk.
- B. Prompt Filing. Any Subdivision Plat that is not filed or recorded within 30 days of the date upon which the plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.
- C. Copies of Recorded Plat Submitted to the Town. The applicant shall provide the Town Clerk with three (3) copies of the fully endorsed and recorded Final Plat within 30 days of approval and signature by the Planning Board Chair. If the required paper copies of the recorded final plat map(s) have not been submitted within the designated 30 days, the Code Enforcement Officer will not review or issue a building permit until the Town has received the appropriate copies of the recorded final subdivision plat map(s).
- D. Plat Void if Altered After Approval. No changes, erasures, modifications, or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is first resubmitted to the Planning Board and

the Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

Section 14.17 – Modification of Design Improvements

- A. If, at any time during the construction of required improvements, it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary to modify the location or design of the required improvements, the Code Enforcement Officer may, upon approval by the Planning Board Chair, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Code Enforcement Officer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

Section 14.18 – Inspection of Improvements

- A. Inspection Fee. At least five (5) days prior to commencing construction of required improvements, an applicant shall pay to the Town Clerk the inspection fee required by the Town and shall notify the Code Enforcement Officer in writing of the time when the applicant proposes to commence construction of the improvements, so that the Code Enforcement Officer may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- B. Proper Installation of Improvements. If the Town Engineer finds, upon inspection of the improvements performed before the expiration date of a performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, the engineer shall so report to the Code Enforcement Officer and Planning Board. The Town then shall notify the applicant and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No additional Subdivision Plat shall be approved by the Planning Board as long as the applicant is in default on a previously approved Subdivision Plat.

Section 14.19 – Public Streets and Recreation Areas

- A. Public Acceptance of Roads. The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on the Subdivision Plat.
- B. Ownership and Maintenance of Recreation Areas. When a park, playground, or other recreation area has been shown on a Subdivision Plat, approval of the plat shall not constitute an acceptance by the Town of the recreation area. The Planning Board shall require the plat or licensed survey map to be endorsed with approved and appropriate restrictions and disclaimers to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

Section 14.20 – Cluster Subdivisions

- A. Purpose. The Town Board of the Town of Montezuma finds that the topography and environmental sensitivities of certain parcels in the Town do not lend themselves to the conventional development as designated by their current zoning. Therefore, the purpose of this Section is to enable and encourage flexibility of design in housing and the development of land in such manner as to permit the most appropriate use of land, to preserve the natural, scenic and ecological qualities of environmentally sensitive areas and to provide larger areas of open space, both for recreation and for environmental conservation purposes pursuant to the provisions of New York State Town Law Article 16, §278.
- B. Objectives. Among the objectives which should be achieved through the use of clustered housing are the following:
- (1) The creative use of land so as to establish a more desirable living environment than would be possible through the strict application of certain Town zoning standards.
 - (2) The preservation of surface water, wetlands, steep slopes, hilltops, ridgelines, major stands of trees, outstanding natural topography and glaciated features. Other areas to be preserved include areas of scenic and ecological values, including open spaces and other environmentally sensitive areas.
 - (3) To prevent soil erosion, minimize negative environmental impacts and control development in flood hazard areas.
 - (4) To encourage innovation through flexibility in design and layout of residential housing consistent with the intent of this Article by permitting housing units to be clustered without increasing overall site density.
 - (5) To permit housing developments that reflect the legislative intent of New York State Town Law Article 16, §278.
 - (6) To create housing development that is in harmony with the character of the area and the environmental sensitivities of the site.
- C. Statutory Authority and Conditions. In accordance with New York State Town Law Article 16, §278, the Town Board authorizes the Planning Board to approve Cluster Subdivisions simultaneously with the approval of a plat or plats in the Agricultural/Residential (AR), Hamlet (H), and Planned Development Zoning Districts of the Town of Montezuma and to grant variations to the dimensional standards (area) of the Zoning Ordinance, concurrent with the approval of plats for Cluster Subdivision subject to the conditions set forth in New York State Town Law Article 16, §278. The Planning Board is also authorized, at its discretion, to require the owner to submit an application for Cluster Subdivision subject to criteria established by this Article whether or not the owner makes application for a Cluster Subdivision project.
- D. Conditions.
- (1) A Cluster Subdivision shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning regulations applicable to the district or districts in which such land is situated and conforming to all other applicable requirements; provided, however, that where the plat falls within two or more contiguous

districts, the Planning Board may approve a Cluster Subdivision representing the cumulative density as derived from the summing of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of such districts.

- (2) Project density shall be based only upon the amount of usable land which is available for development. In computing the usable or developable land any land situated in a flood hazard area; having slopes in excess of 20%; officially designated freshwater wetlands; lands occupied by public utilities, structures, drainage control areas or rights-of-way; or otherwise unsuitable for development shall not be considered part of the gross area.
- (3) The Planning Board as a condition of plat approval may establish such conditions on the ownership, use, and maintenance of such open lands shown on the plat as it deems necessary to assure the preservation of the natural and scenic qualities of such open lands. The Town Board may require that such conditions shall be approved by the Town Board before the plat may be approved for filing.
- (4) The plat showing the Cluster Subdivision shall include, in addition to information identified during a pre-application conference in accordance with Section 14.09 and Section 14.10, the areas within which structures may be located; the height and spacing of buildings; open spaces and their landscaping; off-street open and enclosed parking spaces; streets and driveways; and any other features required by the Planning Board. The dwelling units permitted may, at the discretion of the Planning Board, be in detached, semi-attached, or attached structures.

E. Maintenance of Open Lands.

- (1) Intent. Open spaces are an inherent part of Cluster Subdivisions, therefore the Town must take special measures for the protection and regulation of these areas and to provide for a system of their permanent maintenance.
- (2) Submission requirements. At the Preliminary Plat stage, the developer shall submit a detailed proposal for maintenance of common lands and/or open spaces. The Planning Board may approve or approve with conditions any plans for maintenance of common areas and/or open spaces. Any conditions imposed for maintenance of open space and/or common lands shall become part of the conditions for Final Plat approval.
- (3) Dedication of lands. If the open spaces are to be offered for dedication to the Town, the Planning Board shall refer such offers and related details to the Town Board for the necessary action prior to Final Plat approval.
- (4) Property owners' association. If open spaces are not to be dedicated to the Town, the applicant must create a property owners' association and receive approval of the Office of the New York State Attorney General pursuant to state law.

F. Alternative Means of Maintenance of Open Lands. The following methods will be considered alternate means to maintain open spaces:

- (1) In the case of single ownership of the Cluster Subdivision by a sole owner, partnership, corporation or other legal means, deed restrictions protecting open spaces from further development may be submitted to the Town Attorney for review and to the Town Board for acceptance.

- (2) Any alternative methods for protection and preservation of open lands and common areas shall be submitted at the Preliminary Plat stage to the Planning Board for review and subsequent approval by the Town Board. All alternate proposals shall be submitted to the Town Attorney for review and comment. The Planning Board or Town Board may require any additional information it deems necessary to conduct an adequate review of the alternate proposals.
- G. Review Procedure. The review, approval process, and information requirements for a Cluster Subdivision shall be conducted pursuant to the Major Subdivision process procedures in Section 14.10 through Section 14.16 hereof.
- (1) Notice and public hearing. The proposed Cluster Subdivision shall be subject to review at a public hearing or hearings held pursuant to the requirements for Major Subdivision approval as set forth in Section 14.10 through Section 14.16 hereof.
 - (2) Filing of plat. The filing of an approved Cluster Subdivision plat shall be in accordance with Section 14.16 hereof.
 - (3) Effect. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Town of Montezuma Zoning Ordinance or any Local Law applicable to such lands.

Section 14.21 – General Requirements and Design Standards

- A. In considering applications for subdivision of land, the Planning Board shall be guided by the following principles and the standards set forth in Sections 14.21, B through 14.21, T hereof. These standards shall be considered minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Section 14.21 hereof. In addition, the following criterion shall be followed:
- (1) Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
 - (2) Conformity with the Town of Montezuma Official Map and Comprehensive Plan. Subdivisions shall conform to the Official Map of the Town of Montezuma and shall be in harmony with the Town of Montezuma Comprehensive Plan.
 - (3) Specifications for Required Road Improvements. All required improvements shall be constructed or installed to conform to the Town Specifications, which are found in Section 14.21, B below. Further specifications and consultation may be obtained from the Town Code Enforcement Officer.
- B. Road Considerations.
- (1) Statement of Acceptance. All roads that are to be dedicated as public roads must comply with the standards set forth in this document. All access roads that are not to be dedicated as public roads must comply with the New York State Town Law, Article 16, §280, §280a, and §281. Roads will be accepted only if they are free and clear of all liens, encumbrances, easements, and rights-of-way. A written statement of acceptance must be filed by the Town Highway Superintendent and the Town Attorney before any road shall be accepted by the Town Board. New curb-cuts (driveway or roadway openings) onto all County routes shall be reviewed by the Cayuga County Highway Superintendent and

New York State Dept. of Transportation (NYSDOT) and approved prior to installation and approval for acceptance by the Town.

- (2) **Width, Location, and Construction.** Roads shall be sufficiently wide, suitably located, and adequately constructed to conform to the Town of Montezuma Official Map and to accommodate the prospective traffic and afford access for firefighting, snow removal, and other road-maintenance equipment. The arrangement of roads shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system. Refer to Section 14.21, B and C hereof, for roads that are to be turned over to and maintained by the Town.
- (3) **Arrangement of Roads.** The arrangement of roads in a subdivision shall provide for the continuation of principal streets of adjoining subdivisions; and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water lines, and drainage facilities. Subdivisions containing 20 lots or more shall have at least two (2) street connections with existing public streets, or streets shown on the Official Map, if such exist, or streets on an approved Subdivision Plat for which a bond has been filed. Where, in the determination of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified. The Planning Board may require the reservation of a 20-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street.
- (4) **Minor Roads.** Minor roads shall be laid out so that their use by through traffic will be discouraged.
- (5) **Loop Residential Roads and Circle Drives.** The creation of loop residential roads will be encouraged wherever the Planning Board finds that such roads are needed or desirable. Circle drives create problems for snow plowing and are discouraged.
- (6) **Dimensions of Blocks.** Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4)-foot-wide paved foot path be included.
- (7) **Openings for Minor Roads.** Road openings into minor or secondary roads shall, in general, be at least 500 feet apart.
- (8) **Road Jogs.** Road jogs with centerline offsets of less than 125 feet shall not normally be permitted.
- (9) **Angle of Intersection.** The angle of intersection for all roads shall be such that for a distance of at least 100 feet a road is within ten (10) degrees of a right angle to the road it joins.
- (10) **Road Relation to Topography.** The road plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of roads shall conform as closely as possible to the original topography of the site.

C. New Road Design.

(1) Guidelines.

- (a) Right-of-Way. Local roads shall have a 66-foot right-of-way. Additional rights-of-way may be required where deep cuts or fills are needed.
- (b) Width of road. New local roads shall have a 24-foot minimum pavement width consisting of two twelve (12)-foot minimum width travel lanes for two-way traffic.
- (c) Shoulder width. Local roads shall have a six (6)-foot minimum shoulder width.
- (d) Site distance. On all roads the sight distance shall be at least 300 feet for intersections, horizontal curves, and vertical curves.

(2) Construction Specifications.

- (a) Before any sub-base material is placed, the sub-grade shall be proof rolled, pitched the same as the surface.
- (b) Adequate ditches shall be provided by the developer. The minimum ditch grade shall be one (1)-percent. The Town will maintain ditches after acceptance of a new public road.
- (c) Culverts shall be placed in natural waterways, at low spots in grade, and in other spots where required. The minimum cover over all culverts shall be 12" or more as specified by culvert manufacturer. The Developer shall furnish culverts and install head walls or flared end sections if requested by the Town Highway Superintendent or an Engineer designated to the project by the Town. All culvert sizes and lengths shall be determined and culvert designs approved by the Town Highway Superintendent or an Engineer designated to the project by the Town before installation.
- (d) Under drains shall be placed in low, wet areas where side hill seepage is encountered or in other areas where required.
- (e) Approved sub-base material shall be placed in eight (8)-inch maximum compacted lifts to a minimum depth of 24-inches. All depth measurements refer to compacted depths.
- (f) All roads must be paved with either a liquid bituminous material or a plant-mixed bituminous concrete material. Base course three (3)-inches minimum, top course two (2)-inches minimum.
- (g) All roads shall pitch evenly from the centerline or from side to side at a minimum pitch of one (1) percent.
- (h) If considered necessary for road maintenance purposes, the Town Highway Superintendent or an Engineer designated to the project by the Town may require greater road curve radii than the standards in the following sections.

D. Further Road Improvements, including Hydrants and Lighting. Roads shall be graded and improved with pavement. In addition, roads may require curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to

appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Town Highway Superintendent or an Engineer designated to the project by the Town. Such grading and improvements shall be approved as to design and specifications by the Town Highway Superintendent or an Engineer designated to the project by the Town.

- (1) Fire hydrants shall conform to all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York and the Town of Montezuma specifications or laws for public water service.
 - (2) Lighting facilities shall be in conformance with the lighting system of the Town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Town representative designated as an electrical inspector.
- E. Underground Utilities. The Planning Board shall require that underground utilities be placed in the road right-of-way between the paved roadway and road line to simplify location and repair of lines when they require attention. The applicant shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the road is paved. Where topography is such as to make impractical the inclusion of utilities within the road rights-of-way, perpetual unobstructed easements at least twenty (20)-feet in width shall be otherwise provided with satisfactory access to the road. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- F. Road Centerline Grades. Grades of all roads shall conform in general to the terrain, and shall not be less than one-half (0.5)-percent nor more than six (6)-percent for major or collector roads, or ten (10)-percent for minor roads in residential zones, but in no case more than three (3)-percent within 50-feet of any intersection. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Highway Superintendent or an Engineer designated to the project by the Town so that clear visibility shall be provided for a safe distance.
- G. Curves at Intersections. All road right-of-way lines at intersections shall be rounded by curves of at least a twenty (20)-foot radius, and curbs shall be adjusted accordingly.
- H. Visibility. Visibility at intersections shall be maintained. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new road with an existing road) which is within the "clear sight triangle" (defined as a triangle drawn from a point of junction of the street lines or edge of pavement back forty (40)-feet and connecting through the inside of the corner from end to end) shall be cleared of all growth (except isolated trees) and obstructions above a level three (3)-feet higher than the centerline of the road. If such is directed by the Town Highway Superintendent or an Engineer designated to the project by the Town, the ground shall be excavated to achieve clear visibility for motorist operating passenger cars within the clear sight triangle.
- I. Circle Drive Requirements. Circle drive roads shall terminate in a circular turnaround having a minimum outside right-of-way diameter of 220-feet and a minimum right-of-way width of 66-feet. Circle drive roads are to be discouraged and a loop road used instead. At the end of a temporary dead-end road, the developer should put in a temporary hammerhead turnaround.

- J. Loop Roads. The two intersections of a loop road with the main road must be a minimum of two (2) lot depths apart.
- K. Watercourses. Where a watercourse separates a proposed road from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent or an Engineer designated to the project by the Town. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Town Highway Superintendent or an Engineer designated to the project by the Town, which in no case shall be less than twenty (20)-feet in width.
- L. Curves in Deflected Local and Minor Roads. In general, road lines within a block deflecting from each other at any one point by more than ten (10)-degrees shall be connected with a curve, the radius of which from the centerline of the street shall not be less than 200-feet on local roads, and 100-feet on minor roads.
- M. Service Roads. Paved rear service roads of not less than twenty (20)-feet in width, or in lieu thereof adequate off-road loading space, surfaced with a suitable, dust-free material, shall be provided in connection with lots designed for commercial use.
- N. Roads in Commercial Zones. In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the road width shall be increased by such an amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such a commercial or business district.
- O. Road Names. All road names shown on a Preliminary Plat or Subdivision Plat shall be approved by the Planning Board. In general, roads shall have names and not numbers or letters. Proposed road names shall be substantially different so as not to be confused in sound or spelling with present names in this or nearby municipalities, except that roads that join or are in alignment with roads of an abutting or neighboring property shall bear the same name. Generally, no road should change direction sharply or at a corner without a change in name. Before any road name is approved by the Town, the Town shall provide the proposed name to the Cayuga County 911 GIS Coordinator so that it can be checked against the list of names within the existing County database to ensure that there will be no confusion as to the unique identity and location of the proposed road name within the Town and nearby municipalities.
- P. Considerations for Lots.
 - (1) Lots shall be buildable. The lot arrangement shall be such that in constructing a building in compliance with the zoning regulations, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots approved in a subdivision cannot be further divided unless all minimum requirements can be met.
 - (2) Side Lines. All side lines of lots shall be at right angles to straight road lines and radial to curved road lines, unless a variance from this rule will give a better road or lot plan.
 - (3) Corner Lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site, and to avoid obstruction of free visibility at the roadway intersection in accordance with Section 14.21, H hereof.

- (4) Driveway Access. Driveway access and grades shall conform to specifications of Section 14.21 hereof and shall be approved by the Town Highway Superintendent or an Engineer designated to the project by the Town. Driveway grades between the street and the setback line shall not exceed ten (10)-percent.
- (5) Access from Private Roads. Access from private roads shall be deemed acceptable only if such roads are designed and improved in accordance with these regulations.
- (6) Monuments and Lot Corner Markers. Monuments and lot corner markers shall be permanent monuments meeting specifications approved by the Town Board as to size, type and installation; they shall be set at such block corners, angle points, points of curves in streets and other points as the Town Highway Superintendent or an Engineer designated to the project by the Town may require; and their location shall be shown on the Subdivision Plat.

Q. Drainage Improvements.

- (1) Stormwater Run-off. All subdivisions are subject to all New York State and local laws governing stormwater runoff.
- (2) Removal of Spring and Surface Water. The applicant may be required by the Planning Board to carry away by pipe or watercourse any spring or surface water that may exist either previous to, or as a result of, a subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.
- (3) Drainage Structure to Accommodate Potential Development Upstream. Any culvert or other drainage facility shall be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the subdivision. The Town Highway Superintendent or an Engineer designated to the project by the Town shall approve the design and size of the facility on the basis of anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Zoning Regulations in the watershed.
- (4) Downstream Drainage. The applicant's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Highway Superintendent or an Engineer designated to the project by the Town. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, Planning Board shall not approve the subdivision until provision has been made for the improvement of such condition.
- (5) Land subject to Flooding. Land subject to flooding shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation, or improved in a manner satisfactory to the Planning Board to remedy the hazardous conditions.

R. Parks, Open Spaces, and Natural Features.

- (1) Open Space to Be Shown on Plat. Where a proposed park, playground, or open space shown on the Official Map is located in whole or in part in a subdivision, the Planning

Board shall require that such area or areas be shown on the plat in accordance with the requirements specified in Section 14.09, C, and Section 14.10, C hereof. Such area or areas may be dedicated to the town by the applicant if the Town Board approves such dedication.

- (2) Parks and Playgrounds not shown on Town Plans. The Planning Board shall require that a plat show sites of a character, extent, and location suitable for the development of a park, playground, or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat. The Board shall require that not less than two (2) acres of recreation space be provided for every fifty (50) dwelling units, or fraction thereof, shown on the plat. However, in no case shall the Board require more than ten (10) percent of the total area to be set aside in the subdivision. Such area or areas may be dedicated to the Town by the applicant if the Town Board approves such dedication.
 - (3) Information to be Submitted. In the event that an area to be used for a park or playground is required to be so shown, the applicant shall, prior to final approval, submit to the Planning Board at least nine (9) copies showing, at a scale not smaller than 1:300, such area and the following features thereof:
 - (a) The boundaries of the area, giving metes and bounds of all straight lines, radii, lengths, central angles and tangent distances of all curves.
 - (b) Existing features such as brooks, ponds, clusters of trees, rock outcrops and structures.
 - (c) Existing, and, if applicable, proposed changes in grade and contours of the area and of areas immediately adjacent.
- S. Reserve Strips. Reserve strips of land which might be used to control access from a proposed subdivision to any neighboring property, or to any land within the subdivision itself, shall be prohibited.
- T. Preservation of Natural Features. Wherever practical, natural features of the property being subdivided shall be preserved.
- (1) To the fullest extent practicable, all existing trees and shrubbery shall be preserved by the applicant. The subdivision should be designed with consideration being given to the preservation of natural features. Precautions shall be taken during the process of grading the lots and roads.
 - (2) Where any land other than that included in public rights-of-way is to be dedicated to the public use, the developer shall not remove any trees from the site without written Town Planning Board approval.
 - (3) Where a subdivision is traversed by natural surface water, the boundaries and alignment of the body of water shall be preserved unless the Planning Board finds that a change would be ecologically sound and would enhance the development and beauty of the project. All proposed changes in the boundaries of bodies of water shall be designed and approved in accordance with Article 15 of the New York State Environmental Conservation Law.

- (4) Every effort should be taken by the applicant in designing a project to preserve unique physical features, such as historic landmarks and sites, rock outcroppings, hilltop lookout, desirable natural contours, and similar natural features.

Section 14.22 – Waiver of Certain Improvements

- A. Where the Planning Board finds that, due to special circumstances of a particular plat, the provision of certain required improvements is not requisite to the interest of the public health, safety, and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, the Board may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Town of Montezuma Comprehensive Plan, or the Zoning Ordinance.
- B. In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

ARTICLE XV: REGULATION OF TELECOMMUNICATION FACILITIES

Section 15.01 – Applicability and Purpose

- A. The Planning Board may approve a special use permit for the use of land and buildings for a telecommunications facility in the Agriculture/Residential, Commercial and Industrial Districts, provided that the standards and provisions of this Article are maintained.
- B. The purpose of these supplemental regulations is to promote health, safety, and the general welfare of the residents of the Town of Montezuma; to provide standards for safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment, and appropriate landscaping.

Section 15.02 – General Criteria.

- A. No special use permit or renewal thereof or modification of a current special use permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:
 - (1) Is necessary to meet current or expected demands for service.
 - (2) Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies.
 - (3) Is designed and constructed in a manner which minimizes visual impact to the extent practical.
 - (4) Complies with all other requirements of this chapter, unless expressly superseded herein.
 - (5) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
 - (6) When including the construction of a tower, such tower is designed to accommodate future shared use by at least one other telecommunications service provider. Any subsequent location of telecommunications equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

Section 15.03 – Colocation.

- A. The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any special permit applications, renewal or modification thereof shall include proof that reasonable efforts have been made to collocate within (share) an existing telecommunications facility or upon an existing structure. The application shall include an adequate inventory report specifying existing telecommunications facility sites and structures exceeding 75% of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.

- B. The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one or more of the following reasons:
- (1) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and planned use for those facilities.
 - (2) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
 - (3) Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
 - (4) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
 - (5) The property owner or owner of the existing telecommunications facility or other structure refuses to allow such colocation.

Section 15.04 – Dimensional Standards.

- A. A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any antenna(s) attached upon its zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, relief may be granted by specific permission of the Planning Board on a case-by-case basis.
- B. All telecommunications facilities shall be located on a single parcel.
- C. All telecommunications facilities shall comply with the setback standards of the underlying zoning district. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. A lot leased or owned for the purpose of construction of a tower as part of telecommunications facility shall not result in the creation of a nonconforming lot.
- D. The frontage requirement of the underlying zoning district shall not apply, provided the telecommunications facility is not proposed on a parcel to be partitioned specifically for the facility and/or is designed for occupancy by staff. In the absence of required frontage, an accessway for service vehicles, either through easement, lease or ownership, shall be in accordance with Subsection 15.07 herein.

Section 15.05 – Lighting and Marking.

- A. Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
- B. Notwithstanding Subsection 15.05, A above, an applicant may be compelled to add FAA-style lighting and marking, if, in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety.

Section 15.06 – Appearance and Buffering.

- A. The use of any portion of a telecommunications facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers, and balloons is prohibited.
- B. The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking, pursuant to Subsection 15.05, A and B of this Article shall otherwise:
 - (1) Have a galvanized finish, or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Planning Board; or
 - (2) Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.
- C. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
- D. The Planning Board may require a State Environmental Quality Review (SEQR) full EAF (environmental assessment form) for proposed facilities at key viewpoints in the community. A visual environmental assessment form (visual EAF), may be required as an addendum to either the full or short EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.
- E. The Planning Board shall require that the facility have appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
- F. Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunications facility shall not be stored or parked on the facility site.

Section 15.07 – Access and Parking.

- A. Accessways shall make maximum use of existing public or private roads to the extent practicable. New accessways constructed solely for telecommunications facilities must be at least 20 feet, but no more than 30 feet wide, and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- B. The road surface (driveways) shall be centered within accessways and shall not comprise more than 60% of the width of the accessway.
- C. Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
- D. Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.

Section 15.08 – Security.

- A. Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least eight feet in height, the top foot of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site.
- B. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- C. There shall be no permanent climbing pegs within 15 feet of the ground of any tower.
- D. A locked gate at the junction of the accessway and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

Section 15.09 – Engineering and Maintenance.

- A. Site plans for all telecommunications facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- B. Every facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the Code Enforcement Officer.
- C. A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by federal regulations.
- D. The municipality, at the expense of the applicant, may employ its own consulting assistance to review the findings and conclusions of safety analysis, visual analysis, or structural inspection provided by the applicant.

Section 15.10 – Removal.

- A. At the time of submittal of the application of a special use permit for a telecommunications facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than 12 consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
- B. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the telecommunications facility and property restoration, with the municipality as the assignee, in an amount approved by the Planning Board, but not less than \$100,000.
- C. At time of renewal or modification of the special use permit, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunications facility and property restoration.

ARTICLE XVI: SMALL WIND ENERGY SYSTEMS

Section 16.01 – Applicability and Purpose

- A. The Planning Board may approve a special use permit for the use of land and buildings for wind energy conversion systems (WECSs) in the Agriculture/Residential, Hamlet, Commercial and Industrial Districts, provided that the standards and provisions of this Article are maintained.
- B. Purpose. The Town Board of the Town of Montezuma adopts this Article to promote the effective and efficient use of wind energy conversion systems (WECSs) and to regulate the placement of wind energy conversion systems so that the public health and safety will not be jeopardized.
- C. Findings. The Town Board of the Town of Montezuma finds and declares that wind energy is an abundant, renewable and nonpolluting energy resource of the town and that its conversion to electricity will reduce our dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources. The Town Board further finds and declares that:
 - (1) Wind turbines that convert wind energy to electricity are currently available on an agricultural, commercial, and residential basis from many manufacturers.
 - (2) The generation of electricity from properly sited wind turbines can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users.
 - (3) Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public.

Section 16.02 – Definitions.

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

Overspeed Control - A mechanism used to limit the speed of blade rotation to below the design limits of the WECS.

Site - The plot of land where the WECS is to be placed.

Small Wind Energy Systems - Small Wind Energy Systems are Wind Energy Conversion System (WECS) that are limited in capacity to a maximum of 100 kilowatts and a total height of 200 feet.

Swept Area - The largest area of the WECS that extracts energy from the wind stream. In a conventional propeller-type WECS, there is a direct relationship between swept area and the rotor diameter.

Total Height - The height of the tower and the furthest vertical extension of the WECS measured from the finished grade.

Wind Energy Conversion System - A machine that converts the kinetic energy in the wind into a usable form of mechanical or electrical energy (commonly known as a "wind turbine" or "windmill"). The WECS includes all parts of the system except the tower and the transmission equipment; the turbine or windmill may be on a horizontal or vertical axis, rotor, or propeller.

Section 16.03 – Special Permit Required For Installation.

- A. Installation of wind energy conversion systems shall require the granting of a special permit in accordance with the procedures in Article VIII and the requirements of this Article herein.

Section 16.04 – Requirements.

- A. Wind energy conversion systems shall be permitted in the Agriculture-Residential, Hamlet, Commercial and Industrial Districts, subject to the following requirements:
- (1) WECS size shall be limited to a maximum of two KW in the Hamlet and Residential Districts.
 - (2) Building permit application for wind energy conversion systems shall be accompanied by a site plan drawn in sufficient detail to clearly describe the following:
 - (a) Property lines and physical dimensions of the site.
 - (b) Location, approximate dimensions, and types of existing structures and uses on site.
 - (c) Location and elevation of the proposed WECS.
 - (d) Location of all aboveground utility lines on site or within one radius of the total height of the WECS.
 - (e) Location and size of structures and trees above 35 feet within a five-hundred-foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open-lattice towers are not considered structures.
 - (f) Show the zoning designation of immediate and adjacent sites.
 - (g) Include make, model, picture, and manufacturer's specifications, including noise rating in decibels.

Section 16.05 – General Provisions.

- A. Installation of all wind energy conversion systems shall comply with the following requirements:
- (1) WECS size. Only Small WECS, as defined in Section 16.02, shall be permitted in the Town of Montezuma in accordance with the provisions of this Article.
 - (2) Compliance with Uniform Building Code.
 - (a) Building permit applications shall be accompanied by standard drawings of the structural components of the wind energy conversion system, including support structures, tower, base, and footings. Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Fire Prevention and Building Code. This certification would normally be supplied by the manufacturer.
 - (b) Where the structural components or installation vary from the standard design or specification, the proposed modifications shall be certified by a New York State registered professional engineer for compliance with the seismic and structural design provisions of the New York State Fire Prevention and Building Code.

- (3) Compliance with National Electrical Code.
 - (a) Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind energy conversion system to be installed in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. The application shall include a statement from a New York State registered professional engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electrical Code. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
 - (b) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State registered professional engineer for compliance with the requirements of the National Electrical Code and good engineering practices.
- (4) Rotor safety. Each wind energy conversion system must be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application must include a statement by a New York State registered professional engineer certifying that the rotor and overspeed controls have been designed and fabricated for the proposed use in accordance with good engineering practices. The engineer should also certify the structural compatibility of possible towers with available rotors. This certification would normally be supplied by the manufacturer and include the distance and trajectory of the thrown blade from an exploding turbine or propeller according to the Loss of Blade Theory.
- (5) The WECS shall be set back from the property line and structures at least the total height of the WECS. In cluster setups, the distance between WECSs shall be three times the length of the longest blade.
- (6) Tower access.
 - (a) Towers should have either:
 - (i) Tower-climbing apparatus located no closer than 12 feet from the ground;
 - (ii) A locked antilimb device installed on the tower; or
 - (iii) The tower shall be completely enclosed with a door that can be locked; or
 - (iv) Be completely free of any climbing apparatus.
 - (b) If the above protective devices are absent, then the tower will be protected by a fence at least six feet high.
- (7) Noise. The WECS shall meet the requirements of any existing noise ordinance of the Town of Montezuma.
- (8) Electromagnetic interference. The wind energy conversion system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated to a Code Enforcement Officer that a wind energy conversion system is causing harmful interference, the operator shall promptly mitigate the harmful interference.

- (9) Signs. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage.
- (10) Height. Maximum total height of the WECS shall be 35 feet in the Hamlet and Residential Districts; and 200 feet in the Agricultural/Residential, Commercial, and Industrial Districts.
- (11) Abatement. If a wind energy conversion system or systems are not maintained in operational condition for a period of one year and pose a potential safety hazard, the owner or operator shall take expeditious action to remedy the situation. The Town of Montezuma reserves the authority to abate any hazardous situation and to pass the cost of such abatement on to the owner or operator of the system. If the Town of Montezuma determines that the WECS or its tower has been abandoned and poses a safety hazard, the system shall be removed within 45 days of written notice to the owner or operator of the system.
- (12) Liability insurance. The applicant, owner, lessee, or assignee shall maintain a current insurance policy which will cover installation and operation of the wind energy conversion system at all times. Said policy shall provide a minimum of \$300,000 in property and personal liability coverage.
- (13) Lighting of tower. Lighting of the tower and the WECS for aircraft and helicopter will conform to FAA standards for height, wattage, and color.
- (14) SEQR review must be completed.
- (15) All power transmission lines from a WECS and tower to any building or other structure shall be located underground.
- (16) No television, radio or other communication antenna may be affixed or otherwise made a part of a WECS or tower.

Section 16.06 – Penalties for Offenses.

- A. Any person who violates any provision of this section shall be guilty of a violation and subject to the provisions of Article II, Section 2.07 of this Ordinance.

ARTICLE XVII: SOLAR ENERGY SYSTEMS

Section 17.01 – Applicability and Purpose

- A. The provisions of this Article apply to both Non-Utility Scale Solar Energy System installations which are permitted subject to the conditions herein in the Agricultural/Residential, Hamlet, Commercial, and Industrial Districts; and to Utility Scale Solar Energy System installations which are permitted subject to the conditions herein in the Industrial District. The Code Enforcement Officer shall review and approve of all Non-Utility Scale Energy System installations and the Planning Board shall review and approve of Utility Scale Solar Energy System installations through the Site Plan Review process in Article XIII.
- B. The purpose of this Article is to provide for the siting, development, and decommissioning of solar energy projects in the Town of Montezuma, subject to reasonable conditions that promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources.

Section 17.02 – Definitions

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

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

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

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

Non-Utility Scale System - Solar energy systems with a total surface area for all solar collectors on the lot not to exceed 4,000 square feet.

Utility Scale System - Solar energy systems with a total surface area for all solar collectors on the lot greater than 4,000 square feet.

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

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

Section 17.03 – Non-Utility Scale Solar Energy System Requirements

- A. Non-Utility scale roof-top and building-mounted solar collectors are permitted in all zoning districts in the Town except in the Open Space/Recreational District where they are prohibited. Building permits shall be required for installation of roof-top and building-mounted solar collectors.
- B. Non-Utility scale ground-mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts in the Town except in the Open Space/Recreational District where they are prohibited, subject to the following requirements:
 - (1) The location of the solar collectors meets all applicable setback requirements of the zone in which they are located.
 - (2) The height of the solar collectors and any mounts shall not exceed the height restrictions of the zone when oriented at maximum tilt.
 - (3) The solar collectors are located in the side or rear yard.
 - (4) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any roads and inhabited buildings on adjacent properties.
 - (a) Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of all proposed solar collectors.
 - (b) All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town.
 - (c) When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Cayuga County and other applicable laws and regulations.
 - (d) If a solar collector ceases to perform its originally intended function for more than twelve (12) consecutive months, the property owner shall remove the collector, mount, and associated equipment and facilities no later than 90 days after the end of the twelve-month period.

Section 17.04 – Utility Scale Solar Energy System Requirements

- A. In addition to the procedures and requirements of Site Plan Review as detailed in Article XII, Utility Scale Solar Power Facilities are subject to the following provisions:
 - (1) Roof-top and building-mounted solar collectors. Building permits shall be required for installation of roof-top and building-mounted solar collectors.
 - (2) Ground-mounted and freestanding solar collectors. Ground-mounted and freestanding solar collectors are subject to the following requirements:

- (a) Design Standards.
 - (i) Setback. The minimum setback from all property lines shall be of 85 feet.
 - (ii) Height. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 15 feet in height above the ground.
 - (iii) Screening. Based on site-specific conditions, including topography adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving and/or enhancing natural vegetation, and providing landscape screening to abutting properties and roads, but should not result in shading solar power facilities.
 - (iv) Glare. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings and adjacent properties and roads.
 - (v) Fencing. All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six (6) foot high fence with a self-locking gate and provided with landscape screening. Barbed wire shall not be utilized.
 - (vi) Signage. A sign not to exceed eight (8) square feet shall be displayed on or near the main access point and shall list the facility name, owner, and twenty-four-hour emergency contact phone number.
- (b) In addition to the procedures and requirements of Site Plan Review as detailed in Article XII, the following information is required to be submitted as part of the site plan application:
 - (i) Utility notification. Submission of documentation from the utility company that operates the electrical grid where the installation is to be located acknowledging the solar power facility will be connected to the grid. Off-grid facilities shall be exempt from this requirement.
 - (ii) Safety. The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the appropriate Fire Chief.
 - (iii) Decommissioning Plan.
 - (A) In the event the solar power facility is not completed and functioning within 18 months of the issuance of the initial building permit, the Town may notify the operator and/or owner to complete construction and installation of the facility within 180 days of the date of notification. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan.
 - (B) If a solar power facility ceases to perform its originally intended function for more than 12 consecutive months, the owner and/or operator shall implement the decommissioning plan, to include, but not limited to:

1. Removal of aboveground and below-ground equipment, structures, and foundations.
 2. Restoration of the surface grade and soil after removal of equipment.
 3. Re-vegetation of restored soil areas with native seed mixes, excluding any invasive species.
 4. A timeframe for the completion of site restoration work.
- (C) If the owner and/or operator fail to fully implement the decommissioning plan within 180 days, then in addition to other remedies provided by this section or chapter, by New York Town Law § 268, or by law or equity, the Town may utilize the following procedure to remove a solar power facility and/or implement a decommissioning plan:
1. The Code Enforcement Officer may order removal of such solar power facility and/or implementation of the decommissioning plan by written notice to the owner or person, company, or other entity having control of the facility, or to the owner of the lot on which such facility is located. The notice shall set forth a deadline by which such removal and/or plan implementation must be completed. Said notice shall further advise that, should the violator fail to so act within the established deadline, the removal and/or plan implementation may be performed by a designated governmental agency or a contractor, with the expense thereof to be charged to the violator and/or to become a lien against the premises.
 2. If the solar power facility is not removed and/or the actions in the decommissioning plan are not completed within the period set forth in the Town's notice or Town Board's decision after any appeal thereof pursuant to Subsection 17.04, A, (2), (b), (iii), (C), 4 below, the Town may enter the premises to remove the facility, cause the removal to be performed, and/or implement the decommissioning plan. The Town's entry onto such premises shall be pursuant to an agreement between the Town and landowner. If no agreement exists or can be obtained in a timely manner, the Town may seek a warrant from a court of competent jurisdiction for access to the premises and/or may seek a court order requiring or authorizing all actions reasonably necessary to remove the facility and/or implement the decommissioning plan, with the costs of such actions the sole responsibility of the violator.
 3. The Town shall present the landowner with a bill for all costs and expenses incurred by the Town in connection with the solar power facility removal and/or decommissioning plan implementation. If the landowner shall fail to pay such costs and expenses within fifteen (15) days after the demand for same, or within thirty (30) days of the final decision on any administrative or judicial contest

the landowner may pursue, then such unpaid costs, expenses, and interest (at the statutory interest rate for money judgments in New York State courts) incurred from the date of the system removal and/or completion of the decommissioning plan shall constitute a lien upon the land on which such removal was undertaken. A legal action or proceeding may be brought to collect such costs, expenses, interest, and recoverable attorney's fees, or to foreclose such lien. As an alternative to the maintenance of any such action, the Town may file a certificate with the Cayuga County Department of Assessment stating the costs and expenses incurred and interest accruing as aforesaid, together with a statement identifying the property and landowner. The Cayuga County Department of Assessment shall, in the preparation of the next assessment roll, assess such unpaid costs, expenses, and interest upon such property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by the law for collection and enforcement of real property taxes in the Town of Montezuma. The assessment of such costs, expenses, and interest shall be effective even if the property would otherwise be exempt from real estate taxation.

4. Appeals of notices and Town bills. Any person receiving notice to remove a solar power facility and/or implement a decommissioning plan, or a bill for Town costs and expenses, may appeal to the Town Board by, within fifteen (15) days of receipt of such notice or bill, delivering to the Town Clerk at the Town offices an appeal requesting a reconsideration and administrative hearing before the Town Board. Such appeal shall state the basis for the request for reconsideration and shall be accompanied by any supporting materials. Failure to serve such an appeal within fifteen (15) days shall be deemed a waiver of any claim or defense that the notice or bill is not justified, and the violator shall comply with the requirements of the notice or pay the bill. If the appeal is timely filed, the Town Board shall, within forty-two (42) days of the filing, hold a hearing and, based upon any relevant materials presented by the Town and the appellant, shall issue a resolution deciding the appeal within thirty (30) days after the hearing. Such resolution shall be filed with the Town Clerk, who shall arrange for delivery of a copy of the decision to the appellant within five (5) days after such filing, at the address for such person designated in the appeal or at such other addresses as the appellant may thereafter designate in writing to the Town Clerk. The Town Board's decision after the hearing shall constitute a final agency action.

ARTICLE XVIII: BOARDS

Section 18.01 – Planning Board

A. Establishment of a Planning Board.

- (1) The Town Board authorizes the creation of a five-member Planning Board pursuant to § 271 of the New York State Town Law. The members of the Planning Board shall be appointed by the Town Board for terms of five years. Terms of all Planning Board members shall be staggered as required by law. The Town Board shall also appoint the Chairperson of the Planning Board or, on failure to do so, the Planning Board shall elect a Chairperson from its own members.
- (2) Two alternate members of the Planning Board shall be appointed by the Town Board for terms of five years. All provisions of state law relating to Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Planning Board.
- (3) The Chairperson of the Planning Board may designate one or more alternate members of the Planning Board to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member of the Planning Board is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Planning Board. When so designated, the alternate member of the Planning Board shall possess all the powers and responsibilities of a member of such Board.

B. Removal of Members.

- (1) The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for noncompliance with minimum requirements relating to attendance and training as established by the Town Board by local law or ordinance.

C. Rules, expenses, and required training.

- (1) The Planning Board may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by the Planning Board.
- (2) The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses, including the means for the Planning Board to maintain a written record of its meetings and public hearings.
- (3) The Town Board shall require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Planning Board members for appropriate expenses incurred in obtaining such training or continuing education.

D. Powers and Duties. The duties of the Planning Board are to:

- (1) Prepare, review and/or recommend revisions to the Comprehensive Plan for the development of the Town as provided under § 271 of New York State Town Law and/or Town Board resolution.
- (2) Review and comment on all proposed zoning amendments before referral to the County Planning Board.
- (3) Conduct site plan review as authorized by § 274-a of New York State Town Law and prescribed in Article XIII of this Ordinance.
- (4) Review and approve Special Use Permits as authorized by § 274-b of New York State Town Law and prescribed in Article VIII of this Ordinance.
- (5) Review and approve the subdivision of parcels as authorized by §§ 276, 277, 278, 279, 280 and 280-a of the New York State Town Law and prescribed in Article XIV of this Ordinance.
- (6) Render assistance to the Zoning Board of Appeals at its request.
- (7) Research and report on any matter referred to it by the Town Board.
- (8) Make investigations, maps, reports, and recommendations in any matter related to planning and development as it seems desirable providing expenditures of the Planning Board do not exceed the budget appropriations for the Planning Board.
- (9) All such powers and duties as are conferred upon the Planning Board and subject to the limitations set forth in §§ 271, 272-a, 273, 274-a, 276, 277 and 278 of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to town planning boards.

E. Meetings.

- (1) The Planning Board shall hold regularly scheduled monthly meetings, provided there are meeting agenda items for Planning Board consideration, and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three or more members.
- (2) The presence of three members of the Planning Board shall constitute a quorum which shall be necessary to act on any application for a site plan review, special use permit, or subdivision; and to decide upon any other matter brought before the Board unless otherwise stipulated in this Ordinance.
- (3) All votes of the Planning Board shall be taken by roll call. Planning Board decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 18.03 herein.
- (4) In accordance with § 74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Planning Board having a conflict of interest shall abstain from any discussion or voting on that matter.

- (5) The Planning Board may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.
- (6) The Planning Board may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- (7) All meetings of the Planning Board shall be open to the public.
- (8) The Planning Board shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Secretary to the Planning Board.

F. Records and Decisions.

- (1) Minutes shall be recorded of all meetings and shall contain relevant information of every action considered together with the votes of each member and final decision of each proposed action. All decisions of the Planning Board shall be permanently filed within five (5) days in the office of the Town Clerk. The Planning Board shall notify the Town Board and the Code Enforcement Officer of all decisions and resolutions.

Section 18.02 – Zoning Board of Appeals

A. Establishment of a Zoning Board of Appeals.

- (1) The Town Board authorizes the appointment of a three-member Zoning Board of Appeals pursuant to § 267 of New York State Town Law. The members of the Zoning Board of Appeals shall be appointed by the Town Board for terms of three years. Terms of all Zoning Board of Appeals members shall be staggered as required by law. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term. The Town Board shall also appoint the Chairperson of the Zoning Board of Appeals. In the absence of a Chairperson, the Zoning Board of Appeals may designate a member to serve as Acting Chairperson.
- (2) Two alternate members of the Zoning Board of Appeals may be appointed by the Town Board for terms of three years. All provisions of state law relating to Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility in office and service on other boards, as well as any provisions of any local law or ordinance relating to training, continuing education, compensation, and attendance shall also apply to the alternate members of the Zoning Board of Appeals.
- (3) The Chairperson of the Zoning Board of Appeals may designate an alternate member of the Zoning Board of Appeals to serve when necessary, and only so long as necessary, to obtain or maintain a quorum of such Board or when a member is unable to participate due to a conflict of interest. Such designation and its expiration shall be entered into the minutes of the Zoning Board of Appeals. When so designated, the alternate member of the Zoning Board of Appeals shall possess all the powers and responsibilities of a member of such Board.

B. Removal of Members.

- (1) The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be

removed for noncompliance with minimum requirements relating to attendance and training as established by the Town Board by local law or ordinance.

C. Rules, expenses, and required training.

- (1) The Zoning Board of Appeals may adopt rules or bylaws for its operations, and may amend such rules and bylaws from time to time as deemed appropriate and necessary by such Board.
- (2) The Town Board shall provide an appropriation to the Zoning Board of Appeals to cover necessary expenses, including the means for the Zoning Board of Appeals to maintain a written record of its meetings and public hearings.
- (3) The Town Board shall require Zoning Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members and may reimburse Zoning Board of Appeals members for appropriate expenses incurred in obtaining such training or continuing education.

D. Powers and Duties.

- (1) The Zoning Board of Appeals shall have appellate jurisdiction with regard to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the Code Enforcement Officer. The Zoning Board of Appeals shall decide any question involving the interpretation of such provisions as more fully described in this section. Where a proposed site plan, special use permit, or subdivision contains one or more dimensional features which do not comply with the Town's Zoning Law, application may be made for an area variance without the necessity of an order, requirement, decision, interpretation, or determination by the Code Enforcement Officer. The duties of the Zoning Board of Appeals are to:
 - (a) Reversing or affirming orders, requirements, decisions, interpretations, and determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer and to that end shall have all the powers of the Code Enforcement Officer.
 - (b) Granting area or dimensional variances.
 - (i) The Zoning Board of Appeals shall have the power, on appeal from a decision or determination of the Code Enforcement Officer, to grant area variances as defined herein. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination and in accordance with § 267-b of New York State Town Law, the Zoning Board of Appeals shall also consider:
 - (A) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

- (B) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (C) Whether the requested area variance is substantial;
 - (D) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (E) Whether the alleged difficulty was self-created.
 - (ii) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 - (iii) The Zoning Board of Appeals shall, in the granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of this Ordinance, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- (c) Granting use variances.
- (i) The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use variances as defined herein.
 - (ii) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship and in accordance with § 267-b of New York State Town Law, the applicant shall demonstrate to the Zoning Board of Appeals that:
 - (A) Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
 - (B) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (C) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (D) The alleged hardship has not been self-created.
 - (iii) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. If the review of an agricultural data statement was required pursuant to Article 25-AA, § 305-a, of the New York State

Agriculture and Markets Law, the Zoning Board of Appeals shall evaluate and consider the agricultural data statement in its review of the possible impacts on the functioning of farm operations in the agricultural district.

- (iv) The Zoning Board of Appeals shall, in the granting of a use variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the zoning regulations contained in this Ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

(2) Procedures for processing zoning appeal.

- (a) Each order, requirement, decision, interpretation, or determination of the Code Enforcement Officer shall be filed in the office of the Town Clerk within five business days from the day it is rendered. An appeal shall be taken within 60 days after the filing of any order, requirement, decisions interpretation, or determination of the Code Enforcement Officer and shall be filed at least 10 days prior to the scheduled meeting of the Zoning Board of Appeals. All appeals shall be in writing, on forms established by the Zoning Board of Appeals, which shall be available from the Code Enforcement Officer and shall specify the grounds for the appeal and the relief sought. Any appeal for an area variance shall be accompanied by a site plan prepared in accordance with the site plan requirements specified in Article XIII of this Ordinance. Any appeal for a use variance for property within an Agricultural District containing a farm operation or for property with boundaries within 500 feet of a farm operation located in an Agricultural District, shall include an agricultural data statement with the application. If an agricultural data statement is required, the Zoning Board of Appeals shall mail, via registered mail, written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
- (b) Every appeal shall refer to the specific provision of the Zoning Article(s) involved and establish the details of why the order, requirement, decision, interpretation and/or determination of the Code Enforcement Officer should be reversed or why a variance should be granted and shall address the considerations described in Section 18.02, D, (1) herein if the appeal is for a variance.
- (c) Upon receipt of the completed appeal form and the agricultural data statement, if required, the Zoning Board of Appeals shall:
 - (i) Schedule a public hearing.
 - (ii) Arrange for publication of notice of the public hearing as described in Section 18.02, D, (3) herein.
 - (iii) Refer the application to the County Planning Board in accord with Article 12-B, § 239-m, of the New York State General Municipal Law, if the subject

property is within 500 feet of the boundary of any county, town, village, existing or proposed county or state park, any right-of-way of any county or state road or parkway, any stream or canal owned by the county, and existing or proposed county- or state-owned land on which a public building or institution is situated.

- (iv) Determine whether a draft environmental impact statement should be required.
 - (d) Within 62 days following the public hearing, the Zoning Board of Appeals shall render a decision or, if the parties have agreed to a time extension, within such time extension.
- (3) Public hearing and Zoning Board of Appeals decision.
- (a) Public hearings shall be scheduled within 62 days from the date that the Zoning Board of Appeals receives the appeal. Any such appeal shall be deemed received when the appeal is first presented at a duly called meeting of the Zoning Board of Appeals. Notice of the public hearing shall be published in the official newspaper of the Town at least five days prior to the hearing. Such notice shall briefly describe the nature of the appeal and the time and place of the hearing. The cost of publication of the public hearing notice shall be borne by the appealing party. If the matter has been referred to the Cayuga County Planning Board pursuant to Article 12-B, § 239-m, of the New York State General Municipal Law, a notice of the public hearing shall also be mailed to the Cayuga County Planning Board at least five days prior to such hearing along with the full statement of such action as defined in Article 12-B, § 239-m, of the New York State General Municipal Law.
 - (b) A copy of the public notice may be sent to adjacent property owners within the Town, but failure to send such notice shall not affect the jurisdiction of the Zoning Board of Appeals or the legality of the decision of the Zoning Board of Appeals. The cost of mailing said notice shall be borne by the appealing party.
 - (c) The Secretary to the Zoning Board of Appeals shall make a factual record of the public hearing. Public records shall be taken by stenographic and/or tape recorder means and shall be transcribed accurately into a narrative form which may or may not be a verbatim transcript.
 - (d) The decision of the Board of Appeals shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant. If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals findings and decision shall be sent to the County Planning Board.

E. Meetings.

- (1) The Zoning Board of Appeals shall hold regularly scheduled monthly meetings, provided there are meeting agenda items for Zoning Board of Appeals consideration, and the Board may hold special meetings, from time to time as needed, at the call of the Chairperson or at the request of three or more members.

- (2) The presence of three members shall constitute a quorum for conducting business before the Zoning Board of Appeals, including acting on a zoning appeal or deciding upon any other matter brought before the Board, unless otherwise stipulated in this Ordinance.
- (3) All votes of the Zoning Board of Appeals shall be taken by roll call. Zoning Board of Appeals decisions on matters not referred to the County Planning Board shall be by simple majority vote (three) of the full membership. On a matter referred to the County Planning Board, voting shall be in accordance with Section 18.03 herein.
- (4) In accordance with § 74, Subdivision 2, of Article 4 of the Public Officers Law, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- (5) The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings.
- (6) The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- (7) All meetings of the Zoning Board of Appeals shall be open to the public.
- (8) The Zoning Board of Appeals shall make a factual record of all its proceedings, including public hearings, deliberations, voting and decisions. The factual record shall be taken by the Secretary to the Zoning Board of Appeals.

F. Records and Decisions.

- (1) Minutes shall be recorded of all meetings and shall contain relevant information of every action considered together with the votes of each member and final decision of each proposed action. All decisions of the Zoning Board of Appeals shall be permanently filed within five (5) days in the office of the Town Clerk. The Planning Board shall notify the Town Board, Planning Board, and the Code Enforcement Officer of all decisions and resolutions.

Section 18.03 – Referrals to County Planning Board

A. Proposed actions involving the adoption and/or amendment of a comprehensive plan, the adoption and/or the amendment of a zoning local law or ordinance, the approval of site plans, the issuance of special use permits, subdivision approval, and the granting of use and area variances shall be referred to the Cayuga County Planning Board, pursuant to §§ 239-1, 239-m, and 239-n of the General Municipal Law, if the property involved is within 500 feet of the boundary of any county, town, village; existing or proposed county or state park; any right-of-way of any county or state road or parkway; any stream or canal owned by the county; existing or proposed county- or state-owned land on which a public building or institution is situated; and the boundary of a farm operation located in an agricultural district, except that the following shall be exempt from such referral in accordance with the agreement between the Cayuga County Planning Board and the Montezuma Town Board adopted on October 15, 2013:

- (1) Activities that, while within 500 feet of a state or county highway, are on a parcel that does not front on such state or county highway;

- (2) Activities that, while within 500 feet of a municipal boundary, would be permitted within the area of the adjoining municipality abutting the parcel where the activity is proposed;
- (3) Area variances;
- (4) Amendments to a local zoning law or ordinance that are intended to clarify, redefine, expand, or modify words and/or terms that do not alter the dimensional or use standards of the regulation;
- (5) Amendments to a local zoning law or ordinance that are intended to address procedural or administrative matters that do not alter the dimensional or use standards of the regulation;
- (6) Amendments to a local zoning law or ordinance that are intended to reduce the type or number of uses permitted within a particular zoning district;
- (7) Amendments to a local zoning law or ordinance that are intended to reduce the intensity and/or density of development permitted within a particular zoning district;
- (8) Any subdivision of land not required to be submitted to the Cayuga County Health Department for review under the definition of a subdivision set forth in Section 1115 of the Public Health Law of the State of New York; and
- (9) Any activity subject to review by a local agency employing a municipal planner on a full-time basis who will advise the referring agency concerning the referred matter.

B. Effect of County Planning Board review.

- (1) If the Cayuga County Planning Board recommends the approval of a matter referred to it, the local board's decision is governed by a simple majority vote.
- (2) If the Cayuga County Planning Board recommends approval subject to stated conditions or modifications, or recommends disapproval, the local board may override the County Planning Board recommendation only by a majority plus one vote.
- (3) If the Cayuga County Planning Board fails to make a recommendation within 30 days following the date on which the matter was referred to the Cayuga County Planning Board, the local board may take action on the matter after the expiration of such thirty-day period, and the local board's decision is governed by a simple majority vote.

C. Report on final local action. Within 30 days following a local board's final decision on a matter that was referred to the Cayuga County Planning Board, the local board shall provide a copy of its final decision to the County Planning Board. If the local board acted contrary to the Cayuga County Planning Board's recommendation, the local board shall also provide to the Cayuga County Planning Board its reasons for such decision.

Section 18.04 – Agricultural Data Statements

- A. Applicability.** Any application for a special use permit, site plan approval, use variance or subdivision review and approval by the Planning Board, Zoning Board of Appeals or Town Board that would occur on property within an Agricultural District containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an Agricultural District, shall include an agricultural data statement. The Planning Board, Zoning Board of Appeals, or Town Board shall evaluate and consider the agricultural data statement in its

review of the possible impacts of the proposed project upon the functioning of farm operations within such Agricultural District.

- B. Notice to land owners. Upon the receipt of such application by the Planning Board, Zoning Board of Appeals or Town Board, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule, or regulation for said project. The cost of mailing said notice shall be borne by the applicant.
- C. Contents of an agricultural data statement. The agricultural data statement shall including the following information:
 - (1) The name and address of the applicant;
 - (2) A description of the proposed project and its location;
 - (3) The name and address of any owner of land within the Agricultural District, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and
 - (4) A Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

Section 18.05 – Fee Reimbursement

- A. In connection with any application for a Special Use Permit, Site Plan approval, Major Subdivision or Cluster Subdivision approval, Zoning Amendment, or Variance, the reviewing board may require the applicant to pay in advance into an escrow fund established to cover the reasonable costs of reviewing such application. Such costs may include staff costs or consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other technical services required for a proper and thorough professional review of the application. No permit shall be issued until all costs have been paid. The Town shall account for the expenditure of all such funds and shall promptly refund any unexpended funds within twenty (20) days of final action by the reviewing board.

ARTICLE XIX: AMENDMENTS

Section 19.01 – Procedure

- A. The Town Board may from time to time, on its own motion or on petition or on recommendation of the Planning Board, the Zoning Board of Appeals, or a member of the public, amend, supplement or repeal the regulations and provisions of this Ordinance including changing the Zoning District classification of a particular parcel of land, often referred to as a re-zoning, after public notice and hearing.
- B. Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as follows:
- (1) By publishing a notice of the time and place of the hearing at least 10 days prior to the date of such hearing in a paper of general circulation in the Town.
 - (2) A written notice of any proposed change or amendment affecting land included in such proposed change or of that immediately adjacent, extending 100 feet therefrom, or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land at least 10 days prior to the date of such public hearing.
 - (3) A written notice of any proposed change or amendment affecting property within the protectively zoned area of a housing project authorized under the Public Housing Law of New York State, as such area is shown on an approved zoning map filed with the Zoning Officer, shall be given to the housing authority erecting or owning the project and to the government providing financial aid for assistance thereto at least 10 days prior to the date of such hearing.
 - (4) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the Regional State Park Commissioner having jurisdiction over such state park or parkway at least 10 days prior to the date of such public hearing.
 - (5) A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any city, village, town, or county shall be given to the Clerk of such municipality and to the Clerk of the County Legislature at least 10 days prior to the date of such hearing.
 - (6) In case, however, of a protest against such change signed by the owners of 20% or more of the area of land included in such proposed change or of that immediately adjacent, extending 100 feet therefrom, or of that directly opposite thereto, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least four members of the Town Board.

ARTICLE XX: SEVERABILITY, REPEALER, AND EFFECTIVE DATE

Section 20.01 – Severability

A. It is hereby declared to be the legislative intent that:

- (1) Should the courts declare any provision of this law to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this law shall continue to be separately and fully effective.
- (2) Should the court find the application of any provision or provisions of this Law to any lot, building or other structure, or tract of land, to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property or situation immediately involved in the controversy, and the application of any such provision to other person, property or situations shall not be affected.

Section 20.02 – Repealer

A. The following local laws and all supplements and amendments thereto are hereby repealed.

- (1) Local Law entitled “Town of Montezuma Zoning Ordinance” originally effective on July 8, 1991.
- (2) Local Law entitled “The Town of Montezuma Subdivision Regulations of 2011”.
- (3) Local Law entitled “Alternate Members of Zoning Board of Appeals Law” adopted on July 21, 2015 and.

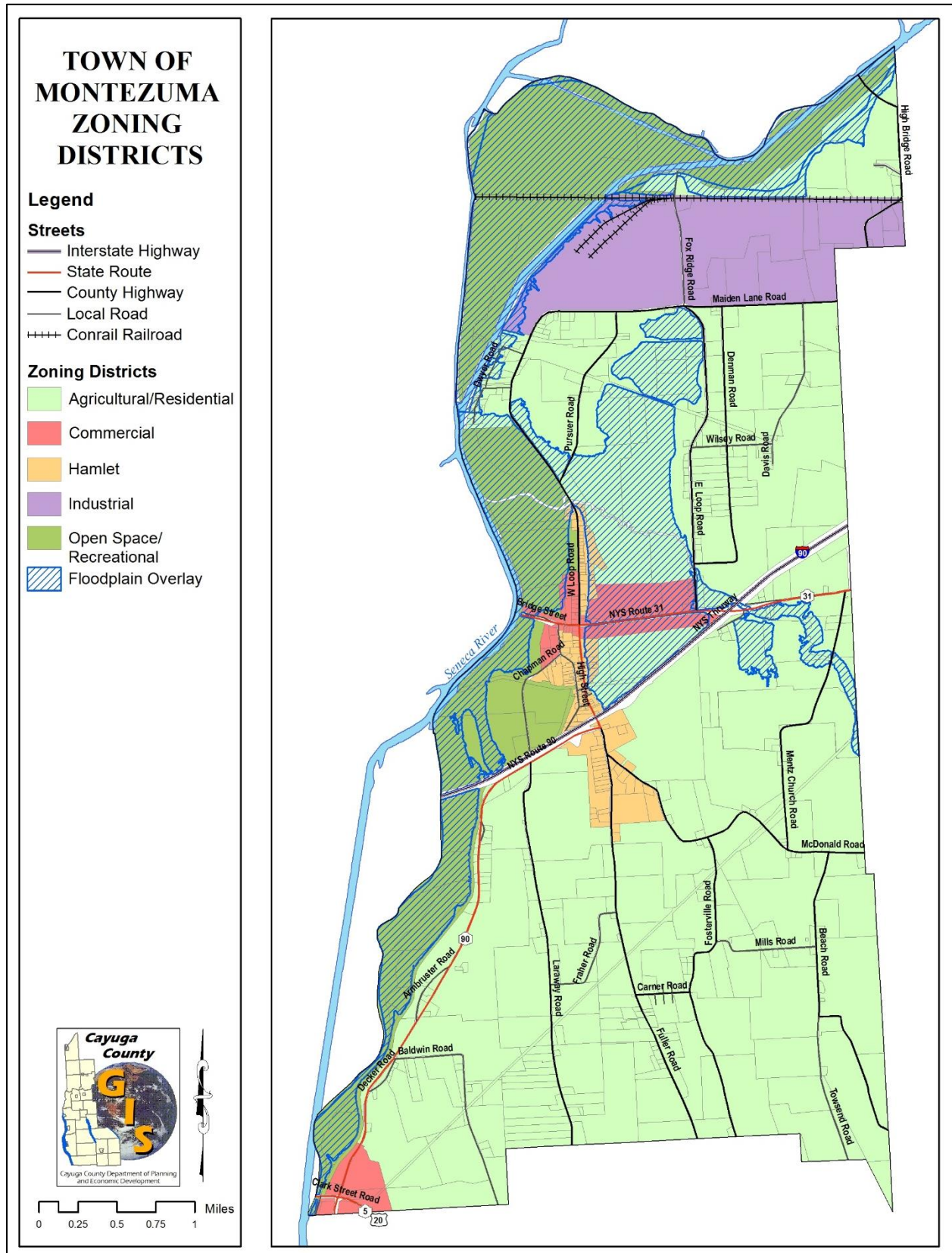
B. If this Law entitled “Town of Montezuma Zoning Ordinance” adopted and effective as noted in Section 20.03 herein, is held to be ineffective or invalid by reason or some irregularity in or impediment to its passage, this repealer shall also be ineffective, it being the legislative intention that if the present enactment shall be ineffective as aforesaid, then in that event the laws listed above together with their supplements and amendments, would necessarily remain in full force and effect until this Law is found to be effective and valid.

Section 20.03 – Effective Date

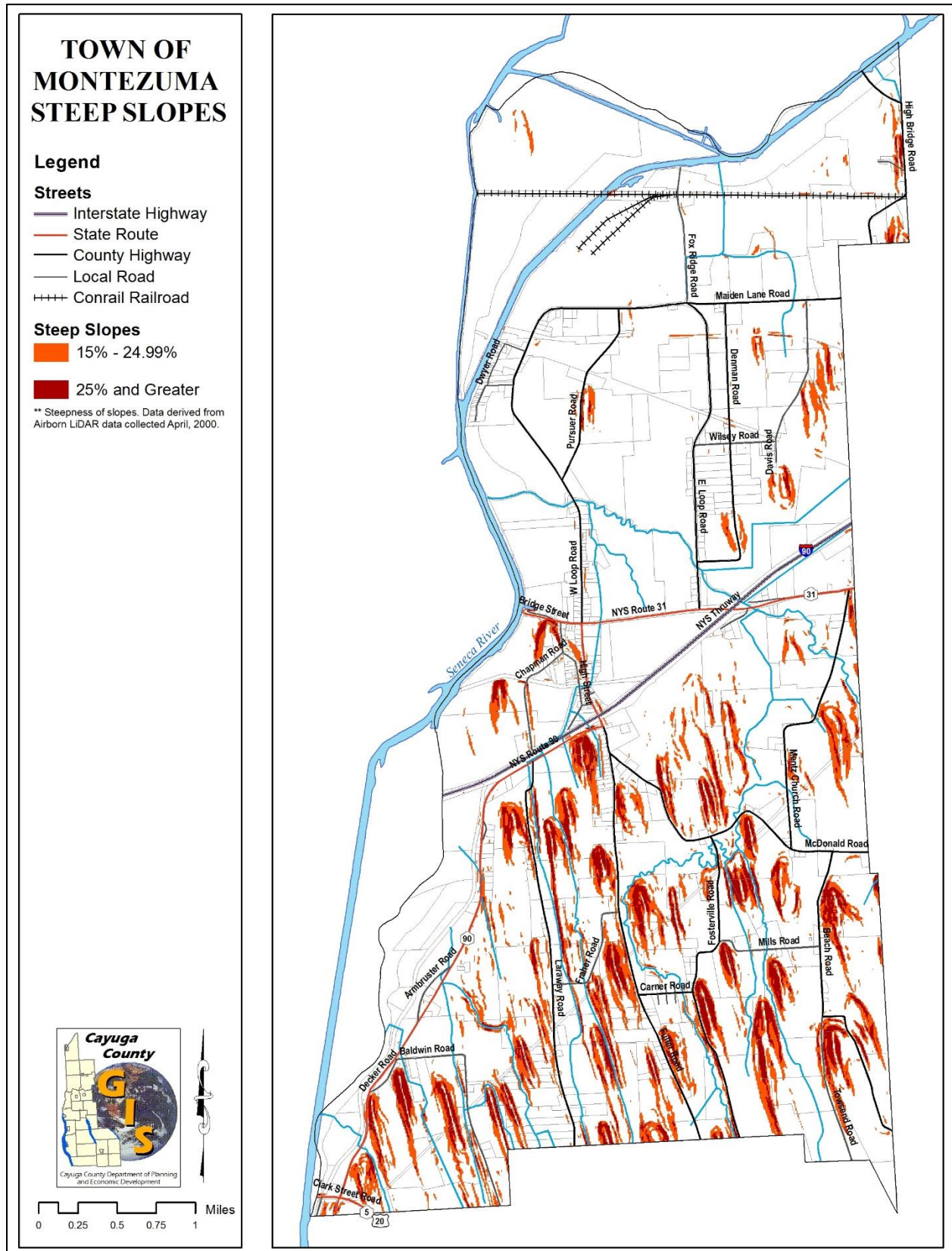
A. Be it enacted this 16th day of July, 2019 by the Town Board of the Town of Montezuma of Cayuga County, New York that this Law shall be effective immediately.

ERRATA - Wherever in this enactment words other than "Zoning Ordinance" have been used and referring to this enactment, those words shall mean "Zoning Ordinance".

APPENDIX I: ZONING MAP



APPENDIX II: STEEP SLOPES MAP



APPENDIX III: NATURAL RESOURCE PROTECTION MAP

