TOWN OF
RICHMONDVILLE

ZONING LAW

Adopted ___, 2014

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ARTICLE 1 – TITLE; SCOPE, AUTHORITY, AND PURPOSES; SEVERABILITY; TERMINOLOGY

SECTION 100 - TITLE

This Law shall be known as "The Zoning Law of the Town of Richmondville."

SECTION 101 – SCOPE, AUTHORITY, AND PURPOSES

This Law regulates the location, design, construction, alteration, occupancy, and use of structures and the use of land in the Town of Richmondville, dividing the Town into land use districts. This Law is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, §10 et seq., and the Consolidated Laws of the State of New York, Chapter 62, Article 16. Without limiting the generality of the foregoing, the purposes of this Law are to: promote the health, safety and general welfare of the present and future inhabitants of the Town; guard against loss of life and damage to property due to flooding through protection of natural drainage features; preserve features of historical significance; encourage the protection of the Town's environmental resources, including without limitation the protection of the quantity and quality of ground and surface water supplies; encourage the preservation of the scenic and other natural assets of the Town, and of the small-town, rural residential character of the community, and to discourage development that is inconsistent with such preservation; protect property values; regulate location and use of buildings and the uses of land within each district with regard to residential, commercial, and other purposes; lessen congestion in streets; secure safety from fire, flood, panic, and other dangers; provide adequate light and air and acceptable noise levels; prevent overcrowding of land and avoid undue concentration of population; facilitate the adequate provision of transportation, water, sewage disposal, schools, parks and other public requirements; and establish districts in which regulations concerning the size of buildings and other structures, the percentage of lots that may be covered, the size of yards, and the use of buildings, structures and land for trade, commerce, residence, and other purposes are restricted and regulated as hereinafter provided. This Law is enacted in accordance with the Town's Comprehensive Plan.

SECTION 102 – OTHER LAWS; AGREEMENTS BETWEEN PRIVATE PARTIES

The provisions of this law shall be considered the minimum requirements for the promotion of the public health, safety, convenience, comfort, and general welfare. It is not intended by this law to interfere with or abrogate or annul any easement, covenant, or other agreement between private parties; provided, however, that when this law imposes a greater restriction on the use of structures or land or on the heights of structures, or requires larger open spaces, or imposes any higher standards than are imposed or required by any easement, covenant, or agreement, the provisions of this law shall control. Where the requirements of this law differ from the requirements of another applicable statute, law, ordinance, rule, or regulation, the more restrictive standard shall govern, unless this law specifically states otherwise.

SECTION 103 - SEVERABILITY

If any word, phrase, sentence, part, section, subsection, or other portion of this Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or

unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board hereby declares that it would have enacted this Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

SECTION 104 - TERMINOLOGY

Except where specifically defined or otherwise specifically provided herein, all words used in this Law shall carry their customary dictionary meanings. For purposes hereof, certain terms and words shall be interpreted as follows: words used in the present tense shall include the future; the plural usage includes the singular, and the singular the plural; the word "shall" is mandatory; the word "may" is permissive; the word "building" includes the word "structure," and both "building" and "structure" include any part thereof; the word "lot" includes the words "plot" and "parcel"; and the words "occupied" and "used" shall be interpreted as though followed by the words "or intended, arranged, or designed to be used or occupied." Where the precise meaning of a word is in doubt by any board or official, the Joint Zoning Board of Appeals shall make a determination in accordance with the purpose and intent of this Law and the Comprehensive Plan.

SECTION 105 - DEFINITIONS

For purposes of this Law, unless otherwise specifically provided the following terms and words shall have the meanings set forth below:

Accessory Structure - a structure customarily incidental and subordinate to the principal building on the same lot, where the principal building is lawful and where there is unity of ownership between the principal building and accessory structure. A structure that dominates the principal building in area is not eligible to qualify as an accessory structure.

Accessory Use - a use customarily incidental and subordinate to the principal use, where the principal use is lawful, where there is unity of ownership between the principal and accessory use, and where the principal and accessory uses are located on the same lot. A use that dominates the principal use in area, extent or purpose shall not be not eligible to qualify as an accessory use. Under no circumstances shall any Explicitly Prohibited Use qualify as an accessory use.

Agriculture; Agricultural Use - The land and on-farm buildings, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation", a "timber operation", "compost, mulch or other organic biomass crops", and "commercial equine operation". Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

Air Fields - Land and/or facilities for aircraft, including landing, departure, maintenance, and storage of such aircraft.

Alley - A public way having a right-of-way width of twenty (20) feet or less.

Alternative Energy System - Structure, equipment devices or construction techniques for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure.

Antennae - System of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications, as well as any and all communications not listed that might occur.

Apartment Complex – Two or more multifamily dwellings detached and grouped together on a single parcel, and including accessory uses.

Area, Land - The term 'land area' when referring to the required area per dwelling unit, means 'net land area', the area exclusive of street and other public open space.

Area, Total Floor - The area of all floors of a building including finished attics, finished basements and covered porches.

Automobile and Vehicle Sales – The use of any building, land area or other premises: (a) by any person required to be registered by the State of New York, engaged in buying, selling, or dealing in motor vehicles; or (b) by any person, whether or not required to be registered by the State of New York, whose activities at such premises consist at least in part in the business of buying, selling, or dealing in any of the following: all terrain vehicles, snowmobiles, farm-type tractors, or garden-type tractors. As used in this definition, "motor vehicle" means automobiles, light trucks (such as pickup trucks), panel trucks and vans, motorcycles, and recreational vehicles, but such term shall not include manufactured homes, commercial trucks or construction machinery. The term "automobile and vehicle sales" does <u>not</u> include, in the context of the preceding clause (b), persons who buy, sell, or deal in all terrain vehicles, snowmobiles, farm-type tractors, or garden-type tractors but who: (i) display a total of fewer than three (3) such vehicles at any one time on such premises, and (ii) sell fewer than six (6) such vehicles in a calendar year.

Automobile and Vehicle Repair – The use of any building, land area or other premises: (a) by any person required to be registered by the State of New York, for diagnosing or repairing motor vehicle malfunctions or for repairing motor vehicle bodies or other components; or (b) by any person, whether or not required to be registered by the State of New York, whose activities at such premises consist primarily of changing (motor vehicle) oil, water, batteries or tires, replacing fan belts, air filters or oil filters, installing windshield wiper blades or light bulbs, and similar minor motor vehicle repair and servicing functions. As used in this definition, "motor vehicle" means automobiles, light trucks (such as pickup trucks), panel trucks and vans, motorcycles, all terrain vehicles, manufactured homes and travel trailers, recreational vehicles, and farm vehicles and equipment, but such term shall not include commercial trucks or construction machinery. The term "automobile and vehicle service" does <u>not</u> include junkyards or businesses involved in dismantling motor vehicles for recycling or the sale of used parts, and does not include minor motor vehicle repairs and servicing

conducted on non-commercial, personal motor vehicles owned by the person conducting such repair or service.

Automobile Fueling Station - The use of any building, land area or other premises for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles.

Basement - Finished space below the first main floor of a building, having a ceiling not more than four (4) feet above the average outside ground level.

Bed & Breakfast – see "Tourist Home"

Best Management Practices; BMP - structural, vegetative, or managerial practices designed to treat, prevent, or reduce degradation of the environment including degradation of water quality due to stormwater runoff and snow-melt. To be considered a BMP, the practice must employ the most current research, resources and technologies available at the time of implementation.

Billboard – Any sign located in the Town of Richmondville that advertises a business, service, or attraction not located on the same parcel the sign is located. Such signs are often referred to as off-premise signs.

Block - The length of street between two street intersections. Where street intersections are at intervals greater than twelve hundred (1200) feet a mid-point shall be considered the length of a block for purposes of this local law.

Boarding House – A private dwelling in which at least three but not more than six rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated and no public restaurant is maintained. A boarding house is considered a multi-family dwelling.

Building, Alterations of - Any change in supporting members of a building except such changes as may be required for its safety, any addition to a building, any change in use from one (1) district classification to another, or removal of a building from one (1) location to another.

Building, Damaged - Any building that is damaged by fire, flood, wind, lightning, or other cause, or is allowed to fall into disrepair, in any event so as to constitute a health and safety hazard or nuisance.

Building, Height of - The vertical distance measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck line of mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

Building-Integrated Photovoltaic (BIPV) System - A solar energy system that consists of integrating photovoltaic modules into the building structure such as the roof or the facade and which does not alter relief of the roof.

Building or Structure, non-conforming - An established building or structure lawfully existing prior to and at the time of the adoption of this local law which because of its inherent nature of

construction, does not conform to and with the provisions of this local law for the district which it is located.

Building, Principal - A building including covered porches, in which is conducted the principal use of the lot on which it is situated. In any residence district, any dwelling shall be deemed the principal building on the lot on which the same is situated.

Business; Business Uses- Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "business," "business uses," or any variation thereof, be construed to mean, be, include, or authorize within the Town any Explicitly Prohibited Use.

Camp Site - Any parcel of land which is planned and improved for the placement of a travel trailer, or tent, which is/are used for temporary living quarters.

Center Line of Street or Road - A line midway between and parallel to street or road property lines or as otherwise defined by the Joint Planning Board.

Clubhouse - A building to house a club or social organization not conducted for profit and which is not an adjunct to or operated by or in connection with a public tavern, cafe, or other public place.

Collective Solar - Solar installation owned collectively through subdivision homeowner association, college student groups, "adopt-a-solar-panel," or other similar arrangements.

Comprehensive Plan - any document, styled comprehensive or master plan or otherwise, adopted by the Town Board for the protection, enhancement, growth, and development of the Town, immediate as well as long-range, specifically pursuant to § 272-a of the NYS Town Law, together with all other materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, adopted by the Town Board, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the protection, enhancement, growth and development of the Town.

Commercial; Commercial Uses –Notwithstanding any provision hereof to the contrary, in no event shall the terms "commercial," "commercial uses," or any variation thereof be construed to mean, be, include, or authorize within the Town any Natural Gas and/or Petroleum Extraction Activities, Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes Dump, a Natural Gas Compression Facility, a Natural Gas Processing Facility, or any other Explicitly Prohibited Uses.

Commercial Equine Operation – An agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production.

Commercial Horse Boarding Operation – An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production.

Compost, Mulch or Other Organic Biomass Crops – The on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste.

Construction Sites – Is that portion of a site disturbed by the development and/or building and includes the areas where building materials are placed and access traversed by vehicles.

Crops, Livestock and Livestock Products – Include but are not limited to the following:

a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
b. Fruits, including apples, peaches, grapes, cherries and berries.
c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, and onions.
d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, milk, eggs, and furs.
f. Maple sap.
g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
h. Aquaculture products, including fish, fish products, water plants, and shellfish.
i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs (small honey bee colonies created from larger colonies) and queens.

Duplex - A building having two (2) single-family units.

Dwelling - A house, apartment building or other building designed or used primarily for human habitation.

Dwelling, **One Family** - A detached building designed for the use of a single household. Mobile home is defined separately.

Dwelling, Multi-family - A dwelling or group of dwellings on one (1) plot containing separate living units for three (3) or more families, but which may have joint services or facilities or both.

Dwelling Unit - Any dwelling or portion thereof used or intended to be used by one (1) family, and providing complete housekeeping facilities thereof.

Educational Use - a use of land for the primary purpose of providing educational services to children or adults, including but not limited to primary and secondary schools, nursery schools, colleges and universities, vocational schools, and facilities designed to provide instruction in any recognized skill or vocation.

Enhancement – The manipulating of the physical, chemical or biological characteristics of an area to increase or improve specific functions or to change the growth stage or vegetation present.

Excavation; excavating - Notwithstanding any provision hereof to the contrary, for purposes of this Law in no event shall the terms "excavation," "excavating" or any variation thereof be construed to mean, be, include or authorize Natural Gas and/or Petroleum Extraction Activities, or to authorize within the Town Natural Gas and/or Petroleum Extraction Activities or any other Explicitly Prohibited Use.

Explicitly Prohibited Use(s) - Shall mean and be the Explicitly Prohibited Uses defined and described in Section 207 of this Law.

Family - One, two or three persons occupying a dwelling unit; or four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.

Fencing – In relation to junkyards, a fence at least eight (8) feet in height, which substantially screens and blocks public view. Said fence shall be constructed of materials approved by the Joint Planning Board.

Flea Market - A usually open-air market for the purpose of selling second hand articles and antiques on a regular basis. A single weekend flea market would qualify as a private sale and no permit is necessary.

Foundation - see "Permanent Foundation"

Flush Mounted Solar Panel - Photovoltaic panels and tiles that are installed flush to the surface of a roof or wall and which cannot be angled or raised.

Freestanding or Ground-Mounted Solar Energy System - A solar energy system that is directly installed on the ground and is not attached or affixed to an existing structure.

Garage, Public - A garage conducted as a business for storage of vehicles.

Height - When referring to a telecommunications tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna.

Home Business - An accessory use of a service or commercial character conducted within a dwelling unit by the residents thereof, which is clearly secondary to the use of the dwelling unit for living purposes, and which is not detrimental to the residential character of the lot on which said home business is located or of the surrounding neighborhood. See Section 418 of this law for more details.

Hospital - An establishment for temporary occupancy by the sick or injured for the purpose of medical diagnosis and treatment, including sanitaria and shall be limited to the care of humans.

Hotel - An establishment providing, for compensation, sleeping accommodations and customary lodging services, including the furnishing and upkeep of furniture and bed linens. This use may include conference and meeting rooms, restaurants, bars, and recreational facilities. This classification does not include lodging businesses that are specifically listed elsewhere in this Law under another definition, such as bed and breakfast or motel.

Hunting Lodge – A for profit business involving amenities (e.g. lodging, hunting stands, outbuildings) for guided and self-guided hunting.

Injection Well - A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension of the hole, through which fluids (which may or may not include semi-solids) are injected into the subsurface and less than ninety (90) percent of such fluids return to the surface within a period of ninety (90) days.

Junk and/or Salvage Yard - A lot, land or structure or part thereof, used for collecting, storage, or sale of waste paper, rags, scrap metal, used or salvaged building or other discarded material, or for the collecting, dismantling, storage and deposit, whether in connection with another business or not, where two (2) or more unlicensed, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purposes of resale of used parts or materials therefrom or not. Such term shall include any place of storage or deposit for any purpose of used parts or waste materials from motor vehicles which, taken together equal in bulk two (2) or more such vehicles. In no event shall 'junkyard' or 'salvage yard' be construed to mean, be, include, or authorize within the Town a Land Application Facility, a Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility, a Natural Gas And/Or Petroleum Extraction, Exploration Or Production Wastes Dump, or any other Explicitly Prohibited Use

Kennel - Any establishment including cages, dog runs, and structures wherein more than three (3) dogs which are over six (6) months old are kept for sale, boarding, care or breeding, for which a fee is charged.

Land application facility - A site where any Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes (as defined in this law) are applied to the soil surface or injected into the upper layer of the soil.

Livestock - Animals or poultry kept or raised for use or pleasure, especially farm animals kept for use and profit.

Lot - A piece, parcel or plot of land occupied or to be occupied by a principal building and its accessory building or buildings and including the yards and other open spaces required by this local law.

Lot, Corner - A lot which has an interior angle of less than one hundred thirty five (135) degrees at the intersection of two (2) street lot lines. A lot abutting upon a curved street or streets shall be considered a curve at its points beginning within the lot or at the points of intersection of the side lot lines with the street line intersect at an interior angle of less than one hundred thirty-five (135) degrees. Only one road frontage shall be defined as a front yard for setback requirements.

Lot of Record - Any lot which has been established as such by plat, survey, record of deed prior to the date of this enactment as shown on the records of the Schoharie County Clerk's Office.

Manufacturing, Small – Any permitted manufacturing business employing less than one hundred (100) employees.

Mobile Home - A portable structure, less than sixteen (16) feet wide, with or without its own motive power, equipped for or used for living purposes, and mounted on wheels or designed to be so mounted and transported. It is a single entity which when placed on a building site is complete and needs no further installation of a heating system or materials.

Mobile Home Park - Any lot on which three (3) or more mobile homes are located regardless of whether or not a charge is made for such accommodations.

Modular Home - A residence consisting of a minimum of two (2) or more sections each of which must be transported to the building site separately, with heating system to be installed and siding completed after setup.

Motel or Motor Court - A building or series of buildings having four or more guest rooms and in which lodging is offered for compensation, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rented room.

Municipal Facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated by a governmental body or public entity.

Natural Gas - Methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

Natural Gas and/or Petroleum Exploration Activities - Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, *but only to the extent* that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

Natural Gas and/or Petroleum Extraction Activities - The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons, including without limitation any and all forms of shale fracturing.

Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes - Any of the following in any form, and *whether or not* such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of "industrial waste," "hazardous," or "toxic," and whether or not such substances are generally characterized as waste: (a) natural gas or petroleum drilling fluids; (b) natural gas or petroleum exploration, drilling, production or processing wastes; (c) natural gas or petroleum drilling treatment wastes (such as oils, frac fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (d) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (e) soil contaminated in the drilling, transportation, processing or refining of natural gas or petroleum; (f) drill cuttings from natural gas or petroleum wells; or (g) any other wastes associated with the exploration, drilling, production or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as "solid wastes which are not hazardous wastes" under 40 C.F.R. § 261.4(b). The definition of Natural Gas and/or Petroleum Extraction, Exploration Or Production Wastes *does not include* (i) recognizable and non-recognizable food wastes, or (ii) waste generated by use for agriculture.

Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility - Any of the following: (a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas and/or Petroleum Extraction, Exploration Or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes Dump - Land upon which Natural Gas and/or Petroleum Extraction, Exploration Or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

Natural Gas Compression Facility - A facility constructed or operated to raise the pressure of natural gas in connection with its extraction, processing, or storage, or its delivery into or out of the transmission pipeline system; the term shall not include the transmission pipeline itself; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

Natural Gas Processing Facility - Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO_2 separated from natural gas streams.

Net Metering - A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage.

Offices, Business and Professional – A workplace in which manufacturing processes, retail sales,

construction, and warehousing do not occur on the premises, including offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, real estate, insurance, investment, legal, and medical and dental offices. Office also includes business offices that support or manage manufacturing, retailing, construction, and warehousing, as well as research laboratories and other facilities in which research activities are conducted. An office that is operated in connection with another primary use on the use table shall be considered accessory to that primary use, and not a separate use.

Person - Any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, or estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Personal Use Livestock – Livestock used for pleasure or pets for personal use only and not for business purposes. Includes, but is not limited to horses, cattle, sheep, goats, swine, and poultry.

Photovoltaic (PV) System - A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity when light strikes them.

Portable On Demand Storage (PODS) Containers – Any box like container, other than an accessory building or shed complying with all building codes and land use requirements, that can be or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building.

Public Utility; Public Utility Station - An entity which operates as a monopoly, and whose rates charged to customers are established by a utility commission. A public utility station, structure, or use is a facility, structure, or use which is operated by a public utility, and which provides electric, gas, steam, CATV, telephone or other communication service, water or sewerage directly to the general public. In no event shall 'Public Utility,' 'Public Utility Building,' 'Public Utility Facility,' or 'Utility' be construed to mean, be, include, or authorize within the Town a Natural Gas Compression Facility, Natural Gas Processing Facility, or any other Explicitly Prohibited Use.

Qualified Solar 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. Persons who are not on NYSERDA's or NABCEP's list of certified installers may still be deemed to be qualified solar installers if the Town of Richmondville determines such persons to have had adequate training to determine the degree and extent of the hazard and the personal protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, consideration of reducing or eliminating nuisance reflection on buildings, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of the exposed parts.

Radiation - The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

Radioactive Material - Material in any form that emits radiation. This definition specifically includes NORM (naturally occurring radioactive material), but only if such naturally occurring material has been moved from its naturally occurring location through a mechanical or other man-made process. All such material is "radioactive material" for purposes hereof, whether or not it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency.

Regulated Activities, Riparian Areas – All activities in regulated riparian areas involving filling, excavation, dredging, large tree cutting/removal, dumping, excavation, changing of drainage, grading, mowing for reasons other than a trail, placing of objects in water, excavation, or any other alteration or use of a riparian area.

Religious Institution - A church, synagogue, mosque, temple or other place of religious worship.

Restaurant - Facilities primarily used for the sale of prepared food for public consumption on or off the premises.

Restaurant, Drive-through – A restaurant where food is provided to the customer under conditions where the customer does not have to leave the car or where fast service to the vehicle occupants is a service offered, regardless or whether food is also offered for consumption within a building.

Retail Establishment – A building or lot used for the retail sale of merchandise which is not specifically listed elsewhere in this Law under another use classification. By way of illustration, this classification includes without limitation clothing stores, pharmacies, furniture stores, appliance stores, grocery stores, food service (not drive-through), and businesses retailing the following goods: toys, hobby materials, hand crafted items, jewelry, cameras, hardware, antiques, art supplies, office supplies, medical supplies, and bicycles.

Retail, Small – Retail establishments with less than thirty (30) employees.

Riparian Area – Means the area adjacent to rivers, streams, creeks and other bodies of water or channels having banks and bed through which waters flow at least periodically. These areas are subject to period flooding and are generally characterized or distinguished by a difference in plant species composition or an increase in the size and/or density of vegetation as compared to upland areas. See more detailed description in this law of regulated riparian areas.

Rooftop or Building-Mounted Solar System - A solar 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.

Service Establishment - An enterprise, not specifically listed under another use classification, where the primary activity is the offering for compensation of services, as opposed to goods or products, to

individuals, businesses, industry, government, or other enterprises. Examples of service establishments include: barber shops, beauty shops, shoe repair shops, dry cleaning shops, and tailors.

Service Shop – A small business (no more than (2) two employees other than those legally residing on the property) for servicing and maintaining farm equipment, motor vehicles, small engines, and/or to provide welding services. In the RR District, the sale and direct delivery of gasoline or other motor vehicle fuel is not to be provided at a service shop and a minimum lot size of thirty (30) acres is required.

Shopping Center - A group of stores, shops and similar establishments occupying adjoining structures all of which may be deemed one (1) building if designed as an architectural unit and if it has adequate, screened space for loading and unloading commodities.

Sign - Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors, or on the exterior of any building, or indoors as a window sign, displaying as advertisement, announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

Sign, Awning - Any visual message incorporated into an awning attached to a building.

Sign, Copy - Change - A sign on which the visual message may be periodically changed.

Sign, Directional - A sign limited to providing information on the location of an activity, business or event.

Sign, Free Standing - Any sign not attached or part of any building but separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

Sign, Illuminated - Any sign illuminated by electricity, gas, or other artificial light either from the interior or exterior of the sign, and which includes reflective and phosphorescent light.

Sign, Off-Premises - A sign unrelated to a business or a profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

Sign, Portable - A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

Sign, Projecting - A sign which is attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall, or a sign which is perpendicular to the fact of such wall or structure.

Sign, Representational - Three-dimensional sign built so as to physically represent the object advertised.

Sign, Temporary - A sign intended for a temporary period of posting for no more than thirty (30) days on the property in question.

Sign, Wall - A sign which is painted on or attached to the outside wall of a building with the face of the sign in the pane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

Sign, Window - A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

Sign Directory - A listing of two or more business enterprises, consisting of a matrix and sign components.

Sign Structure - The supports, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two (2) or more sides where the angle formed between any two of the sides or the projections thereof exceeds thirty (30) degrees, each side shall be considered a separate sign structure.

Sign Surface Area - The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign. The structure supporting a sign shall be excluded unless the structure is designed in a way to form an integral background for the display. Both faces of a double-faced sign shall be included as surface or area of such a sign.

Solar Access - Space open to the sun and clear of overhangs or shade including the orientation of the streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Collector - A solar photovoltaic cell, panel or array, or any solar hot air or solar energy collector which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored energy to heat, air or water.

Solar Easement - An easement recorded pursuant to the NY Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

Solar Energy Equipment/System - Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected and converted into another form of energy and is stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

Solar Panel - A device for the direct conversion of solar energy into electricity.

Solar Storage Battery - A device that stores energy from the sun and makes it available in an electrical form.

Solar Thermal System - Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

Special Use - A use which because of its unique characteristics requires individual consideration through a procedure of review by the Joint Planning Board, in order to determine whether a special use permit should be granted, conditionally granted, or denied.

Story - That part of a building including between any floor, other than a basement floor, and the floor or roof next above.

Street - Any public way dedicated to public travel greater than twenty (20) feet in width.

Street Line - The right-of way line of a street as indicated by dedication or by deed of record.

Structure - Any facility constructed or used for residency, business, industry or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, mobile homes, billboards, signs and similar facilities whether stationary or movable, excluding fences.

Subsurface - Below the surface of the earth, or of a body of water, as the context may require.

Swimming Pool - a structured in-ground or above-ground pool, basin, chamber, or tank which is intended for swimming, diving, recreational bathing or wading and which contains, is designed to contain, or is capable of containing water more than twenty four inches (24") deep at any point, and which is constructed, installed or maintained outside any building.

Telecommunication Facility - Any structure on which transmitting and/or receiving antennae and towers are located.

Timber Operation – The on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products (e.g. lumber, firewood, posts) provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

Tourist Home/Bed & Breakfast - An owner-occupied dwelling unit, used for providing overnight accommodations and a morning meal to transient lodgers and in which no public restaurant is maintained and no other commercial services are offered. For the purpose of this definition, a transient lodger means a person who rents a room in a bed-and-breakfast establishment for fewer than thirty (30) consecutive days.

Travel Trailer - Any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is designed and intended to be used for temporary living quarters for travel, recreation or vacation purposes, which may or may not include one (1) or all of the accommodations and facilities included in a mobile home.

Tent - A collapsible cover used to ward off the elements.

Trail - a path or track that is no wider than ten (10) feet.

Tree, Large - Any tree with a trunk diameter of ten (10) inches or more measured one (1) foot from the ground.

Underground Injection - Subsurface emplacement of Natural Gas and/or Petroleum Extraction, Exploration Or Production Wastes, including emplacement by or into an Injection Well.

Underground Natural Gas Storage - Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location, whether for the purpose of load balancing the production of natural gas or for any other reason, including without limitation short-term, long-term, or intermittent storage for product quality, processing, or transportation purposes, or because of market conditions. Without limitation, this term includes compression and dehydration facilities.

Variance – An area variance or a use variance, as the context may admit.

Variance, Area - The authorization by the Board of Appeals for the use of land in a manner that is not allowed by the dimensional requirements of the applicable zoning regulations.

Variance, Use - The authorization by the Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

Windmills, Agricultural – For use in a farming operation, in which electric generation does not exceed ten (10) percent of the farms expected needs.

Yard, Front - All open space extending across the entire width of the lot between the building line or front property line, (street or road right-of-way line) and into which space there shall be no extension of building parts other than steps, open porches, eaves, cornices and similar fixtures.

Yard, Rear - An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot and unoccupied except for accessory buildings and open porches.

Yard, Side - An open unobstructed space on the same lot with a principal building and the side line of the lot and extending through from the front yard to the rear.

ARTICLE 2 - ESTABLISHMENT OF DISTRICTS: ANY USE NOT SPECIFICALLY PERMITTED IS PROHIBITED

SECTION 200 - DISTRICTS CLASSIFICATION

For the purpose of this Law, the Town of Richmondville is hereby divided in to the following land use and overlay districts. Overlay districts are intended to provide additional protection of important environmental resources. Overlay districts may overlap different land use districts, but they do not change the use and dimensional requirements of the underlying land use districts unless specifically so stated in this law.

A. DISTRICTS

Rural Residential	RR
Hamlet	H
Water Shed Protection	WSP
Agricultural-Education	AE
Educational	E
Mobile Home	MH
Commercial	C

B. OVERLAY DISTRICTS

Special Flood Hazard Area	SFHA
Sensitive Area	SA
Riparian Habitat Area	RHA

C. FLOATING DISTRICTS

Planned Development District	PDD

SECTION 201 - SUPPLEMENTARY DISTRICT STANDARDS

A. AGRICULTURAL-EDUCATION – This area is presently owned by the State University of New York or the Faculty Student Association of SUNY Cobleskill. The district is not exempt from the Special Flood Hazard Area (SFHA) requirements as applicable.

B. EDUCATIONAL – This area is presently owned by Cobleskill-Richmondville Central School District. The district is not exempt from the Special Flood Hazard Area (SFHA) requirements as applicable.

C. SPECIAL FLOOD HAZARD AREA – For all activities in this district, the Zoning/Code Enforcement Officer shall be contacted and the Town of Richmondville Flood Damage Prevention Law shall be followed. All structures to be built or all substantial improvements, as defined in the Town of Richmondville Flood Damage Prevention Law, shall be prohibited until the applicant has been

issued a valid floodplain development permit from the Town Floodplain Administrator and complied with all relevant Sections herein.

D. **SENSITIVE AREA** – Sensitive Area consists of land where steep slopes and higher elevations, visible from long distances, merge. Limits on clear cutting are in place to reduce negative impacts on many property owners and to reduce damage to the environment. The Town of Richmondville will use educational tools for property owners in regard to landscaping requirements, height limitations, and lighting requirements.

E. **RIPARIAN HABITAT AREA –** Riparian Habitat Area is a fifty (50) foot protective stream side buffer measured out from the average high water mark on both sides of a stream where limits on construction, grading, dredging, filling, tree cutting, and mowing for purposes other than a trail are used/encouraged to protect water quality and wildlife habitat and reduce flooding potential on larger creeks.

SECTION 202 - ZONING MAP

The boundaries of the zoning districts are shown on a map entitled "Town of Richmondville, Official Zoning Map" which is hereby declared to be a part of this Law. The official Zoning Map shall be kept on file in the office of the Town Clerk. Unofficial reductions of this map shall be for reference purposes only. Changes may be made in district boundaries only by a zoning amendment adopted by the Town Board. Any such changes shall be noted by the Town Clerk on the official Zoning Map promptly after the Town Board adopts such an amendment. In the event of a conflict between the Zoning Map in the Town Clerk's office and the specific local law adopting a Zoning Map amendment, the specific local law shall be the controlling authority as to the current zoning status of lands, structures and uses in the Town.

SECTION 203 - INTERPRETATION OF DISTRICT BOUNDARIES

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

A. **CENTER LINES -** Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, or highway lines shall be construed to be such boundaries.

B. **LOT LINES -** Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be boundaries.

C. **PARALLEL LINES -** Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such boundaries shall be determined by the use of scale shown on said Zoning Map.

D. **RAILROAD LINES -** Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the main tracks of said railroad.

E. WATER BODY LINES - Where the boundary of a district is indicated as following shorelines of ponds and lakes, said boundary line shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Where the boundary of a district is indicated as following a stream or other watercourse, said boundary line shall be construed to follow the centerline of such stream or watercourse and, in the event of change in the same, shall be construed as moving with the actual stream or other watercourse.

SECTION 204 – DIMENSIONAL REQUIRMENTS AND USE REGULATIONS

No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with the regulations herein specified for the district in which it is located, and no building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, or side yards, than is specified herein for the district in which such building is located, and what is specified within this ordinance as to dimensional and similar area requirements is further limited and qualified by any restrictions imposed by any applicable additional requirements, standards, and/or regulations contained in this Law.

Any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any zoning district shall be expressly prohibited in that district. A use specifically set forth as a permitted use in one district shall not be permitted in another district unless it is specifically set forth as a permitted use in said other district. Without limiting the generality of the foregoing, for purposes of clarity certain uses are explicitly prohibited in each and every zoning district as more fully set forth in this Section 204.

A. DIMENSIONAL REQUIREMENTS, BY DISTRICT

DISTRICT	MINIMUM Lot Size	MINIMUM Frontage	MINIMUM Set Back/r.o.w	MINIMUM Sides	MINIMUM Rear	MAXIMUM Feet/ Stories
RR	1.5 Acres	200 ft.	60 ft.	15 ft.	15.ft	35/2.5
H	.5 Acre	100 ft.	30 ft.	15 ft.	15 ft.	35/2.5
WSP	5 Acres	600 ft.	60 ft.	50 ft.	50 ft.	35/2.5
MH	.5 Acres	100 ft.	30 ft.	15 ft.	15 ft.	35/2.5
C	1 Acre	200 ft.	60 ft.	15 ft.	15 ft.	35/2.5
AE/E	5 Acres	300 ft.	60 ft.	50 ft.	50 ft.	49/3.5

1. A new building lot shall not exceed four (4) times its width.
2. For all uses, parking guidelines as outlined in Article 8, Section 801 of this Law shall be met.
3. A parcel in existence as of the date of passage and filling of this Law that is two (2) or more acres in size shall not be restricted to the minimum frontage, if there is vehicular accessibility (e.g. right of way) to the property and it meets all other applicable requirements of this local law.
4. Only one (1) resident unit, single, multiple or other type of residence complex, shall be permitted on a legal lot owned by one (1) person, except as provided for mobile homes in

appropriate districts or housing for farm workers on an operating farm in a State certified agricultural district approved per Section 402 of this law, unless lawfully subdivided by standards according to the Town of Richmondville Subdivision Law.

B. RURAL RESIDENTIAL (RR)

1. **Permitted Uses:**
   a. One family dwelling
   b. Duplex or two (2) family dwelling
   c. Agriculture
   d. Camp Site (2 or less units – see definition in Section 105 and Section 501 herein)
   e. Home Business

2. **Special Uses (with site plan review):**
   a. Service Shop (on parcels of thirty (30) acres or more)
   b. Cemetery
   c. Picnic Grove, Fish or Game Club
   d. Public Parks, Playgrounds, or Public Buildings
   e. Air Fields (on parcels of fifty (50) acres or more)
   f. Telecommunications Facility
   g. Camp Site (3 or more units – see definition in Section 105 and Section 501 herein)
   h. Hunting Lodge
   i. Personal Use Livestock
   j. Religious Institution

3. **Accessory Uses and Structures:**
   Accessory uses and structures shall be allowed by the same permit process as the principal use. (For example, if a particular use requires a special permit in a particular zone, then the related accessory use shall also require a special permit.)

4. **Prohibited Uses:**
   Explicitly Prohibited Uses, and any use not specifically set forth in subsection 204 B. above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within Rural Residential Districts.

C. HAMLET (H)

1. **Permitted Uses:**
   a. One family dwelling, including mobile homes
   b. Duplex or two (2) family dwelling
   c. Camp Site (2 or less units – see definition in Section 105 and Section 501 herein)
   d. Home Business

2. **Special Uses (with site plan review):**
   a. Small Retail
   b. Flea Market
   c. Service Establishment

d. Camp Site (3 or more units – see definition in Section 105 and Section 501 herein)
e. Personal Use Livestock
f. Religious Institution

3. **Accessory Uses and Structures:**
Accessory uses and structures shall be allowed by the same permit process as the principal use. (For example, if a particular use requires a special permit in a particular zone, then the related accessory use shall also require a special permit.)

4. **Prohibited Uses:**
Explicitly Prohibited Uses, and any use not specifically set forth in subsection 204 C. above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within Hamlet Districts.

D. WATERSHED PROTECTION (WSP)

1. **Permitted Uses:**
   a. One Family Dwelling
   b. Public Picnic Areas and recreational Parks
   c. Camp Site (2 or less units – see definition in Section 105 and Section 501 herein)
   d. Home Business
   e. Agriculture

2. **Special Uses (with Site Plan Review as long as such use would not contribute to pollution of the water or over saturation of the land and environs**):
   a. Telecommunications Facility
   b. Camp Site (3 or more units – see definition in Section 105 and Section 501 herein)
   c. Hunting Lodge
   d. Personal Use Livestock
   e. Religious Institution

3. **Accessory Uses and Structures:**
Accessory uses and structures shall be allowed by the same permit process as the principal use. (For example, if a particular use requires a special permit in a particular zone, then the related accessory use shall also require a special permit.)

4. **Prohibited Uses:**
Explicitly Prohibited Uses, and any use not specifically set forth in subsection 204 D. above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within Watershed Protection Districts.

E. MOBILE HOME (MH)

1. **Permitted Uses:**
   a. One family dwelling
   b. Duplex or two (2) family dwelling
   c. Mobile Homes

2. **Special Uses (with Site Plan Review):**
   a. Mobile Home Park
   b. Religious Institution

3. **Accessory Uses and Structures:**
   Accessory uses and structures shall be allowed by the same permit process as the principal use. (For example, if a particular use requires a special permit in a particular zone, then the related accessory use shall also require a special permit.)

4. **Prohibited Uses:**
   Explicitly Prohibited Uses, and any use not specifically set forth in subsection 204 E. above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within Mobile Home Districts.

F. COMMERCIAL (C)

1. **Permitted Use**
   a. Residential/Agricultural
      (1) One family dwelling
      (2) Duplex or two (2) family dwelling
      (3) Agriculture
      (4) Home Business

   b. Commercial (With Site Plan Review)
      (1) Small Retail
      (2) Small Manufacturing
      (3) Flea Market
      (4) Personal Use Livestock

2. **Special Uses (with Site Plan Review):**
   a. All other lawful uses that are not Explicitly Prohibited Uses.

3. **Accessory Uses and Structures:**
   Accessory uses and structures shall be allowed by the same permit process as the principal use. (For example, if a particular use requires a special permit in a particular zone, then the related accessory use shall also require a special permit.)

4. **Prohibited Uses:**
   Explicitly Prohibited Uses, and any use not specifically set forth in subsection 204 F. above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within Commercial Districts.
   Mobile Homes.

G. AGRICULTURAL EDUCATION/EDUCATION (AE/E)

1. **Permitted Uses:**

a. Educational use
b. Municipal facility
c. Agriculture

2. **Special Uses (with site plan review):**

a. Personal Use Livestock

2. **Accessory Uses and Structures:**
Accessory uses and structures shall be allowed by the same permit process as the principal use. (For example, if a particular use requires a special permit in a particular zone, then the related accessory use shall also require a special permit.)

3. **Prohibited Uses:**
Explicitly Prohibited Uses, and any use not specifically set forth in subsection 204 G. above as a permitted use (as of right, accessory, or upon special permit, as the context may admit), shall be prohibited within Agricultural Education Districts and Educational districts.

SECTION 205 – PLANNED DEVELOPMENT DISTRICTS

A. PURPOSE

The purpose of the Planned Development District is to permit, where appropriate, a degree of flexibility in conventional land use and design regulations which will encourage development in an imaginative and innovative way while through the process of review, discussion and law change, insuring efficient investment in public improvements, a more suitable environment, and protection of community interest. This article is intended to relate to both residential and nonresidential development, as well as mixed forms of development. There may be uses, now or in the future, which are not expressly permitted by the other terms of this chapter but which uses would not contravene the long range Comprehensive Plan objectives if they adhere to certain predetermined performance and design conditions. The Planned Development District is intended to be used to enable these developments to occur even though they may not be specifically authorized by this chapter. Areas may be zoned as a Planned Development District by the Town Board or upon application for a specific proposal, all in accordance with the normal rezoning procedures. Because the intention is to create self-contained, architecturally consistent and compatible buildings, many times with diverse but related uses, and because the creation of a Planned Development District will entail sufficient review to assure the uses within the zone will have negligible or no adverse effects upon properties surrounding the zone, a Planned Development District may be created in any zone within the Town. In reaching its decision on whether to rezone to a Planned Development District, the Town Board shall consider the general criteria set forth in this chapter, the Comprehensive Plan for the Town, and this statement of purpose.

B. ESTABLISHMENT AND LOCATION

With the approval of the Town Board, a Planned Development District may be established in any zone in the Town. The establishment of any such zone shall lie in the sole discretion of the Town Board, as a legislative body. It shall be established by amending the Zoning Ordinance to permit such

establishment. The enactment and establishment of such a zone shall be a legislative act. No owner of land or other person having an interest in land shall be entitled as a matter of right to the enactment or establishment of any such zone.

C. PERMITTED PRINCIPAL AND ACCESSORY USES

In a Planned Development District buildings and land may be used for any lawful purpose permitted in the zone where it is located, plus any other uses which the Town Board may authorize upon findings that such additional uses:

1. Further the health and welfare of the community; and

2. Are in accordance with the Comprehensive Plan.

3. Notwithstanding any provision herein to the contrary, in no event shall an Explicitly Prohibited Use be authorized or permitted within any Planned Development District.

D. ADDITIONAL REQUIREMENTS

In any rezoning to a Planned Development District the Town Board may impose such conditions or limitations that the Town Board, in its legislative discretion, may determine to be necessary or desirable to insure the development conforms with the Comprehensive Plan of the Town, including limiting the permitted uses, location and size of buildings and structures, providing for open space and recreational areas, and requiring bonds or other assurances of completion of any infrastructure to be built as part of the development.

E. MINIMUM REQUIRED AREA

A minimum tract of one (1) acre is required for the development of a Planned Development District.

F. YARD AND OTHER REGULATIONS

Yard, height, building coverage, lot size, and any performance standards shall be as set forth in the legislation rezoning the area to a Planned Development District. Unless otherwise stated in such legislation, if no such regulations are set forth, the regulations applicable to the zone in which the Planned Development District is located shall govern.

G. SITE PLAN APPROVAL

No structure shall be erected or placed within a Planned Development District, no building permit shall be issued for a building or structure within a Planned Development District, and no existing building, structure or use in a Planned Development District be changed, unless the proposed building and/or use is in accordance with a site plan approved pursuant to the provisions of Article 9.

SECTION 206 – PROCEDURE FOR CREATION OF PLANNED DEVELOPMENT DISTRICTS

A. GENERAL PROVISIONS

The procedures set forth in this article shall govern applications for establishment of a Planned Development District and any establishment or modification of any other land use districts, all hereinafter referred to as "zones," and shall be in addition to any requirements specified in any of the articles governing any of such zones.

The provisions set forth below shall govern establishment or modification of zones when application for same is made by any person or entity other than the Town of Richmondville. Should the establishment of a zone be initiated by the Town Board, the procedures to be followed are those set forth in New York State Town Law and this chapter governing amendments of a zoning ordinance.

B. PROCEDURES

Any person or entity requesting the establishment or modification of a zone shall proceed as follows:

1. The applicant shall have the option to make an informal pre-submission presentation to the appropriate Board or to the Town staff at which time rezoning application requirements and procedures may be reviewed. A sketch plan or other general description should be prepared by the applicant for use at the pre-submission meeting, to indicate the general nature of the proposal. A purpose of this non-mandatory meeting would be to give the applicant, before incurring substantial expense to comply with the formal application process, an opportunity to discuss the applicant's plans informally to determine if there are substantial reasons known to the Town staff that would suggest the proposal would not be acceptable to the applicable Boards and to provide an opportunity for achievement of a project and rezoning that would be acceptable in the public interest.

2. The applicant shall submit an application to the Town Clerk on forms supplied by the Town which shall include such information as the Joint Planning Board may reasonably require to evaluate the proposal. Such application shall be accompanied by any required fees.

3. The applicant shall submit with the application a general site plan which shall be transmitted to the Town Board and which shall show (unless one or more items are waived by the Town Board) property lines, including metes and bounds, adjacent public streets, topography, size and location of existing or proposed structures, and such other plans and information deemed reasonably necessary by the Town Board for adequate study of the proposed plan.

4. The Town Board shall preliminarily determine whether it will consider the application for the rezoning, or deny same. If the Town Board determines that it will entertain the application the Town Board shall refer the matter to the Joint Planning Board for review and recommendation.

5. The applicant shall be notified of the referral and shall be required to provide such additional materials, including any required environmental assessment forms, drawings, elevations, or other documents as the Joint Planning Board may reasonably require to allow a full and complete study of the proposal. Such materials shall be supplied at least 10 working days prior to the Joint Planning

Board meeting at which the matter will be considered.

6. Upon review of the matter by the Joint Planning Board after such referral, the Joint Planning Board may require such changes in the general site plan as are necessary to meet the requirements of this chapter and may make any other recommendations which it deems necessary to promote the general health, safety, morals, and welfare of the community. The Joint Planning Board shall then adopt a resolution recommending (a) a finding regarding environmental significance of the proposal, and (b) either approval, approval with modifications, or disapproval of the proposed plan. Before any such resolution is adopted, the Joint Planning Board shall hold a public hearing which shall be heard by the Joint Planning Board within 45 days of the filing of the general site plan and all related materials with the Joint Planning Board, and such hearing shall be advertised in a newspaper of general circulation in the Town of Richmondville at least five days before such hearing. The Joint Planning Board shall make its recommendation within the 45 days after the hearing and forward the same to the Town Clerk.

7. The Town Board shall comply with applicable provisions of SEQR.

8. The Town Board shall hold a public hearing on the proposed zone with the same notice required by law in the case of an amendment to this zoning law, which public hearing may include any public hearings required by SEQR. If the Town Board establishes such zone after such hearing, it shall define the boundaries thereof, approve the general site plan and impose any modifications and additional requirements as it may determine. Before finally establishing any such zone, the Town Board may refer the application to the Joint Planning Board or the Joint Zoning Board of Appeals for such further consideration as the Town Board may require. No building permit shall, in any case, be issued on the basis of a general site plan.

9. Upon the creation of the zone, unless the general site plan was of sufficient detail and contained sufficient information as to constitute, in the Town Board's discretion, a final site plan, the matter shall be referred to the Joint Planning Board for final site plan approval in accordance with the site plan approval process set forth elsewhere in this Law.

SECTION 207 – EXPLICITLY PROHIBITED USES

Without limiting the generality of the statements elsewhere in this Law that any use not specifically set forth as a permitted use (as of right, accessory, or upon special permit, as the context may admit) in any particular zoning district shall be expressly prohibited in that district, the following uses and activities are hereby expressly and explicitly prohibited in each and every zoning district within the Town, and no building or structure shall be created, altered or erected, and no body of water, land or building thereon shall be used, for any of such uses or activities:

1. Junkyards (except and unless approved by Town Board in accordance with Section 404 herein);

2. The storage of crude oil or any of its volatile or asphaltic oils or other highly inflammable liquids in aboveground tanks with unit capacity greater than ten thousand (10,000) gallons;

3. Land Application Facility;

4. Natural Gas and/or Petroleum Exploration Activities;

5. Natural Gas and/or Petroleum Extraction Activities;

6. Natural Gas and/or Petroleum Exploration, Extraction Or Production Wastes Disposal/Storage Facility;

7. Natural Gas and/or Petroleum Exploration, Extraction, Or Production Wastes Dump;

8. Natural Gas Compression Facility;

9. Natural Gas Processing Facility;

10. Underground Injection; and

11. Underground Natural Gas Storage.

Any condition caused or permitted to exist in violation of this Section 207 is a threat to public health, safety and welfare, and is hereby declared and deemed to be a nuisance. Collectively the above expressly prohibited uses may be referred to in this law as "Explicitly Prohibited Uses," any one of the above expressly prohibited uses may be referred to in this law as an "Explicitly Prohibited Use," and any combination of more than one such use may also be referred to as "Explicitly Prohibited Uses."

SECTION 208 - PROHIBITION AGAINST NATURAL GAS AND/OR PETROLEUM EXPLORATION, EXTRACTION OR PRODUCTION WASTES

The Town of Richmondville hereby exercises its authority and right under NY ECL § 27-0711 to adopt a local law that is consistent with the Environmental Conservation Law Article 27, such consistency demonstrated by the fact that this Local Law complies "with at least the minimum applicable requirements" set forth in such statute, and the rules and regulations promulgated pursuant to said Article 27.

It shall be unlawful for any person to produce, store, inject, discard, discharge, dispose release, or maintain, or to suffer, cause or permit to be produced, stored, injected, discarded, discharged, disposed, released, or maintained, anywhere within the Town, any Natural Gas And/Or Petroleum Exploration, Extraction Or Production Wastes.

SECTION 209 - NO APPLICATION TO CUSTOMARY LOCAL DISTRIBUTION LINES, ETC.

The prohibitions set forth above in Section 207 are not intended, and shall not be construed, to prevent or prohibit the right to use roadways in commerce or otherwise for travel; prevent or prohibit the transmission of natural gas through utility pipes, lines, or similar appurtenances for the limited purpose of supplying natural gas to residents of or buildings located in the Town; or prevent or prohibit the incidental or normal sale, storage, or use of lubricating oil, heating oil, gasoline, diesel

fuel, kerosene, or propane in connection with legal Agriculture, residential, business, commercial, and other uses within the Town.

SECTION 210 - RIPARIAN HABITAT AND SENSITIVE AREAS

See sections 408 and 409 of this Law.

ARTICLE 3 – SUPPLEMENTAL REGULATIONS

SECTION 300 - HEIGHT EXCEPTIONS

Nothing herein contained shall be interpreted to limit or restrict the height of otherwise legal: church spires, cupolas and domes not intended for human occupancy, public utility structures, monuments, observation towers, belfries, clock towers, water tanks, elevator bulkheads, silos, chimneys, agricultural windmills, or accessory flag poles, stage towers, or similar structures. However, all aforementioned items shall conform to state and federal regulations; in any event, telecommunications facilities must abide by height requirements outlined in Article 4, Section 407.

SECTION 301 - FIRE ESCAPES

Nothing herein contained shall prevent the projection of an open fire escape into the rear or side yard for a distance up to eight (8) feet.

SECTION 302 - DAMAGED BUILDINGS

Damaged buildings constitute a health and safety hazard to the public.

A. **CORRECTION AND SAFEGUARDS** - Damaged buildings shall be repaired, rebuilt, or leveled within six (6) months after the damage is sustained. The Joint Planning Board may grant an extension to the six (6) months for a period not to exceed six (6) months if such Joint Planning Board deems that extenuating circumstances warrant such extension. No damaged buildings shall be granted an extension for longer than one (1) year total. Life threatening situations, as determined by the Town of Richmondville Zoning/Code Enforcement Officer shall be corrected within forty-eight (48) hours after damage occurs. Fences, signs and/or barricades shall be placed as needed to prevent entrance and provide warning of unsafe conditions.

B. **VIOLATION AND COSTS -** If a damaged building requires immediate action to avoid a direct hazard or imminent danger to the health, safety or welfare of occupants of a building or to other persons, the Zoning/Code Enforcement Officer or other appointed official may order such violation immediately remedied, or may take direct action on unsafe conditions. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation, The Zoning/Code Enforcement Officer or other designee shall keep on file an accurate account of the items of expense and the dates of execution of the action taken.

C. PROCEDURE

1. The Zoning/Code Enforcement Officer or other persons appointed by the Town Board, upon receiving a report of a damaged structure shall promptly inspect the same and report to the Town Board whether it is in an unsafe or dangerous condition and furnish any pertinent information.

2. The Town Board shall direct the Town Clerk to serve notice on the owner of the property; or on an executor, legal representative, agent, lessee, or any other person having a vested or contingent interest in the same; either personally or by registered mail, addressed to the last known address as shown by the records in the office of the County Clerk. Such notice shall contain a description of the premises, a statement of the particulars in which the structure is unsafe and an order requiring the same to be made safe and secure or removed. If such service is made by registered mail, a copy thereof must be posted on the premises. Such notice shall state the time within which the person served shall repair and secure or remove the structure.

3. A copy of such notice shall be filed in the Schoharie County Clerk's office in the same manner as a Notice of Pendency pursuant to Article 65 of the New York State Civil Practices Law Rules. Such notice shall be effective for a period of one (1) year from date filing and may be vacated upon order of a Judge of a court of record or upon consent of the Town Attorney.

4. The Town Board shall in the Notice of Repair or Demolish provide for a time and place of a hearing before the Town Board at which time such persons having an interest in the property may be heard concerning the damaged structure.

5. In the event of refusal to comply as directed by the Zoning/Code Enforcement Officer, the Town Board shall have said damaged structure removed or razed and assess all expenses incurred by the Town against the land on which said structure is located.

6. All requests for extensions must be made in writing to the Joint Planning Board.

SECTION 303- UNDERSIZED LOTS IN TROUT HAVEN LAKE SUBDIVISION

In the Trout Haven Lake Subdivision, if a lot of record on the effective date of this local law, not then in the same ownership as any adjacent lot(s), fails to meet applicable density or lot size standards, one (1) single-family home may still be developed on the lot and no variance is required, provided that all other applicable requirements of this local law are met.

ARTICLE 4 – ADDITIONAL SUPPLENTAL REGULATIONS AND PERFORMANCE STANDARDS

SECTION 400 - STORAGE OF FLAMMABLE FUELS

The storage of alcohol, gasoline, crude oil or any other highly flammable liquid shall be in accordance with Federal and New York State regulations, including: Article 17, Title 10 of the Environmental

Conservation Law, Control of the Bulk Storage of Petroleum of New York State; the Oil Spill Prevention, Control and Compensation Act (Article 12 of Navigation Law) of New York State; Federal Regulations under Subtitle I of the Resource Conservation and Recovery Act (40 CFR 280 and 281); as well as the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and Federal Toxic Substances Control Act (FTSCA); and any other State or Federal regulations that may apply to chemicals known to be hazardous; provided, however, that in any event the foregoing is not intended and shall not be construed to authorize any Explicitly Prohibited Uses to be conducted within the Town.

SECTION 401 - SEPTIC TANKS

All septic tank installations shall conform to the requirements of the State of New York Public Health Laws.

SECTION 402 – MOBILE HOMES

A. SPECIAL NECESSITY - The Joint Zoning Board of Appeals may authorize a temporary permit in Residential Districts only for one (1) or more mobile homes to be located on land not owned by the occupants of such mobile homes, provided that proof is presented to the Joint Zoning Board of Appeals that special necessity exists by reason of employer-employee relationship between the owner of a full time farming operation and his/her tenant where said owner desires to have the employee reside on such farm. Such temporary permit shall be subject to any conditions imposed by the Joint Zoning Board of Appeals and shall not be transferable or assignable. Such temporary permit shall expire twenty-four (24) months from the date of issuance but may be renewed by the Joint Zoning Board of Appeals. No public hearing shall be required and no referral to the Joint Planning Board shall be required for a temporary permit issued by virtue of Special Necessity.

B. INTERIM DWELLING - In any district the Joint Zoning Board of Appeals may authorize a temporary permit for a mobile home not located in a mobile home park when such mobile home is to be used as an interim dwelling during construction of a permanent residence or in the event a permanent residence has been damaged or destroyed or other similar hardship conditions. Said mobile home shall be provided with approved water and sewage disposal systems, and shall be subject to such additional conditions and requirements as may be imposed by the Joint Zoning Board of Appeals. In such cases said mobile home shall be removed within twelve (12) months from the date of issuance of the temporary permit. The Joint Zoning Board of Appeals may grant one twelve (12) month extension. No public hearing shall be required and no referral to the Joint Planning Board shall be required for a temporary permit issued for an Interim Dwelling.

SECTION 403 - MOBILE HOME PARK

Follow appropriate State Agency guidelines for placement of Mobile Home Parks.

SECTION 404 - JUNK YARDS/SALVAGE YARDS

A. All junk yards shall comply with the State of New York Automobile Junk Yard Law and further, all junk yards, either automobile or other, shall provide for proper fencing, proper distance from highways and other establishments, as provided by Section 136 of the New York State General

Municipal Law, and shall be licensed annually by the Town of Richmondville for a fee set by the Town Board.

B. The above shall include a combination of two (2) or more of any of the unregistered or inoperable items listed below but not limited to:
1. Automobiles, including parts.
2. Recreation vehicles, snowmobiles, motor cycles, all terrain vehicles, boats.
3. Campers and motor homes
4. Mobile homes.
5. Household appliances and plumbing fixtures.
6. And all other items listed in the definition for "Junk / Salvage Yards"

C. In addition to any remedies and penalties provided by Section 136 of the State of New York General Municipal Law, enforcement of this Section may also be as provided for in Section 1108 and Section 1109 herein.

SECTION 405 - STRIPPING OF TOP SOIL

No person, firm or corporation shall strip, excavate, or otherwise remove top soil for sale, or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building on such premises, and excavation or grading incidental thereto.

SECTION 406 - SIGN REGULATIONS

A. PURPOSES

The purpose of this Section is to regulate existing and proposed signs in order to:

1. Direct the public to activities and enterprises.
2. Enhance and protect the physical appearance and character of the Town of Richmondville consistent with the Comprehensive Plan.
3. Create and promote an attractive business climate.
4. Protect and enhance property values.
5. Reduce possible traffic and safety hazards.

B. PERMITS

1. Except as otherwise provided in this Code, it shall be unlawful for any person to erect, alter, locate, relocate, move, enlarge, or reconstruct a sign visible from any public street, sidewalk or parking area without first obtaining a sign permit by the Zoning/Code Enforcement Officer. Each application for a sign permit shall include the following:
   a) The name of the sign owner.
   b) The party responsible for maintenance of the sign.
   c) A scale drawing of the sign showing:
   d) Type of sign.
   e) Dimensions.

f) Materials.
g) Method and style of illumination.
h) Method of structural support and letter sizes.
i) Colors.
j) A drawing or photograph showing the sign's location on the land or building in relation to existing buildings, roadways, driveways, sidewalks, and any other signs existing on the parcel.

2. The Zoning/Code Enforcement Officer may ask for additional information reasonably related to the application.

3. For signs that will be erected in connection with, and within one (1) year of completion of a project requiring site plan approval, the Joint Planning Board will provide sign approval according to the site plan review process. If site plan approval is not required for an application:
   a) Signs shall be approved and permitted by the Zoning/Code Enforcement Officer in accordance with the provisions of this chapter.
   b) A completed application for a permanent sign permit shall be acted upon within thirty (30) business days by the Zoning/Code Enforcement Officer, and if not denied within such time, shall be deemed permitted.
   c) If, at any time after a signed application is approved, there is a change in ownership of the property related to the sign, a new sign application must be filed by the owner of the property or other responsible party.

C. FEES

1. Except as may be otherwise provided herein, temporary or permanent sign permit shall be issued until the application fee is paid to the Town Clerk. The amounts of such fees are subject to change, and will be established by the Town Board of Richmondville.
2. The fee shall be doubled where a sign has been erected or placed upon the premises prior to obtaining the required permit, but the payment of such fee shall not release any person from duly complying with all requirements of this chapter.

D. REVOCATION OF A PERMIT

The Zoning/Code Enforcement Officer may at any time for a violation of this chapter revoke any sign permit. Notice of such revocation and the reason thereof, in writing, shall be served by the Zoning/Code Enforcement Officer upon the person named in the application by mailing the same to the address given in the application and upon the last known owner of the premises on which the sign is placed by mailing the same to his last known address as shown on the assessment roll of the Town. If a sign is not removed within five (5) days of the service of such revocation, the Zoning/Code Enforcement Officer is authorized to cause the removal of the sign. The cost of the removal shall be borne by the owner of the property on which such sign was erected and shall become a lien upon such property until paid.

E. EXEMPTIONS

The following signs shall be exempt from the sign area and permit requirements of this chapter.

1. Non-illuminated signs not exceeding one (1) square foot in area and bearing only property numbers, postbox numbers, or names of occupants of premises.
2. Legal notices, identification, information or directional signs erected by governmental bodies.
3. Theater marquees.
4. One non-illuminated occupational sign denoting only the name and profession of an occupancy in a commercial building or dwelling and not exceeding one square foot in area and attached directly to the building.
5. Signs prohibiting hunting, fishing or trespassing.
6. Signs not exceeding eight (8) square feet in area displaying only gasoline price information and permanently attached to a building pump island, freestanding sign or the ground and located at least fifteen (15) feet from the curb line or edge of pavement.
7. Commemorative plaques such as those used for memorial signs and historical building name register signs.
8. Signs that appear on the interior of a structure, including but not limited to internal stadium signs.
9. Political campaign signs.
10. Real estate sale signs not exceeding twelve (12) square feet.
11. Temporary on site construction signs.

F. SIGN STANDARDS REQUIRED IN ALL DISTRICTS.

1. Sign area calculation.
   a) The area of a sign shall be determined by the smallest rectangle that encompasses all the letters or symbols that form an integral part of the display.
   b) The area of a two (2) sided sign shall be the smallest rectangle that encompasses all the letters or symbols that form an integral part of the larger of the two (2) displays.

2. Sign restrictions.
   a) No more than one (1) freestanding sign shall be allowed per parcel.
   b) No more than one (1) parallel or perpendicular sign shall be allowed per business.
   c) The total area of all signs shall not exceed the total allowable sign area.
   d) The maximum letter height for all freestanding signs within thirty six (36) feet of the curb line shall be as follows:
      a. Where the legal speed limit is thirty (30) miles per hour or lower, letter height shall be no greater than eight inches.
      b. Where the legal speed limit is forty (40) miles per hour, letter height shall be no greater than ten (10) inches.
      c. Where the legal speed limit is forty five (45) miles per hour or higher, letter height shall be no greater than twelve (12) inches.
      d. Where freestanding signs are located beyond thirty six (36) feet from the curb line, the maximum letter height may be increased one inch for each additional ten (10) feet of setback.

e) External sign illumination shall not shine directly onto residential properties. In addition, reflected light (light trespass) shall not exceed five (5) foot-candles at any point beyond the property line.
f) Attached signs shall not extend above the eave line or building face, except in the case of a mansard roof extending down to the top of the first-floor facade.
g) No sign shall create a traffic or pedestrian hazard.
h) No signs shall appear to regulate traffic, to warn, or to resemble official traffic signs, signals or devices.
i) No sign or promotional device, including flags and pennants, shall move or flash or include any device on which the artificial light is not maintained stationary and constant in intensity and color at all times, except (1) one single cloth flag per business establishment.
j) No exterior sign, except for window graphics, shall cover any window, nor shall any sign block any door or fire exit.
k) Portable signs are prohibited in all districts
l) All signs associated with a business shall be removed within thirty (30) days after cessation of the business.

3. Temporary signs are permitted with the following provisions:
   a) Temporary signs, banners or posters may be displayed only if a temporary sign permit has been issued.
   b) Temporary signs shall be no larger than sixteen (16) square feet in area. Temporary window graphics or signs, such as those advertising sales, special promotions and the like, may occupy no more than twenty (20) percent of the total window area. Temporary signs, other than political signs, may be displayed a maximum of five (5) days before the event, up to five days during the event, and not more than four days after the event.
   c) Not more than three (3) temporary sign permits shall be issued in any calendar year per business.
   d) No temporary sign shall exceed 16 square feet nor be located in any manner that creates a public hazard or disturbance.
   e) Temporary signs may not be hung in such a manner as to impair or impede sight distances.
   f) Temporary signs must be removed within forty eight (48) hours after the expiration of the permit. There will be a penalty, as determined by the Town of Richmondville Board of Trustees, for each day said sign is not removed after expiration of the permit. Alternatively, the Zoning/Code Enforcement Officer is authorized to cause the removal of the sign. The cost of the removal shall be borne by the owner of the property on which such sign was erected and shall become a lien upon such property until paid.

4. Sandwich board signs.
   a) May be put out only during "open" hours of the business advertised.
   b) Shall not obstruct the free use of the sidewalk for pedestrian traffic or Town maintenance.
   c) Shall be a maximum of thirty (30) inches wide by forty eight (48) inches high.
   d) Shall not be illuminated either directly or indirectly
   e) May be shared by two or more businesses
   f) Shall only be on the same property as the business advertised.
   g) No business shall have more than one sandwich board sign.

h) Maintenance and safety of signs shall be the responsibility of the property owner and/or the person responsible for the sign to ensure that all signs placed on his property are maintained in a safe and presentable condition.
i) Representing establishments no longer on the premises shall be removed within 30 days from the date that the establishment ceases to do business on the property.
j) No sign shall create a public hazard.

5. Unsafe signs. Should a sign be or become insecure or in danger of falling or otherwise unsafe as determined by the Code Enforcement Official, the owner thereof or the person maintaining the same shall, upon receipt of written notice from the Code Enforcement Official and in any case within five days thereafter, secure the same in a manner to be approved by the Code Enforcement Official. If such order is not complied with, the Code Enforcement Official is hereby authorized to cause removal of the unsafe sign, and the owner of the building, structure or premises on which such sign is located shall pay any expense thereby incurred. When any sign is in such dangerous condition as to be immediately dangerous to the safety of the public, the Code Enforcement Official is hereby authorized to take such action as in his opinion shall be necessary to protect the public or property. The owner of the property on which such sign was erected shall bear the cost of the removal, and the cost shall become a lien upon such property until paid.

G. SIGN STANDARDS IN COMMERCIAL, EDUCATION, AGRICULTURAL EDUCATION AND PLANNED DEVELOPMENT DISTRICTS

1. Parallel.
   a) The maximum sign area shall be one (1) square foot per linear foot of building frontage.
   b) Individual nameplates, measuring less than one (1) square foot, may be attached in a coordinated manner located on the first floor to identify businesses located on the upper floors.
   c) The maximum sign height shall be three (3) feet.
   d) Signs shall project a maximum of twelve (12) inches from the face of the building.

2. Perpendicular. The maximum sign area shall be twelve (12) square feet plus an additional four (4) square feet for each additional business on the same parcel and advertised on the same sign, up to a maximum total of twenty (20) square feet.

3. Clearance from ground:
   a) Signs shall have a minimum clearance of eight (8) and one half (1/2) feet from the ground or sidewalk and may project out from the building for four (4) feet or one third (1/3) the sidewalk width, whichever is less.
   b) If the sign can be hung so it is protected by a pedestrian barrier, such as a railing, wall, planter or similar barrier (not erected on the public right-of-way) and will not pose a hazard to pedestrians, it may be hung with a clearance of less than eight (8) and one half (1/2) feet.

4. Permanent window graphics.
   a) Shall occupy not more than twenty (20) percent of the total window area if applied on a background color.

b) Shall occupy not more than fifty (50) percent of the total window area if applied with no background color.
c) In buildings where business or professional offices occupy upper floors, such business or professional offices may display window graphics as allowed under these regulations.

5. Freestanding pole-mounted and ground-supported.
   a) Maximum sign area shall be forty (40) square feet for one business plus an additional ten (10) square feet for each additional business on the same property advertised on the same sign.
   b) The maximum sign height, measured vertically from ground elevation to the highest point of the sign, shall be:
      i. Twenty (20) feet for any freestanding pole-mounted sign.
      ii. Eight (8) feet for any ground-supported sign integrally mounted upon a planter that is not less than two (2) feet in height.
      iii. Nine (9) feet for any other ground-supported sign.

6. All freestanding pole-mounted and ground-supported signs shall be located ten (10) feet or more from the curb line. Freestanding structures which represent a business or corporate logo, trademark, symbol or other commercial representation other than a company name or product shall be considered freestanding ground-supported or pole-mounted signs and shall be subject to the number, height, area and setback requirements stated herein.

7. Retractable awning. Wording or symbols to identify a business may be included on a retractable awning and shall not be included in the calculation of the total sign area allowed to that business, provided that no perpendicular sign is used.

H. DESIGN GUIDELINES

1. Signs should be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings on which they are placed. Sign panels and the graphics should relate with and not cover architectural features, and should be in proportion to them.
2. Signs should be appropriate to the types of activities they represent.
3. Layout should be orderly and graphics should be of simple shape, such as rectangle, circle or oval.
4. No more than two typefaces should be used on any one sign or groups of signs indicating one message.
5. The number of colors used should be the minimum consistent with the design.
6. Illumination should be appropriate to the character of the sign and surroundings.
7. Groups of related signs should express uniformity and create a sense of harmonious appearance.

I. REVIEW AND APPEALS

1. Any person aggrieved by a decision of the Zoning Enforcement Officer relative to the provisions of this local law may appeal such decision in writing to the Joint Zoning Board of Appeals as provided in Section 1104 and shall comply with all procedural requirements prescribed by such Board.

2. In granting any variance from the provisions of this section, the Joint Zoning Board of Appeals must find that the variance is necessary for the reasonable use of the land or buildings, that granting the variance is in harmony with the general purposes and intent of this local law, that such will not be injurious to the neighborhood character or otherwise detrimental to the public welfare, and that denial of the variance would result in practical difficulty or unnecessary hardship to the applicant.

J. VIOLATIONS AND PENALTIES

1. Any person, firm or corporation, whether as owner, lessee, agent or employee, who proceeds to erect, re-erect, construct or structurally alter any sign without first applying for and obtaining the necessary permit, or who in any other way violates any provision of this local law, shall be guilty of an offense and receive punishment as established in this law. Each week's continuous violation shall constitute a separate additional violation.
2. In case of a violation of this local law, the Town of Richmondville and its officers may, in addition to any other remedies specifically conferred by law or ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this law.

SECTION 407 - TELECOMMUNICATIONS FACILITIES

A. SETBACKS

Towers and antennae shall comply with all setbacks applicable to the land use area in which they are proposed to be located. The minimum setback for all towers/antennae shall be at least one (1) and one half (1/2) times the height of the structure on all four (4) sides of the base.

B. SPECIAL USE PERMIT REQUIRED:

1. No telecommunication tower and/or facilities shall hereafter be used, erected, moved, reconstructed, changed or altered in any district in the Town of Richmondville except after approval of a Special Use Permit and in conformity with these regulations. No existing structure shall be modified to serve as a transmission and/or receiving tower unless in conformity with these regulations. A licensed engineer must approve any changes.

2. These regulations shall apply to all property in all districts where application for special use permit is made for telecommunications facilities. Special Use Permits must receive proper Joint Planning Board review in accordance with the review guidelines outlined in this Law.

3. Exceptions to these regulations are limited to new uses that are accessory to residential uses, and lawful or approved uses existing prior to the effective date of this Law.

4. Where these regulations conflict with other laws and regulations of the Town of Richmondville, the more restrictive shall apply, except for tower height restrictions, which are governed by these special use standards.

5. Telecommunications facilities shall not be permitted if proposed by an applicant that is not a public utility as defined by relevant statute (i.e. Public Service Law § 2 [17], [23]; Tax Law § 186-a [2] [a] [i]; Town Law § 118) unless such applicant presents evidence from a licensed public utility that will use the proposed telecommunications facility and the evidence proves the facility is needed to fill a gap in service for the licensed public utility. (i.e.: Telecommunications facilities proposed to be built on speculation will not be permitted in the Town of Richmondville.)

6. The Joint Planning Board may not waive any requirement of this Section.

C. ADDITIONAL REQUIREMENTS FOR SHARING EXISTING FACILITIES:

At all times, shared use of existing tall structures, or existing or approved towers shall be preferred to the construction of new towers.

1. A completed application for a Special Use Permit, which includes detailed information on the construction and operation of the facility, and any additional information that might be required by the Joint Planning Board.

2. The applicant must show need for using the facility by a licensed public utility.

3. Any interference with radio and/or television waves in the area must be corrected.

4. Documentation of intent from the owner of the existing facility to allow shared use. The applicant shall pay all reasonable fees and costs of adapting an existing tower or structure to a new shared use.

5. Lights, if required by FAA guidelines and deemed necessary due to height of the tower, will be affixed in a manner that has the least impact on surrounding properties.

6. A Site Plan showing all existing and proposed structures and improvements including antennae, roads, buildings, guy wires and anchors, parking, landscaping, and shall also include grading plans for new facilities and roads. The Site Plan shall also include the location, and distance from the nearest residence, and the antennae shall not be closer than five hundred (500) feet from the nearest residence. The highest part of the antennae shall not extend more than thirty (30) feet above the highest part of the structure.

7. Documentation of the proposed intent and capacity of use, which shall include the transmission and maximum effective radiated power, the direction of maximum lobes, and associated radiation from the antennae.

8. A Licensed Professional Engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and will not hamper existing emergency networks, and if needed, what modifications are necessary to certify the above.

9. A completed Full Environmental Assessment Form approved by the New York Department of Environmental Conservation.

10. A copy of its Federal Communications Commission license.

11. A copy of the lease agreement.

D. ADDITIONAL REQUIREMENTS FOR NEW TOWERS

An applicant proposing to construct a new tower shall submit a Special Use Permit application that shall include:

1. Detailed information on the construction and operation of the facility.

2. A Site Plan which shall show all existing and proposed structures and improvements including towers and antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall also include the location and distances from the nearest residences. The tower/antennae will be no closer than five hundred (500) feet from the nearest residence. All other setback requirements shall be met.

3. Documentation on the proposed intent and capacity of use, which shall include the transmission and maximum effective radiated power, the direction of maximum lobes, and associated radiation from the antennae.

4. Justification for the height of any tower or antennae and justification for any land or vegetation clearing required.

5. A completed Full Environmental Assessment form in accordance with the State Environmental Quality Review Act, and a landscaping plan with particular attention to visibility from key viewpoints.

6. Lights, if required by FAA guidelines and deemed necessary due to height of the tower, will be affixed in a manner that has the least impact on surrounding properties.

7. If the tower/antennae should cause any interference with radio or television waves in the area, it must be corrected.

8. Evidence of need by a licensed public utility that a new tower is necessary and that no alternative sites are available which would better serve that need.

9. A "Zone of Visibility Map" shall be provided in order to determine locations where the tower may be seen.

10. Assessment of the visual impact of the tower base, guy wires, accessory buildings, and overhead utility lines from abutting properties and roads.

11. A copy of its Federal Communications Commission license.

12. A copy of any proposed lease agreement.

13. In reviewing special use permits, the Joint Planning Board may require alternative tower designs such as silos, trees, neutral earth tone colors, etc…to mitigate the visual impact of a tower if necessary.

SECTION 408 – RIPARIAN HABITAT AREA

The overall goal of this Section is to protect and encourage the restoration of the riparian resources of the Town of Richmondville in order to protect the public health, safety, and welfare. Enhancing riparian habitat for water quality and wildlife is a main goal. Helping slow down floodwaters before reaching larger water bodies is also a priority.

A. RIPARIAN AREAS REGULATED BY THIS LAW – Riparian areas subject to this law include the mapped streams on the Town of Richmondville Zoning Map (measured approximately fifty (50) feet from the centerline of the regulated stream or creek).

B. ACTIVITIES ALLOWED AS OF RIGHT – The following uses are allowed in riparian areas without a permit providing they do not involve hydrologic modifications or fills:

1. Conservation of soil, vegetation, water, fish, and wildlife.
2. Private wildlife sanctuaries, woodland preserves.
3. Outdoor recreation including nature study, hiking, horseback riding, swimming, camping, trapping, hunting, fishing, shell fishing, cross-country skiing where otherwise legally permitted.
4. The control of noxious weeds, if the control does not cause a water quality detriment, does not involve drainage or fill, and is done in accordance with state and Federal regulations.
5. Open space uses incidental to the enjoyment and maintenance of adjacent residential, commercial and industrial property such as open space for subdivisions and building setback areas, mowing for a trail.
6. Maintenance and repair of existing ditches, watercourses, farm ponds, utilities, roadways providing the activity does not involve the expansion of roadways or related improvements into previously un-impacted areas.
7. The enhancement or restoration of riparian areas less than one (1) acre and not associated with any development proposal.
8. Agriculture using Best Management Practices.

C. ACTIVITIES REQUIRING A PERMIT – All activities in regulated riparian areas involving filling, excavation, dredging, live large tree cutting/removal, grading or excavation, construction, removal of peat, sand or gravel, alteration of the water level or water table, mowing for reasons other than a trail, disturbance of surface drainage characteristics, sediment patterns, or flood retention characteristics or any other alteration or use of riparian areas not permitted by this law shall require a permit from the Joint Planning Board. Any person proposing to carry out an activity that may disturb the natural and indigenous character of a regulated riparian area may, prior to the commencement of the operation, notify such Joint Planning Board with sufficient information to enable it to determine whether the proposed activity is a permitted activity or an

activity requiring a permit. Such a ruling by the Joint Planning Board shall be made in writing within thirty (30) days of submission and a determination by the Board that the application is complete.

D. INFORMATION TO BE PROVIDED BY PERMIT APPLICANTS – The Joint Planning Board shall develop and make available riparian area permit application forms. Individuals or public or private corporations seeking a permit for a regulated activity within a riparian area shall fill out and submit this form to such Joint Planning Board. All applications shall include, at the minimum, the following information in writing or on maps or drawings in the form prescribed by the Joint Planning Board:

1. Name, address, telephone number, and e-mail address of owner and permit applicant (if different).
2. A sketch map of the area and a description of the riparian area which may be impacted by the proposed activity.
3. A description of the proposed activity including the type of proposed activity, its dimensions, and distance from any road or water body.
4. A description of all grading, filling, and vegetation removal proposed by the project applicant including an estimate of the dimensions of the area which will be affected.
5. An explanation why this activity must be located in a riparian area and cannot be located outside the riparian buffer.
6. A description of all measures proposed to reduce or compensate for project impacts.
7. Name and location of the nearest road intersection.
8. Photographs of the proposed project site showing the existing condition of the site.
9. The lot size and size of any adjacent parcels owned by the project applicant.
10. Any surface water bodies located on or within one hundred (100) feet of the project site.
11. The 100 year flood elevation and floodplain and floodway boundaries at the project site if FEMA or other flood maps are available.
12. A description of proposed restoration or riparian vegetation for all surfaces.
13. A map of any wetlands which may be impacted by the proposed activity.
14. A description of the construction sequencing and timetable for any proposed activities including description of future phases of projects.

E. ADDITIONAL INFORMATION – The Joint Planning Board may also require a permit applicant to submit additional information if such Joint Planning Board deems such information necessary to determine the compliance of a proposed activity with the standards and criteria set forth in the law. Such information may include:

1. Description of ecological communities and functions.
2. Description of how the application will change, diminish, or enhance the ecological communities and functions.
3. Name, address, professional status, license number, and phone number of the person who is to prepare the riparian management or mitigation plan.
4. More detailed site plans.
5. Engineering reports and analyses where the proposed activity may be subject to flood or erosion hazards or increase such hazards of other types.
6. Mapping or description of soil types where onsite waste disposal is proposed.

7. Analyses of chemical or physical characteristics of any fill material. In addition, the Joint Planning Board may require the permit applicant to submit a riparian management and/or a compensatory mitigation plan.

F. STANDARDS AND CRITERIA FOR ISSUANCE OF PERMITS – The Joint Planning Board shall consider all relevant facts in making its decision on any application for a permit including but not limited to the following:

1. The goals and purposes of this Law.
2. The functions and values of the riparian areas.
3. The environmental impact of the proposed action.
4. Alternatives to the proposed action.
5. The relationship between short-term uses and long-term productivity.
6. Threats to other properties from increases in flooding, erosion, or other hazards.
7. The suitability of the activity to the area for which it is proposed including threats from natural hazards.
8. Measures that would mitigate the impact of any aspect of the proposed regulated activity.

G. ISSUANCE OF PERMIT – The Joint Planning Board shall not issue or conditionally issue a permit unless it finds that the proposed activity will not, taking into account individual and cumulative effects, threaten health or safety, result in fraud, cause nuisances, impair public rights in public waters, violate pollution control standards, or violate other regulations. In addition, the Joint Planning Board shall not issue a permit unless it finds that:

1. The permit applicant has, to the extent practical, avoided riparian areas.
2. The permit applicant has, to the extent practical, reduced impacts to riparian areas.
3. The proposed activity will not increase flood, erosion, subsidence or other hazard on other lands and the proposed activity will not, in itself, be subject to flood and erosion hazards.
4. The proposed activity will not result in adverse modification of habitat for or jeopardize plant, animal, or other wildlife species listed as threatened or endangered in New York State by any Federal or State Agency.
5. The proposed activity will not violate other applicable federal, state, and local water quality, flood loss reduction, fill and grading, stream protection, water supply protection, comprehensive zoning, sanitary code, and other statutes, regulations and ordinances.

H. NOTIFICATION – The Joint Planning Board shall make written findings on any permit applicant stating the reasons why the proposed permit is approved, denied, or approved with modifications. The Joint Planning Board may consider all relevant information including but not limited to the following in making its decision on the application:

1. The application and supporting documentation;
2. Public comments, evidence, and testimony;
3. Reports or comments from other local, state, or federal agencies and commissions; and
4. Comments on the application from planning agencies, emergency management agencies, soil and water conservation districts, or other regional organizations.

I. CONDITIONS THAT MAY BE ATTACHED TO PERMITS – The Joint Planning Board may approve permits with modifications. The following conditions may be attached to permit approvals:

1. Design measures to further reduce project impacts.
2. Relocation of the proposed activity to reduce project impacts.
3. Flood and erosion loss reduction measures to prevent hazard losses to activities on other lands.
4. Even if not located in a Special Flood Hazard Area, a requirement that structures be elevated on piles, flood-proofed or otherwise protected from hazards including flood heights, velocities, and erosion potential.
5. Modification of waste disposal and water supply facilities to reflect flooding, high ground water, and erosion hazards.
6. Set-backs from the river, stream, or other water body of a size appropriate for the proposed activity and the particular riparian area.
7. Erosion control and storm water management measures.
8. Erection of riparian area markers and signs including survey stakes delineating the boundary between riparian areas and adjacent lands.
9. Long-term monitoring and management requirements including control of invasive plant and animal species.
10. Other conditions necessary to protect riparian area functions, offset losses, and prevent increased natural hazard losses in the community.
11. Reclamation of and impacted areas.
12. Submission of any wetland and/or wildlife mitigation plans.

J. WAIVERS – The Joint Planning Board may issue waivers to the provisions of this Law where the regulations will otherwise derive landowners of all economically beneficial use of entire properties taking into account existing uses, reasonably anticipated future uses, market values and sales for comparable properties, taxes, special assessments, and other factors. The Joint Planning Board may issue a waiver only for the minimum deviations from permit standards, conditions, or mitigation measures, consistent with not denying landowners all economic use of their entire properties. The Joint Planning Board shall not authorize waivers for activities that will increase flood and erosion losses on other properties, pose threats to public health and welfare such as flash flooding, pollute potable water supplies, or otherwise cause nuisances. The Joint Planning Board shall also not issue waiver for activities that will violate other laws.

K. PRIOR NONCONFORMING USES – Nonconforming uses including but not limited to buildings shall not be enlarged or expanded to further encroach onto the riparian area or watercourse. No nonconforming activity that has been discontinued for more than one (1) year shall be resumed. No nonconforming structure which has been destroyed or damaged for more than fifty (50) percent of its assessed value by flooding, wind, fire, or other natural or man-made force may be rebuilt unless placed in the original footprint or with issuance of a permit in conformity with the provisions of this Law.

SECTION 409 – SENSITIVE AREA

A. PERMITTED USES – Sensitive areas are mapped on the Town of Richmondville Zoning Map. The uses permitted in the underlying zoning district, as set forth on the Official Town Zoning Map,

shall be permitted in the Sensitive Area. Such uses shall be subject to all applicable conditions and restrictions set forth in the underlying District Regulations. Clear-cut forest practices shall be avoided in the Sensitive Area unless recommended by a plan approved by a certified forestry consultant.

B. PURPOSE – The main purpose of the Sensitive Area in the Town of Richmondville is to educate property owners about potential impacts versus imposing regulatory requirements. Therefore, the Zoning/Code Enforcement Officer and all other Boards shall inform applicants for all permit types in the Sensitive Area that the area has been identified as an area that may contain steep slopes and/or have high visibility from lower elevations and important road corridors.

C. EDUCATION ACTIVITIES – It is the desire of the Town of Richmondville to encourage property owners in the sensitive areas to minimize new construction impact to the environment and neighbors by:

1. Limiting the height of structures as much as possible.
2. Positioning buildings in such a manner to conserve existing features such as stone walls, hedgerows, forested areas, views from existing structures.
3. Limiting paved area near steep slopes and using erosion control measures.
4. Using earth tone colors and natural materials for construction.
5. Limiting the use of outside lighting and using down cast lighting.
6. Consulting with local officials (Town/County/State) in regard to best practices for building in the sensitive areas.

Educational materials such as those mentioned in Goal 1 Action 1-1N of the Comprehensive Plan should be distributed. If the Zoning/Code Enforcement Officer, Joint Planning Board or Town Board believes the purpose of the Sensitive Area is not being thoroughly considered and met voluntarily by property owners, regulatory requirements may be recommended to the Town of Richmondville Board.

SECTION 410 – HOME BUSINESS

When operating a home business, five (5) additional persons, not a resident thereof, may be employed in such home business. If a business has more employees, the use shall not be considered a home business. A home business shall not produce offensive noise, traffic, smoke, dust, odor, heat, glare, or electronic disturbance beyond the property it occupies. Home businesses include, but are not limited, to online sales, dressmaking, tailoring, beauty parlors, barbershops, office or studio of a physician or surgeon, dentist, artist, musician, lawyer, architect, engineer, realtor or other such professional person who resides on the premises. Home business shall not include kennels.

SECTION 411 – ADULT USES

Refer to Local Law #1 of 2006.

SECTION 412 – SOLAR COLLECTION SYSTEMS

All solar collector systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the State Building Code.

Solar collectors shall be permitted only to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit "collective solar" installations or the sale of excess power through a "net billing" or "net metering" arrangement in accordance with New York Public Service Law § 66-j or similar state or federal law or regulation.

To the extent practicable the accommodation of solar access to sunlight for such equipment and the protection of access to sunlight for such equipment shall be encouraged in the application of the various review and approval provisions of the Town of Richmondville.

A. ROOFTOP AND BUILDING –MOUNTED SOLAR COLLECTORS - Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town of Richmondville subject to the following conditions:

1. Building permits shall be required for installation of all rooftop and building-mounted solar collectors.

2. Height limitations of this law shall not be applicable to solar collectors that are rooftop mounted, provided that rooftop solar collectors are mounted to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve, and that such structures do not obstruct solar access to neighboring properties. This applies to solar collectors mounted on flat roofs so long as the units do not extend horizontally past the roofline.

3. Rooftop units must have a three feet setback on all four sides.

4. Roof structures must be properly engineered to support collectors.

5. Rooftop units must be installed according manufacturer's specifications.

B. BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS - BIPV systems are permitted outright in all zoning districts. No building permit is required if the system is installed when the structure the BIPV is part of is constructed.

C. GROUND MOUNTED AND FREESTANDING SOLAR COLLECTORS - Ground-mounted and freestanding solar collectors mounted on a pole are permitted as accessory structures in all zoning districts of the Town of Richmondville, subject to the following conditions:

1. Building permits are required for all ground-mounted and freestanding solar collectors.

2. The location of the solar collectors must meet all applicable setback requirements for accessory structures in the applicable zoning district.

3. The unit must be installed in a side or rear yard.

4. Units that exceed 10 feet in height from the ground require an area variance.

5. Units less than 10 feet in height follow the standard building permit process.

6. The Town encourages installations that would employ landscape screening and other methods of enhancing the appeal of the ground-mounted and freestanding solar collector such as the use of architectural features, earth berms, or other screening which will harmonize with the character of the property and surrounding area.

7. Small experimental solar panels for charging batteries (less than one kilowatt) would not require any permits.

8. Solar collectors shall be located in a manner that reasonably minimizes shading of property to the north while still providing adequate solar access for collectors.

D. SOLAR-THERMAL SYSTEMS - Solar-thermal systems are permitted in all zoning districts upon issuance of a building permit.

E. SOLAR COLLECTION SYSTEMS GENERAL SAFETY - Solar energy systems and equipment shall be issued building permits only if the Zoning/Code Enforcement Officer determines that the proposed solar energy system does not present any unreasonable safety risks, including, but not limited to, weight load, wind resistance, ingress or egress in the event of fire or other emergency.

1. All solar collector installations must be performed by a qualified solar installer if the installation is by other than the homeowner.

2. Prior to operation, electrical connections must be inspected by the Zoning/Code Enforcement Officer and by an electrical inspection person or agency as determined by the Zoning/Code Enforcement Officer in conformance with State Building Code.

3. Any connection to the public utility grid must be inspected by the appropriate public utility.

4. Solar energy systems shall be maintained in good working order and shall be removed if not in use for more than 12 months by removal of such system and mounting hardware within 90 days after the 12th month.

5. Rooftop and building-mounted solar collectors shall be designed to be and installed to be in conformance with the New York Uniform Fire Prevention and Building Code Standards that are applicable when the building permit is issued.

6. If 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. When they are no longer in use, they shall be disposed of in accordance with the laws of New York and any other applicable laws or regulations.

7. Reflection from solar collection systems onto buildings shall be avoided.

ARTICLE 5 - TEMPORARY USES AND STRUCTURES

SECTION 500 - CONSTRUCTION SITES

Temporary permits may be issued by the Joint Planning Board for a period not exceeding one (1) year, for non-conforming uses incident to housing and construction projects, including such structures and uses as storage of building materials and machinery, the processing of building materials, and a real estate office located on the tract being offered, for sale, providing such permits are conditioned upon agreement by the owner or operator to remove the structure or structures or discontinue use upon expiration of the permit. Such permits may be renewed upon application to the Town Board of Appeals and Proof of Hardship shown for an additional period not exceeding one (1) year.

SECTION 501 - CAMP SITES

Any person, partnership, association or corporation, being the owner or occupant of any land within the Town of Richmondville shall not use or allow another person to use the land for a Camp Site unless a permit has been obtained as herein provided:

1. The Zoning/Code Enforcement Officer shall issue a permit for a Camp Site consisting of two (2) or less travel trailers or tents provided the applicant provides a written plan detailing how proper waste disposal will be carried out. Guidance from the NYS Department of Health or Schoharie County Health Department may be required. At any time, the Zoning/Code Enforcement Officer shall have the authority to determine if land is being used as a Camp Site (as defined) and if the conditions of a Camp Site waste disposal plan are being met.
2. Campsites consisting of three (3) or more travel trailers or tents shall require an approved special use permit.
3. Two camping trailers, motor homes or boat trailers may be stored on a lot. At least one of such vehicles shall be stored in the rear yard or parking area.

SECTION 502 – PODS

In any zoning district the use of PODS containers (see definition) are allowed under the following conditions:

A. There shall be no more than one (1) PODS container per property. The Zoning/Code Enforcement Officer may increase the allowed number of PODS containers for a property undergoing temporary construction.
B. The PODS containers must be no larger than ten (10) feet wide, twenty (20) feet long, and ten (10) feet high.
C. A PODS container must not remain at a property in excess of thirty (30) consecutive days, and must not be placed at any one property in excess of thirty (30) days in any calendar year unless extended by the Zoning/Code Enforcement Officer.

D. The PODS container must be set back a minimum of five (5) feet from all property lines and building walls.

SECTION 503 - USES FOR STORAGE

Used or gutted mobile homes, motor homes, vehicle/bus/van, or trailer shall not be located on any residential property to be used for storage.

ARTICLE 6 – PRE-EXISTING LAWFUL NON-CONFORMING USES, BUILDINGS AND STRUCTURES

SECTION 600 – NONCONFORMING LOTS OF RECORD

A. In any zone in which a one-family dwelling is permitted, a one-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter creating the nonconformity, provided: (1) such lot was a valid, lawfully existing lot prior to the adoption or amendment of this chapter which created the nonconformity; and (2) the nonconformity of the lot relates to size or area; and (3) all other provisions of this chapter, including yard requirements, are complied with, or a variance from such compliance has been obtained from the Board of Appeals.

B. In addition, upon receipt of a special approval from the Board of Appeals, a two-family dwelling may be constructed on such a lot if permitted by the regulations of the zone, subject to the conditions set forth above, and subject to any conditions (such as occupancy or dwelling unit size) that govern two-family dwellings in the zone in which the dwelling is located.

SECTION 601 – NONCONFORMING USES OF LAND

Where, at the effective date of adoption or amendment of this chapter, a lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. Such nonconforming use must not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

B. Such nonconforming use must not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter; and

C. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land must conform to the regulations specified by this chapter for the zone in which such land is located.

SECTION 602 – NONCONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be

continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity;

B. Should such structure be destroyed by any means, in whole or in part, it may be reconstructed in accordance with the provisions of Section 607 below; and

C. Should such structure be moved for any reason for any distance whatever, it must thereafter conform to the regulations for the zone in which it is located after it is moved.

SECTION 603 – NONCONFORMING USES OF STRUCTURES

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the zone under the terms of this chapter as amended, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this chapter in the zone in which it is located may be enlarged, extended, constructed, moved, or structurally altered.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but such use must not be extended to occupy any land outside such building.

C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use must thereafter conform to the regulations for the zone in which such structure is located, and the nonconforming use may not thereafter be resumed.

D. When a nonconforming use of a structure, or structure and land in combination, ceases for a period of one year, the structure or structure and land in combination must not thereafter be used except in conformance with the regulations of the zone in which it is located.

E. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure eliminates the nonconforming status of the land.

F. Where a nonconforming use exists in an area that has been or now requires site plan approval for any change of use, the nonconforming use may not be changed to any other use permitted in the zone until site plan approval has been obtained pursuant to the terms of this chapter.

SECTION 604 – INTERRUPTION OF NONCONFORMING USE

Notwithstanding the provisions above regarding cessation of nonconforming uses, for purposes of determining whether a nonconforming use has ceased for a period of one year there shall be excluded from the calculation of the year period any period of time during which a nonconforming use was suspended solely because of a national emergency or temporary government restrictions (other than zoning restrictions). Upon termination of the national emergency or the temporary government restriction, the calculation of the year period shall resume.

SECTION 605 – DWELLINGS ON NONCONFORMING LOTS

Notwithstanding the provisions above prohibiting enlargement of nonconforming uses, if only a one-family dwelling or a legally existing two-family dwelling and related accessory buildings are present on a lot that is of a size or area less than that otherwise permitted in the zone in which the lot is located, and such lot is a valid nonconforming lot, such dwelling may be enlarged or altered provided:

A. The existing dwelling is in conformance with all requirements of this chapter except for the fact that it is located on a lot that is less than the required size or area which lot was of record at the time of the adoption or amendment of this chapter creating the nonconformity;

B. Such alteration or enlargement does not violate any other provisions of this chapter (e.g., yard, height, or other restrictions); and

C. If such dwelling is a single-family dwelling, upon completion of such enlargement or alteration the building and lot continue to be used only as a single-family dwelling, provided, however, that upon receipt of a special approval from the Board of Appeals, a single-family dwelling may be enlarged to a two-family dwelling, subject to the conditions set forth above, and subject to any conditions (such as occupancy or dwelling unit size) that govern two-family dwellings in the zone in which the dwelling is located.

SECTION 606 – CONTINUATION OF CONSTRUCTION

Nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently prosecuted and completed within two years after the effective date of the adoption or amendment making the use nonconforming.

SECTION 607 – RESTORATION

A. Nothing herein shall prevent the continued use and substantial restoration and continued use of a nonconforming building damaged by fire, flood, earthquake, act of God, or act of the public enemy, provided that: (1) such restoration is located on, and no larger than, the footprint of the structure prior to its destruction; and (2) such restoration is completed within one year of the damage; and (3) the use of the building and the manner in which it was used prior to the loss is recommenced within one year of the damage.

B. The time limits set forth above may be extended by the Board of Appeals in cases of practical difficulty or unnecessary hardship using the same criteria as are applied in determining applications for an area variance. An application for an extension shall be brought no later than six months after the expiration of the year period, or six months after the expiration of any previously granted extension.

SECTION 608 – BOARD OF APPEALS DETERMINATION

The Board of Appeals shall have the jurisdiction to hear and determine any claims as to whether a particular use is a valid nonconforming use, or whether a nonconforming use has been improperly extended or enlarged, or any other matter relating to the nonconforming uses. Such jurisdiction may be exercised by an appeal from a decision of the Zoning/Code Enforcement Officer as hereinafter provided, or by direct application to the Board in those instances where there is no application for a permit or certificate before the Zoning/Code Enforcement Officer. Any such direct application to the Board of Appeals shall be made on such forms and contain such information as the Board and/or the Zoning/Code Enforcement Officer may determine and shall be delivered to the Zoning/Code Enforcement Officer for submission to the Board.

SECTION 609 – VARIANCE CRITERIA

In the event an application is made to the Board of Appeals for a variance to enlarge or alter a nonconforming use, the Board shall apply the same criteria in determining the matter as would be applicable if the application had been made for property that was otherwise conforming. For example, if the application is to enlarge a building that already encroaches on a required side yard, the Board shall use the criteria applicable to considering an area variance. If the application is to change the use to a different nonconforming use the Board shall use the criteria applicable to considering a use variance.

SECTION 610 - UNDERSIZED LOTS IN EXISTING TROUT HAVEN LAKE SUBDIVISION

If a lot of record in the Trout Haven Lake Subdivision on the effective date of this Law, not then in the same ownership as any adjacent lot(s), fails to meet applicable density or lot size standards, one (1) single-family home may still be developed on the lot and no variance is required, provided that all other applicable requirements of this local law are met.

ARTICLE 7 - STANDARDS AND SPECIFICATIONS FOR ROADS UNDER CONSIDERATION AS TOWN OF RICHMONDVILLE HIGHWAYS

SECTION 700 - STANDARDS AND SPECIFICATIONS FOR ROADS UNDER CONSIDERATION AS TOWN OF RICHMONDVILLE HIGHWAYS

See Town of Richmondville Local Law Relating to Streets and/or Highways.

ARTICLE 8 - REQUIRED OFF-STREET PARKING AND AUTOMOBILE STORAGE SPACE

SECTION 800 - OFF STREET PARKING AND LOADING

In conjunction with any principal building hereafter erected or any use hereafter established, there shall be provided on the same lot therewith sufficient parking and loading spaces to meet the minimum requirements of Section 801 herein.

A. PARKING AREAS IN RESIDENTIAL DISTRICTS - No open or enclosed parking area shall encroach on any required yards or required open areas.

B. PARKING AREAS IN COMMERCIAL DISTRICTS - Open parking areas may encroach on a required side or rear yard to within three (3) feet of a side or rear lot line except if the adjacent lot is residential in nature. Non-attendant to operated parking lots shall allow three hundred (300) square feet per parking space per vehicle. No parking space or access thereto, except entrance or exit drives, as limited in this section, shall be within fifteen (15) feet of a street right-of-way line. Entrance or exit drives connecting the parking area and the street shall be permitted within the fifteen (15) foot strip required above, provided:

1. Widths of entrances and exits shall conform to State of New York specifications.
2. Drives shall have clear visibility at their intersection with the street.
3. There shall be at least forty (40) feet between access drives and between an access drive and the right-of-way line at a street intersection.

C. REQUIRED PARKING SPACE - Required off-street parking space shall not be used for storage, servicing, or dismantling of automobiles or other vehicles, loading or unloading.

D. LANDSCAPING - Parking lots for more than twenty (20) cars shall be provided with landscaped areas amounting to an aggregate minimum of five (5) percent of the total paved area of the parking lot. Each landscaped area must be at least thirty (30) square feet and shall be adequately maintained.

E. REQUIRED COMMERCIAL SCREENING - Open off-street parking or loading areas shall be screened from adjoining residential lots by walls, fences, or hedges of sufficient height to prevent the viewing of parked vehicles by a line of sight originating five (5) feet above any point on the side or rear yard setback line of such adjoining residential lots.

F. RECREATIONAL EQUIPMENT - No recreational vehicle or living unit, boat, or other utility or service vehicle or equipment shall be stored within ten (10) feet of any lot line.

SECTION 801 - MINIMUM REQUIRED OFF-STREET PARKING AND LOADING SPACES

A. If permitted or approved in any zoning district:

1. One (1) and two (2) family dwelling: two (2) for each dwelling unit.
2. Seasonal dwelling: two (2).
3. Home occupation: one (1) plus required residential space.
4. Place of Worship: one (1) for each four (4) seats in main assembly room.
5. Bed and Breakfast: one (1) for each guest room plus required residential spaces.
6. Apartment House, nursing home, assisted living: one (1) for each guest room plus required residential spaces.
7. Retail store, bank, office public building: one (1) for each one hundred (100) square feet of floor space.
8. Theater, restaurant: one (1) for each four (4) seats.
9. Hotel or motel: one (1) for each guest unit plus required restaurant, if appropriate.
10. Personal service outlet: four (4).

11. Residence above commercial: one (1) for each dwelling unit plus that required for retail store.
12. Bowling alley: four (4) for each lane plus required restaurant, if appropriate.
13. Gasoline station, truck terminal: five (5) or more if deemed necessary.
14. Other uses: at least one (1) space for every four hundred (400) square feet of floor space.
15. Industrial use: one (1) for each two (2) employees but not less than one (1) for each four hundred (400) square feet of floor space.

B. Each off-street parking space shall be 9' x 20' plus adequate access and maneuvering space.

C. Off-street Loading - All commercial and industrial uses with at least 5,000 square feet of space shall have at least one (1) loading space. All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Each required loading berth may be open or enclosed and shall have the following minimum dimensions: 35 feet long, 12 feet wide, 14 feet high. Open off-street loading areas shall not encroach on any required front or side yard, off-street parking area, or access way.

ARTICLE 9 - SITE PLAN REVIEW

When both site plan review and a Special Use Permit are required for a proposed use, the Joint Planning Board shall conduct its site plan and special use permit reviews concurrently.

SECTION 900 – APPLICABLE CONSIDERATIONS AND STANDARDS

In their consideration of an application for a Special Use Permit, the Joint Planning Board shall determine that:

A. The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it situated and will not be detrimental to the orderly development of adjacent districts and uses.

B. The location and size of the use, the nature and intensity of the operations involved in or conducted in connection therewith, its site layout, and its relation to streets giving access to it shall be such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. In applying this standard, the Joint Planning Board shall consider, among other things, convenient routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, the general character and intensity of development of the neighborhood and its relationship to the overall intensity guidelines for the particular zoning district as set forth in the Town of Richmondville Comprehensive Plan.

C. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

SECTION 901 – PURPOSE AND APPLICABILITY

The purpose of site plan review is to review the layout and design of a commercial development occurring on a single parcel of land. The Joint Planning Board shall review site plans for those uses that, because of their scale, intensity or potentially disruptive nature, require careful layout, design, and placement on a site. The Site Plan approval does not consider appropriateness of a use for the site (determined through the special permit process), but only the suitability of a particular site plan. The principal purpose is to ensure compliance of a particular site with the purposes and performance criteria contained in this law. It is further the intent of this local law to ensure optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town as described in the Town of Richmondville Comprehensive Plan and any of its amendments, through review and approval of site plans.

It is not the intent of this Article to discourage contemporary architectural expression but rather to preserve the integrity and authenticity of the district and to ensure the compatibility of new structures. The standards below are intended to provide a framework within which the designer of the development is free to exercise creativity, invention and innovation while remaining in compliance with the Town of Richmondville Comprehensive Plan. When applying such standards and guidelines, the Joint Planning Board shall carefully weigh the specific circumstances surrounding each application, and strive for development solutions that promote development that protects and enhances the character of the Town and that is consistent with the adopted Town of Richmondville Comprehensive Plan.

Specifically, it is the intent of this local law to ensure that new development is consistent with the goals established in the comprehensive plan. Toward this end, these regulations establish a review process and development standards to ensure that the following general conditions have been met:

A. That the site plan, to the extent practicable, is compatible with the goals, policies and standards set forth in the town of Richmondville Comprehensive Plan;

B. Adjacent properties are protected from nuisance caused by noise, traffic, noxious or harmful fumes and glare of lights;

C. Significant natural, cultural, and historical features on a site are preserved as much as possible;

D. Adequate facilities for off street parking and loading, drainage, snow removal, fire protection and methods of solid waste disposal are provided on site; and,

E. Roads, pedestrian ways, access driveways, loading areas and parking facilities are properly designed and operated for public convenience, universal accessibility, public safety, and for consistency with Town of Richmondville road standards and desired aesthetic character.

SECTION 902 – JOINT PLANNING BOARD REVIEW OF SITE PLANS

A. USES REQUIRING SITE PLAN REVIEW

The Joint Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the Town of Richmondville as hereinafter designated pursuant to, and in accordance with, the standards and procedures set forth in this local law. Uses requiring site plan approval include:

1. Uses as described elsewhere in this Law as requiring Site Plan review;
2. Existing uses with a proposed change in use, other than single and two (2) family dwellings, including but not limited to an increased parking lot or different requirements for parking, an increase or change in impervious surface area, proposed erection of a new sign, proposed establishment of additional exterior lighting, proposed structural enlargement, proposed additional site plan improvements, or if the exterior façade is changed; and
3. Construction, reconstruction, installation, expansion, contraction, alteration or relocation of any sign associated with a use that is subject to this law.

B. USES EXEMPTED FROM SITE PLAN REVIEW

1. Construction of one (1) or two (2) family dwellings, ordinary accessory structures (except when added to existing commercial use on a lot).
2. Ordinary repair or maintenance of existing structures or uses.
3. Agricultural structures as defined under the N.Y. State Building and Fire Code Regulations and Agricultural land uses, with the exception of roadside stands for the sale of agricultural products from a permanent structure. Temporary roadside stands smaller than 200 square feet are exempt.
4. Incidental landscaping or grading not intended to be used in connection with a land use reviewable under the provisions of this local law.
5. Exterior alterations or additions to an existing residential structure that do not substantially change its nature or use.
6. Interior alterations that do not substantially change the nature or use of an existing legal commercial structure.
7. Any change in use that does not require the issuance of a certificate of occupancy pursuant to the New York State Building and Fire Code.
8. Garage and lawn sales.
9. Residential garden uses and residential, non-commercial timber cutting.
10. Uses and structures that have already initiated construction prior to the enactment of this local law.

SECTION 903 – SKETCH PLAN AND PRELIMINARY PLAN PROCEDURES

A. SKETCH PLAN – All development applications shall be made to the Zoning/Code Enforcement Officer. The Zoning/Code Enforcement Officer shall consult with the Joint Planning Board as to whether a Site Plan review is needed. The Joint Planning Board will have final say on this decision. An informal conference between the applicant and the Joint Planning Board shall be conducted prior to submission of a preliminary site plan application to review the proposed

development in light of existing conditions and to generally determine the information to be required in the site plan. In order to accomplish these objectives, the applicant shall provide eight (8) copies of the following information to the Joint Planning Board for a Sketch Plan conference at least fourteen (14) days prior to the regularly scheduled Joint Planning Board meeting:

1. A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;
2. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel; and
3. At the discretion of the Joint Planning Board, a topographic or contour map of adequate scale and detail to show contour lines on the site and any slopes or other significant topography that may be present.
4. A sketch showing locations of natural features such as streams, wetlands, ponds, lakes, or other natural characteristics.
5. The Joint Planning Board shall evaluate the need for establishing an escrow account based on the scope of the project during the sketch plan review.

B. SKETCH PLAN REVIEW – The intent of the sketch plan conference is to enable the applicant to inform the Joint Planning Board of the proposal prior to the preparation of a detailed site plan; and for such Joint Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. At the sketch plan conference the Joint Planning Board will review and determine if the proposal is in conformity with the Comprehensive Plan of the Town of Richmondville. The Joint Planning Board shall also review with the applicant submission requirements to determine what specific information is to be presented with the site plan application.

C. PRELIMINARY SITE PLAN APPLICATION – After approval of a sketch plan, the applicant shall forward eight (8) copies of a completed Preliminary Site Plan Application (available from the Town Clerk or Zoning/Code Enforcement Officer), eight (8) copies of a site plan, and any application fee that has been established by the Town of Richmondville.

D. PRELIMINARY SITE PLAN SUBMISSION REQUIREMENTS – The site plan submitted for preliminary approval and supporting documentation shall include all applicable information contained in the sketch plan in addition to the following information, unless waived by the Joint Planning Board pursuant. All submitted maps shall be drawn at a scale of fifty (50) feet to one (1) inch or larger. The Joint Planning Board will determine if the applicant requires plans designed by a qualified professional such as but not limited to an architect, landscape architect, engineer, or surveyor.

E. APPLICATION – The Joint Planning Board will decide which of the following pieces of information (described in Sub-sections 1 through 30 below) will be included on the application:

1. Title of site plan, including name and address of applicant, and person responsible for preparing such drawing;
2. North arrow, scale and date;
3. Boundaries of property plotted to scale;
4. Location, size, and existing use of buildings on premises;
5. Location and ownership identification and address for all adjacent lands as shown on the latest tax records;
6. Location, name and width of all existing public streets, easements, other reservations of land or areas dedicated to public use within five hundred (500) feet of the applicant's property;
7. Location, width, and identification of all existing and proposed rights-of-way, easements, setbacks, reservations, and areas dedicated to public use on or adjoining the property;
8. Grading and drainage plans showing existing and proposed contours and water course within, and extending 50 feet beyond, applicant's property, and soil erosion and sediment control plan if required by DEC or other local statues or regulations;
9. Location, design, type of construction, and exterior dimensions of all proposed buildings and structures;
10. Identification of the amount of gross floor area, proposed division of building into units of separate occupancy and hours of operation for retail sales and services offices and other commercial facilities;
11. Location, design, type of construction, and area of all parking and truck loading areas (including number of parking spaces) showing access and egress;
12. Provision for pedestrian access, including crosswalks and public and private sidewalks, if applicable;
13. Location of outdoor storage and solid waste disposal, and location and description of any hazardous materials to be used or stored on site;
14. Location and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
15. Description of the method of sewage disposal and the location of such facilities, including the location of the collection system;
16. Description of the approximate quantity of water required and location of distribution system;
17. Location of fire lanes and other emergency zones, including the location of fire hydrants, if required;
18. Location, design, and construction materials of all energy generation and distribution facilities, including electrical, gas, solar energy, and all power and communication facilities, including towers and satellite dish antennas;
19. Location, size, design and type of construction of all proposed signs;
20. Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover;
21. Location and design of existing and proposed outdoor lighting facilities;
22. General landscaping plan and planting schedule;
23. Location and identification of all structures and uses on adjacent lands within fifty (50) feet of the property line;
24. Identification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies. It is the responsibility of the applicant to identify needed permits from other agencies;

25. Estimated project construction schedule, phasing, time frames, and cost;
26. Other elements integral to the proposed development as may be specified by the Joint Planning Board at the sketch plan conference;
27. SEQRA Environmental Assessment Form;
28. Elevation and façade treatment plans of all proposed structures;
29. Any pertinent natural features that may affect the proposed use such as water courses, swamps, wetlands, wooded areas, areas subject to flooding (flood zone designation), steep slopes (more than 15%), areas of frequent rock outcrops, etc.; and,
30. Vicinity Map - A map, drawn at a scale of two-thousand (2000) feet to the inch, or larger, and showing the proposed site in relation to existing community facilities that may affect or serve it, such as roads, shopping areas, schools.

F. ADDITIONAL PRELIMINARY SITE PLAN REQUIREMENTS – For projects that could, in the opinion of the Joint Planning Board, have major traffic, visual, or storm water impacts, the Joint Planning Board shall vote and determine if the applicant is required to submit any of the following:

1. **Traffic Report** – Traffic Reports (prepared by a qualified professional at discretion of Joint Planning Board) shall include the following for the study area:
   a. Internal traffic flow analyses;
   b. Existing average daily traffic and peak hour levels;
   c. Analyses of average daily traffic and peak hour levels resulting from the project;
   d. An analysis of existing and resulting intersection levels of traffic;
   e. Directional vehicular flows resulting from the proposed project;
   f. Proposed methods to mitigate the estimated traffic impact;
   g. Identification of any pedestrian crossing issues; and,
   h. The methodology and sources used to derive existing data and estimations.

2. **Visual Impact Report –** The Visual Impact Assessment (prepared by a qualified professional at discretion of Joint Planning Board) shall include:
   a. Visually illustrate and evaluate the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of visual character and intensity of use (e.g. scale, materials, color, odor, door and window size and locations, setbacks, roof and cornice lines, and other major design elements.;
   b. An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes; and,
   c. A site plan rendering.

3. **Water and Storm Water Management Plan** – The contents of the storm water management plan shall contain sufficient information for the Joint Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. The storm water management and storm water pollution prevent ion plans shall be prepared in compliance with all State and Federal regulations.

G. JOINT PLANNING BOARD ACTION ON PRELIMINARY SITE PLAN

1. **Acceptance of Site Plan Application** – The Joint Planning Board shall, within sixty-two (62) days of a site plan application being filed, determine whether to accept the application as complete and begin the review process, or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application deficiencies. No application shall be considered complete until a negative declaration under SEQRA Part 617 has been issued or until a draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.

2. **Public Hearing** – The Joint Planning Board shall conduct a public hearing on the site plan. Such hearing shall be held within sixty-two (62) days of the Joint Planning Board's acceptance of the preliminary site plan application as complete and shall be advertised in the Town of Richmondville official newspaper at least five (5) days before the hearing, or posted as per NYS open meeting laws. The Joint Planning Board shall give the applicant at least ten (10) days notice by mail of the Public Hearing. The applicant shall send notice of the Public Hearing to abutting property owners by certified mail, return receipt requested at least seven (7) days prior to the public hearing. All related expenses including mailing costs and costs to print legal notices shall be the responsibility of the applicant.

3. **Coordinated Review** – The Joint Planning Board may in time in its discretion refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state and county agencies, including but not limited to the Natural Resource Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, or the state or county Department of Health, whichever has jurisdiction.

4. **Required Referral** – Prior to taking the final action on the site plan, the Joint Planning Board shall refer the plan to the Schoharie County Planning Commission for their review and approval pursuant to Article 12B Section 239 of the General Municipal Law.

5. **State Environmental Quality Review Act (SEQRA)** – No application shall be approved without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and submission of an acceptable draft environmental impact statement.

6. **Decision** – Within 62 days of the public hearing, the Joint Planning Board shall render a decision on the preliminary site plan. The decision of such Joint Planning Board's action shall be in the form of a written statement to the applicant stating whether the preliminary site plan is recommended for approval, disapproval or approval with modifications. The statement of such Joint Planning Board may include recommendations of desirable modifications to be incorporated in the final site plan, of which conformance with said modifications shall be considered a condition for a recommendation of approval. If the preliminary site plan is recommended for disapproval, the statement of such Joint Planning Board will contain the reasons for such findings. In such a case, the Joint Planning Board may recommend further study of the site plan and resubmission to such Joint Planning Board after it has been revised

or redesigned. The decision of the Joint Planning Board must be filed with the Town Clerk within five (5) business days after such decision is rendered and a copy mailed to the applicant as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter stating the application deficiencies. No application shall be considered complete until a negative declaration under SEQRA has been issued or until a draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.

7. **Approval** – Upon approval of the preliminary site plan and payment by the applicant of all fees and reimbursable costs due to the Town of Richmondville, the Joint Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file with the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

8. **Approval with Modifications** – The Joint Planning Board may approve the site plan and require that specific modifications or conditions be made. A copy of a written statement of approval containing the modifications required by the Joint Planning Board shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall submit a modified final site plan in reproducible form. Upon approval and after payment by the applicant of all fees and reimbursable costs due the Town of Richmondville, the Joint Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days, file the site plan and a written statement of approval with the Town Clerk.

9. **Disapproval** – Upon disapproval of the site plan, the decision of the Joint Planning Board shall, within five (5) business days, file the same with the Town Clerk and mail a copy thereof to the applicant by certified mail, along with a letter stating the reasons for disapproval.

SECTION 904 – FINAL SITE PLAN PROCEDURES

After receiving a recommendation for approval, with or without modifications from the Joint Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to such Joint Planning Board. If more than 6 months has elapsed since the time of any action on the preliminary site plan by the Joint Planning Board and if such Joint Planning Board finds that conditions have changed significantly in the interim, such Joint 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. Eight (8) copies of a final site plan, an application for final site plan approval and any fee established by the Town of Richmondville shall be submitted to the Joint Planning Board at least ten (10) days prior to their next regularly scheduled meeting.

A. APPLICATION FOR FINAL SITE PLAN – The final detailed site plan shall conform substantially to the preliminary site plan originally recommended for approval. It should incorporate any modifications that may have been recommended by the Joint Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission. The following additional information shall accompany an application for final detailed site plan review:

1. Record of application for and status of all necessary permits from State and County officials;
2. Detailed sizing and final material specification of all required improvements; and,
3. An estimated project construction schedule.

B. PUBLIC HEARING – The Joint Planning Board may conduct a Public Hearing on the final site plan if considered desirable by a majority of its members. Such hearing shall be held within 62 days of the receipt of complete application for final site plan review and shall be advertised in the Town of Richmondville official newspaper, or if there is none, in the newspaper of general circulation in the Town of Richmondville at least 5 days before the public hearing.

C. DECISION – Within 62 days of receipt of the complete application for final site plan approval or if a public hearing is held within 62 days of public hearing, the Joint Planning Board shall render a decision. The time period in which the Joint Planning Board must render its decision can be extended by mutual consent of the applicant and such Joint Planning Board. In its decision the Joint Planning Board may approve, approve with modifications or disapprove the final site plan. The Joint Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to a proposed site plan. Upon approval of said site plan, any such conditions must be met in connection with the issuance of permits by the Zoning/Code Enforcement Officer.

D. APPROVAL – Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the Town of Richmondville, the Joint Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file with the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

E. APPROVAL WITH MODIFICATIONS – The Joint Planning Board may approve the final site plan and require that specific modifications or conditions be made. A copy of a written statement of approval containing the modifications required by the Joint Planning Board shall be mailed to the applicant by certified mail, return receipt requested. The applicant shall submit a modified final site plan in reproducible form. Upon approval and after payment by the applicant of all fees and reimbursable costs due the Town of Richmondville, the Joint Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days, file the site plan and a written statement of approval with the Town Clerk.

F. DISAPPROVAL – Upon disapproval of the final site plan, the decision of the Joint Planning Board shall, within five (5) business days, file the same with the Town Clerk and mail a copy thereof to the applicant by certified mail, If the site plan is disapproved, the Joint Planning Board may recommend further study of the site plan and re-submission to such Joint Planning Board after it has been revised or redesigned.

G. INITIAL FILING – A copy of the initial decision of the Joint Planning Board shall be filed in the Town Clerk's office within five (5) business days and a copy mailed to the applicant. A resolution of either approval, approval with modifications or conditions, shall include authorization to the Joint Planning Board Chairman to stamp and sign the site plan upon the applicant's compliance with applicable conditions and the submission requirements stated herein.

H. SUBMITTAL FOR STAMPING AND SIGNING

1. Within six (6) months after receiving site plan approval, with or without modifications, the applicant shall submit three (3) copies of the site plan to the Joint Planning Board for stamping and signing. The site plan submitted for stamping shall conform strictly to the site plan approved by the Joint Planning Board, except that it shall further incorporate any required revisions or other modifications and shall be accompanied by the following additional information:
   a. Record of application for and approval status of all necessary permits from Federal, State and county officials;
   b. Detailed sizing and final material specification of all required improvements;
   c. An estimated project construction schedule. If a performance guaranty is to e provided by the applicant for all or some portion of the work, a detailed site improvements cost estimate shall be included; and
   d. Proof of payment to the Town of Richmondville for reasonable review costs of the Joint Planning Board.
2. Upon stamping and signing the site plan, the Joint Planning Board shall forward a copy of the approved site plan to the Zoning/Code Enforcement Officer and the applicant. The Zoning/Code Enforcement Officer may then issue a building permit or certificate of occupancy if the project conforms to all other applicable requirements.

SECTION 905 – LESS INTENSIVE REVIEW

The Joint Planning Board may elect to conduct a less intensive review for minor types of projects (e.g. roadside stands larger than 200 square feet for the sale of agricultural products). A major project is any proposed use that requires a Special Use Permit, and that exceeds any of the thresholds for a minor project. A minor project is a use or combination of uses on a lot or a series of adjoining lots that requires either site plan review, a Special Use Permit, or both and that is:

A. Construction of a bed and breakfast or lodging facility with up to six (6) bedrooms;
B. Construction of facilities or structures for a nonresidential use covering no more than one thousand five hundred (1500) square feet of building footprint;
C. Alteration of existing structures or expansion of such structures by no more than 1000 square feet; and
D. Conversion of existing structures totaling one thousand five hundred (1500) square feet or less to another use.
E. Sections C and D above do not apply to residential structure.

SECTION 906 – WAIVERS

Certain application requirements of this Article for such proposed uses may be waived by the Joint Planning Board if such Board finds that any such requirements are not requisite in the interest of the public health, safety or general welfare or are inappropriate to a particular site plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted by the Joint Planning Board. Requirements of this Section may not be waived except as properly voted for by the Joint Planning Board. The Joint Planning Board must state in writing its grounds for electing to conduct less

intensive review and file such statement along with the site plan application and supporting documents.

SECTION 907 – ESCROW

The Joint Planning Board is authorized to retain professional assistance in reviewing the sketch plan, preliminary site plan or final site plan as needed including, but not limited to engineers, attorneys, hydrogeologists, traffic engineers, landscape architects, and planners. An escrow account, funded by the applicant, shall be established by the Town of Richmondville. All expenses related to the review of a proposal by the Joint Planning Board, including retention of professional assistance shall be paid from this escrow account. The applicant shall supply the Joint Planning Board information related to the total cost of the project or other information as may be required to calculate an appropriate escrow account to cover these expenses.

SECTION 908 – FAILURE TO TAKE ACTION ON APPLICATION

Failure of the Joint Planning Board to render a decision within the prescribed time limits shall constitute approval by such Joint Planning Board.

SECTION 909 – EXTENSION OF TIME TO RENDER DECISION

The time period in which the Joint Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and such Joint Planning Board. Failure of the Joint Planning Board to act within the time period specified or agreed upon between the applicant and board, shall not constitute Joint Planning Board approval of the site plan as submitted or last amended, and shall not be deemed automatic approval.

SECTION 910 – SEGMENTATION

The site plan application and associated maps shall include proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Joint Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Joint Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

SECTION 911 – STANDARDS AND CRITERIA

In reviewing site plans, the Joint Planning Board shall consider the Town of Richmondville Comprehensive Plan and standards set forth below. The Joint Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. In addition to these requirements the following design aspects shall be incorporated into site plans.

SECTION 912 – LAYOUT AND DESIGN

A. INTEGRATION – All structures in the plan shall be integrated with each other and with adjacent structures.

B. COMPATIBILITY – Structures that are visible from public roads shall be compatible with each other and if possible with surrounding structures

C. DESIGN – The design of all applicable structures including habitable structures, walls, fences, signs, light fixtures and accessory and appurtenant structures shall be unobtrusive and of a design, material and color that blend harmoniously with the natural surroundings, and the scale of neighboring architecture, complying with the intent of this Section. Innovative, high quality design and development is strongly encouraged to enhance property values and long-term economic assets within the Town of Richmondville. Trademarked architectural styles that identify a specific company by building features are prohibited.

D. BUILDING SCALE – The scale and mass of buildings shall be reviewed by the Joint Planning Board during Site Plan Review and determined to be compatible with that of adjacent and nearby buildings as viewed from the street.

E. WINDOWS – The spacing, pattern and detailing of windows and window openings shall be reviewed by the Joint Planning Board during Site Plan Review and determined to be compatible with adjacent buildings.

F. LANDSCAPING – In addition to all other district landscaping requirements, the following shall be met:

1. Landscaping Plan shall be developed and shall include plant selection suitable for the specific site. Native species of both deciduous and coniferous plants shall be included in the plan whenever possible.
2. The Joint Planning Board may require landscape buffers between commercial uses and residences. Such buffers may include fences, planted trees and shrubs, hedgerows, berms, existing forestland or forest created through natural succession. Plantings shall be indicated on the site plan and shall meet the following standards:
   a. Plant materials shall be a minimum three (3) gallon pot size and shall be spaced to form a continuous, solid screen at maturity. Generally, plants / trees shall be spaced apart at distances no greater than ten (10) feet on center.
3. Where appropriate, a wall, fence (finished side out), or earthen berm of location, height, and design approved by the Joint Planning Board, may be substituted for the required planting.
4. Modifications. Where the existing topography and / or landscaping provide adequate screening, the Joint Planning Board may modify the planting and / or buffer area requirements.
5. Landscaping shall be an integral part of the entire project area and shall buffer the site from or integrate the site with the surrounding area, as appropriate.
6. Primary landscape treatment shall consist of shrubs, ground cover and shade trees and shall combine with appropriate walks and street surfaces to provide an attractive development

pattern. Landscape plants selected should generally be native to the region and appropriate to the climatic growing conditions of the Town of Richmondville.

7. To the extent practical, existing trees and other vegetation shall be conserved and integrated into the landscape design plan. Healthy trees with diameters of twelve (12) inches or greater measured at chest height shall be marked on the plan and preserved to the extent possible.
8. Pedestrian pathways shall be covered with crushed stone, gravel, brick, stone, or paved as appropriate, to allow drainage prevent erosion, and allow ease of use for persons with special mobility requirements (wheelchairs, etc.)
9. Construction practice and planting specifications should follow ANSI Z60.1 American Standards for Nursery Stock.
10. Maintenance – All planting shown on an approval landscape or site landscape or development plan shall be maintained throughout the duration of the use, and plants not so maintained shall be replaced in accordance with the plan's specifications.
11. Blank end walls that are visible from the road or adjacent residences shall be landscaped.
12. Transformers, gas meters, dumpsters, and other utility or service structures shall be screened.
13. A landscaped area may be required to screen and protect neighboring residential properties and passing motorists from the view of facilities, buildings, and parking areas of the site development, as warranted. Landscaped areas are subject to the following:
    a. Sidewalks and Street Trees. To maintain sight lines, trees and other objects should be restricted from corners for distances of thirty (30) feet on sides where motorists would look right and 15 feet on sides where they look left.

G. SAFE PASSAGE – Roads, driveways, sidewalks, off-street parking and loading space shall be safe and shall encourage pedestrian movement.

H. MERCHANDISE – All merchandise that is displayed outside on sidewalks shall be moved inside after hours unless otherwise authorized by the Joint Planning Board.

SECTION 913 – PARKING

A. CIRCULATION AND LOADING – In addition to all other district parking requirements, the following shall be adhered to:

1. Vehicular and pedestrian connections between adjacent sites the construction of connected parking lots, service roads, alleys, footpaths, bike paths and new public streets to connect adjoining properties such as are encouraged to facilitate pedestrian use and to minimize traffic entering existing roads.
2. Off-street parking and loading requirements of Article 8 herein shall be fulfilled.
3. Access from and egress to public highways shall be approved by the appropriate highway department, including Town, County and/or State.
4. All buildings shall be accessible by emergency vehicles.
5. Cross-access easements for adjacent properties with interconnected parking lots shall be required, in language acceptable to the Town Attorney.
6. Such uses shall be paved with a hard surface to control dust. Landscaping shall be provided along all property lines. If illuminated, such lighting shall be of a nature that will not produce excessive glare on adjacent properties.

SECTION 914 – LIGHTING

A. EXTERIOR LIGHTING

1. Exterior architectural, display and decorative lighting visible from the highway shall be generated from a concealed light source with low-level fixtures.
2. Any lighting fixture used to illuminate parking areas, access drives or loading areas shall be of such design, so as to minimize the amount of ambient lighting perceptible form adjacent properties. In no case, shall any lighting impair the vision of motorists on the roadway.
3. All interior lighting shall be designed to prevent the light source or high levels of light from being visible from the roadway.
4. Entrances into developments from the highway may be lighted for traffic safety reasons, provided such lighting does not exceed the applicable foot-candle requirements specified in table below.
5. A site lighting plan shall be submitted as part of the application submission.
6. Fixtures shall be mounted in such a manner that the cone of light is not directed at any property line of the site.
7. Only white or off-white (light yellow tones) may be used for any light source (except holiday lighting).
8. Lighting poles mounted within fifty (50) feet of the highway right-of-way may not exceed a height of twenty (20) feet. The minimum mounting height for a pole shall be twelve (12) feet.

B. ILLUMINATION LEVELS

All site lighting shall be designed so that the level of illumination measured in foot-candles (fc) at any single point meets the standards below. The Joint Planning Board shall have the discretion to allow limited flexibility as to variations in the minimum and average levels, if the proposed levels are below the following standards. The Joint Planning Board shall not allow flexibility for proposed levels that exceed the maximum levels, unless such levels strictly conform to the recommended levels within the IESNA Lighting Handbook.

Table of Illumination Levels Location or Type of Lighting	**Minimum Level (fc)**	**Average Level (fc)**	**Maximum Level (fc)**
Landscape and decorative	**0.0**	**0.50**	**5.0**
Commercial parking areas	**0.6**	**2.40**	**10.0**
Multi-family residential parking areas	**0.2**	**1.5**	**10.0**
Areas for display of outdoor merchandise	**1.0**	**5.0**	**15.0**
Walkways and streets	**0.2**	**1.0**	**10.0**

SECTION 915 – MISCELLANEOUS STANDARDS

A. Buildings and other facilities shall be designed, located and operated to avoid causing excessive noise.

B. Exterior lighting fixtures shall be shielded to prevent light from shining directly onto neighboring properties or public ways. Drainage of the site shall recharge groundwater to the extent practical. The rate of surface water flowing off site shall not increase above pre-development conditions and pursuant to New York State law, shall not adversely affect drainage on adjacent properties or public roads.

C. Requirements for proper disposal of construction and demolition waste shall be fulfilled, and any necessary permits or agreements for off-site disposal shall be obtained.

D. Additional site plan requirements and standards for review set forth in other Sections of this local law shall be satisfied.

ARTICLE 10 - SPECIAL ENVIRONMENTAL PROTECTION GUIDELINES

SECTION 1000 - DESIGN

In compliance with the New York State Department of Environmental Conservation programs designed to enhance and protect the natural environment of the Town of Richmondville, the following guidelines are to be adhered to, in addition to those required in designated districts of the Town.

SECTION 1001 - WETLAND PROTECTION GUIDELINES

No person shall conduct regulated activity on any State fresh water wetland or adjacent area. Any person desiring to conduct activity on or within one hundred (100) feet of a State wetland must obtain a permit as required from the State of New York Department of Environmental Conservation. No person shall conduct regulated activity in any waters of the United States (i.e. Federal wetlands) without contacting and abiding by the requirements of the Army Corps of Engineers.

SECTION 1002 - FLOOD HAZARD AREA PROTECTION GUIDELINES

Areas designated as a regulated floodplain on an adopted Flood Insurance Rate Map shall follow the Town of Richmondville Flood Damage Prevention Law.

SECTION 1003 - STATE ENVIRONMENTAL QUALITY REVIEW (SEQRA)

The requirements of the State Environmental Quality Review Act shall be adhered to and all required forms, applications filed, and the SEQRA process completed as required. Any and all costs, disbursements, expenses, including but not limited to reasonable attorney's fees, expert fees and/or consultant's fees

incurred by the Town of Richmondville in administering the SEQRA process shall be paid by the applicant when invoiced by the Town Clerk.

ARTICLE 11 - ADMINISTRATION AND ENFORCEMENT

SECTION 1100 - INTERPRETATION

Interpreting and applying the provisions of this Law shall be held to the minimum requirements for the promotion of the public safety, convenience, and property and general welfare for the Town of Richmondville.

SECTION 1101 - ENFORCEMENT

A. **ZONING/CODE ENFORCING OFFICER** - The provisions of this local law shall be administered and enforced by the Zoning/Code Enforcement Officer appointed by the Town Board, who shall have the power to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Law. The Zoning/Code Enforcement Officer may investigate any reported violation to this Law, even if such notice is anonymous.

B. **DUTIES** - It shall be the duty of the Zoning/Code Enforcement Officer to keep a record of all applications for permits and a record of all permits issued with a notation of all special conditions involved. He/she shall file and safely keep copies of all plans submitted and the same shall form a part of the records of his/her office and shall be available for use of the Town Board and other officials. The Zoning/Code Enforcement Officer shall not issue a permit for construction of any building unless it conforms to all Laws of the Town of Richmondville.

SECTION 1102 - BUILDING PERMITS AND CERTIFICATE OF OCCUPANCY

A. **BUILDING PERMIT**
   1. **Requirements** - It shall be unlawful to commence the excavation for, or the construction of, any building or structure including accessory buildings, or to commence the moving or alteration or demolition of any building or structure, including accessory buildings until the Zoning/Code Enforcement Officer has issued a permit for such work.

B. **CERTIFICATE OF OCCUPANCY**
   1. **Requirement** - No land or building or other structure or part thereof hereafter erected or altered in its use or structure shall be used or occupied until the Zoning/Code Enforcement Officer shall have issued a Certificate of Occupancy stating that such land, building structure or part thereof, and the proposed occupancy or use thereof are found to be in conformity with the provisions of this Law.

SECTION 1103 - SPECIAL USE PERMITS

On referral by the Zoning/Code Enforcement Officer, after application has been made to him for a building permit, or on direct application, the Joint Planning Board is hereby authorized to issue a special use permit for any use for which this Law requires the obtaining of such permits from such Joint Planning Board, subject to applicable regulations of this Law and procedures in Town Law

Section 274-b of the State of New York. Application for all Special Use Permits shall require a complete site plan review.

A. STANDARDS APPLICABLE TO ALL SPECIAL USE PERMITS

1. All special permit uses shall require site plan review. Special permit uses are uses for which approval of the Joint Planning Board is required and for which conformance to additional standards is required, in addition to all other requirements of this Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific case or use shall be considered as an individual case that requires consideration of the merits and details of each proposed use to assure that such proposed use is in harmony with this Law, the Comprehensive Plan and land use and similar goals and plans from time to time adopted by the Town Board and in effect at the time in question, and that such proposed use will not adversely affect the general character of the surrounding area if the conditions of the special use permit are met.

2. In evaluating a request for a special use permit, the Joint Planning Board shall require evidence of the satisfaction of each and every of the following standards by findings entered into the record of the proceedings:

(a) that the special use is specifically authorized by this Law (the decision shall set forth the exact subsection of this Law containing the jurisdictional authorization);

(b) that the special use meets all of the criteria set forth in the subsection of this Law authorizing such special use; and

(c) that the granting of the special use permit will not alter the general character of the surrounding area, or impair the intent or purpose of this Law, or of the Comprehensive Plan, or of land use and similar goals and plans from time to time adopted by the Town Board and in effect at the time in question. In so doing, the Joint Planning Board shall consider factors such as: (i) location and size of the proposed project; (ii) the nature and intensity of the operations involved; (iii) the size of the site in relation to the size of the proposed project; (iv) the location of the site with respect to the existing or future streets giving access to it with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; (v) whether the location, nature and height of buildings, walls, and fences will discourage the appropriate development and use of adjacent land and buildings and properties generally in the district or impair the value thereof; (vi) whether the operations in connection with the proposed project will be more objectionable in nature to nearby properties and properties generally in the district by reason of noise, fumes, vibration, flashing lights, increased traffic or any other objectionable reasons, than would be the operations of any use permitted as of right; (vii) the impact on existing and planned capacity of infrastructure systems, including but not limited to roads, water, sewer, energy and drainage; (viii) whether environmentally sensitive features will be protected; and (ix) whether any authorization hereunder shall create fiscal burdens upon the community at large."

3. No special permit shall be issued for a use on a property where there is a violation of this Law or other town law or regulation. A special use permit shall authorize only one particular special use, and shall expire if the subject use shall cease for any reasons for one (1) year or

longer.

B. RENEWAL, TIME LIMIT, AND EXTENSION

The Joint Planning Board may require, as a condition to the issuance of any special use permit, that it be periodically renewed, or may issue any special use permit for a specific time period, subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by said Board. Any such renewal or extension may be subject to the same procedure and requirements as specified herein for the original issuance of the special use permit involved.

C. SUBMISSION OF PLANS

In addition to any other requirements set forth herein, each application for a special use permit shall be accompanied by:

1. A proposed plan at an appropriate scale showing the size and placement of the lot, the design and location of the proposed facilities (including driveways, parking spaces, screens, and fences) and, at discretion of the Joint Planning Board, existing and proposed contour lines. The location of the subject lot and all streets within a radius of one thousand (1,000) feet shall also be shown.

2. A brief narrative describing the proposed use.

3. A short Environmental Assessment Form (EAF) (unless the Joint Planning Board requests the Full EAF or the SEQRA requires a Full EAF).

4. An agricultural data statement, if required.

D. FEE

Each original application to the Joint Planning Board for a special use permit shall be accompanied by a fee as set by the Town Board of Richmondville.

SECTION 1104 - JOINT ZONING BOARD OF APPEALS

A. CREATION, COMPOSITION AND APPOINTMENT

1. **Creation** - A Joint Zoning Board of Appeals of the Town of Richmondville and the Village of Richmondville is hereby authorized. Said Joint Zoning Board of Appeals shall be the sole Zoning Board of Appeals within the Town of Richmondville. The Zoning Board of Appeals of the Town of Richmondville, as established under Article 16 §267 of the Town Law and previous duly adopted ordinance or local law of the Town Board, shall be abolished as of the effective date of this law, subject, however, to the provisions of this law mandating the automatic reestablishment and effectiveness of the Town Zoning Board of Appeals upon the dissolution of the Joint Zoning Board of Appeals established hereunder.

2. **Conflict with Prior Local Laws** - If any local laws or parts of local laws of the Town of Richmondville are inconsistent with any of the provisions of this section, the terms of this section shall control. Wherever the term "Zoning Board of Appeals" is used in any local laws, ordinances, and codes of the Town of Richmondville, said term shall mean the Joint Zoning Board of Appeals as established by this law.

3. **Composition** - The Joint Zoning Board of Appeals shall consist of five (5) members. Three (3) members shall be appointed by the Town Board of the Town of Richmondville and two (2) members shall be appointed by the Village Board of Trustees of the Village of Richmondville.

4. **Appointment** - The original Joint Zoning Board of Appeals shall be appointed as follows: the Town Board of the Town of Richmondville shall appoint three (3) members, one each for terms of one year, three years, and five years. The Board of Trustees of the Village of Richmondville shall appoint two (2) members, one each for terms of two years and four years. All such appointments shall be made from those individuals serving on the preexisting Zoning Board of Appeals of the Town and Village, unless such persons, or any one of them, are unable or willing to serve. Upon the expiration of the terms of the original members, successors shall be appointed by the same procedures, and by the same Board that appointed the original members, for a term of five years. Terms shall run from January 1 through December 31.

5. **Removal** - The appointing governing body of an individual member shall have the power to remove the member pursuant to the appropriate sections of Article 7 of the Village Law or Article 16 of Town Law, for cause and after a public hearing.

6. **Vacancies** - Vacancies shall be filled by the appointment of replacement members by the same Board that appointed the member leaving office to fill the unexpired term of that member.

7. **Alternate Members** - Because it may sometimes be difficult to maintain a quorum on the Joint Zoning Board of Appeals due to members being ill, on extended vacation or finding they have a conflict of interest on a specific matter before such Board, in such instances, official business cannot be conducted and which may delay or impede adherence to required time limits. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this chapter.

    i. This section is hereby adopted pursuant to the provisions of §10 of the New York State Municipal Home Rule Law and §10 of the New York State Statute of Local Governments. It is the intent of the Town Board of the Town of Richmondville pursuant to §10 of the New York Municipal Home Rule Law, to supersede the provisions of §267 of the New York State Town Law relating to the appointment of members.

    ii. The Town Board of the Town of Richmondville shall initially appoint one (1) alternate member to the Joint Zoning Board of Appeals for a term of two (2)

years. The alternate member shall comply with the same duties of the Joint Zoning Board of Appeals members described in the provisions of this law.

iii. The alternate member can live in either the Town of Richmondville or the Village of Richmondville.

iv. If a vacancy occurs, the alternate member serving at the time of the vacancy can be appointed to fill the vacancy for the remainder of that term. If the alternate member chooses not to fill the vacancy, that person can remain an alternate. Vacancies shall be filled by the appointment of replacement members by the same Board as appointed the member leaving office to fill the unexpired term of that member.

8. **Chair and Vice-Chair** - The members of the Joint Zoning Board of Appeals shall at their last meeting of the calendar year recommend to the Town Board and Village Board a Chairperson and Vice-Chairperson to act for the next calendar year. The Boards shall consider the recommendation and jointly make an appointment in January of each year.

9. **Compensation, Expenditures and Fees** - The Town and Village shall provide any compensation to be paid separately to their own appointed Zoning Board of Appeals members. All other costs and expenses involved in the formation and operation of the Joint Zoning Board of Appeals will be shared by the Town of Richmondville and the Village of Richmondville equally. The salary of the board secretary will be shared equally, one-half by the Town and one-half by the Village, vouchered one-half to the Town and one-half to the Village. Upon approval by both the Town Board and Village Board, the Town and Village may equally provide for compensation to be paid to experts and for other such expenses as may be necessary and proper.

   The Town of Richmondville shall retain all fees associated with matters brought before the Joint Zoning Board of Appeals involving property located in the Town outside of the Village boundary. The Village of Richmondville shall keep all fees associated with matters brought before the Joint Zoning Board of Appeals relating to property located within the Village boundaries. The purpose hereof is to permit separate or disparate fee or cost schedules that may be promulgated by each municipality. If any type of development or construction takes place on property located in both the Town of Richmondville and the Village of Richmondville, the required fees will be divided between municipalities according to the location of the development.

10. **Continuing Education and Training** - Every regular member and alternate member of the Joint Zoning Board of Appeals shall annually attend four (4) hours or more of training or continuing education course(s) related to work of the Joint Zoning Board of Appeals. On January 1 of each year, the Chair of the Joint Zoning Board of Appeals shall submit in writing to the Town and Village Clerks the training/course name, date attended, and location held for each training/course attended by Joint Zoning Board of Appeals members during the year. Failure of a member to attend required training may result in removal from the Joint Zoning Board of Appeals.

Each Joint Zoning Board of Appeals member shall be required to attend seventy-five (75) percent of the scheduled meetings in each calendar year. At the discretion of the appointing governing board, failure to attend the required number of meetings without good cause may be grounds for removal from the Joint Zoning Board of Appeals. Attendance records for each member shall be kept by the Joint Zoning Board of Appeals Secretary and a copy provided to the Town and Village Clerks, annually.

B. GENERAL PROCEDURES

1. All meetings of the Joint Zoning Board of Appeals shall be held at the call of such Board's Chairman and at such other times as such Board may determine. All meetings of such Board shall be open to the public. The members of the Joint Zoning Board of Appeals shall adopt such rules and regulations and supplemental provisions as they shall deem necessary and proper for their operation and administration, and for the conduct of their meetings and business, including by duly adopted inter-municipal cooperation agreement(s).

2. The Joint Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, and/or amendment or repeal thereof, and every order, requirement, decision or determination of said Board shall immediately be filed with the Office of the Town Clerk and shall be public record.

3. The Joint Zoning Board of Appeals shall act on all matters which shall come before it pursuant to the applicable codes, ordinances and local laws of the Town of Richmondville and the Village of Richmondville and on all matters referred to it by either the Town Board of the Town of Richmondville or the Board of Trustees of the Village of Richmondville and shall comply with all rules, regulations and other requirements mandated by law. As to property located within the Town of Richmondville, the procedural and substantive provisions of the Town of Richmondville Code and the (NYS) Town Law shall apply; as to property located within the Village of Richmondville, the procedure and substantive provisions of the Village of Richmondville Code and the (NYS) Village Law shall apply.

4. All meetings of the Joint Zoning Board of Appeals shall be held at the call of the Chairperson and at such times as a majority of the members of the full Joint Zoning Board of Appeals may determine. The Chairperson, or in his or her absence, the Vice-Chairperson may designate an alternate member to substitute for a member when such member is unable to participate on an application before the Joint Zoning Board of Appeals. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Joint Zoning Board of Appeals.

5. The Chairperson shall supervise the affairs of the Joint Zoning Board of Appeals, shall preside at meetings of the Joint Zoning Board of Appeals and shall appoint such committees of such size as maybe necessary, to carry out the purposes of the Joint Zoning Board of Appeals. The Chairperson shall be an ex-officio member of all committees so appointed.

6. The Vice-Chairperson shall perform such duties as maybe delegated by the Chairperson. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties and exercise all the powers of the Chairperson.

7. All meetings shall be conducted in accord with any by-laws or guidelines governing established by the Joint Zoning Board of Appeals and any guidelines established by the Chairperson, or in his or her absence, the Vice-Chairperson, in consideration of the matter(s) at hand. All meetings of the Joint Zoning Board of Appeals shall be open to the public.

8. The Joint Zoning Board of Appeals shall recommend to both the Town Board of the Town of Richmondville and the Village Board of Trustees of the Village of Richmondville a person to be appointed as the Joint Zoning Board of Appeals Secretary. The Joint Zoning Board of Appeals shall provide a Job Description to the appointed Secretary and a Performance Review with the Secretary shall be completed by both the Chairman and Vice-Chairman annually by no later than October 31st of each year. A copy of his or her review will be provided to the Town Supervisor of the Town of Richmondville and the Village Mayor of the Village of Richmondville.

9. The Joint Zoning Board of Appeals Secretary shall keep minutes and records of the proceedings, findings and official actions of the Joint Zoning Board of Appeals and shall record the vote of each member upon every question put to a vote or absent or failing to vote, indicating such fact. When an alternate member substitutes at a meeting, this fact shall be entered into the minutes.

10. All decisions of the Joint Zoning Board of Appeals shall be recorded in the minutes. An official copy of the approved minutes of the Joint Zoning Board of Appeals shall be filed with the Town of Richmondville Town Clerk and the Village of Richmondville Village Clerk monthly.

11. The concurring vote of a majority of the full membership of the Joint Zoning Board of Appeals shall be required to constitute an official action by the Joint Zoning Board of Appeals. A tie vote or a favorable vote by a lesser number than the required majority, shall be deemed a negative vote. No meeting or hearing of the Joint Zoning Board of Appeals shall be held in the absence of a quorum.

12. No member of the Joint Zoning Board of Appeals shall sit in hearing, deliberation or vote on any matter in which he or she is personally or financially interested. Said member shall not be counted by the Joint Zoning Board of Appeals in establishing the quorum for such matter.

13. The Joint Zoning Board of Appeals shall act in strict accordance with all the requirements of Town Law, Village Law, and Town and Village Zoning Law. All appeals and variance applications to the Joint Zoning Board of Appeals shall be in writing on a form prescribed by the Joint Zoning Board of Appeals and accompanied by the fee set by the Town Board. Every appeal or variance application shall cite the specific provisions of the Town of Richmondville Zoning Law or Village of Richmondville Zoning Law involved and shall set forth precisely the grounds for the appeal of or the basis for granting the variance, as case may be. In each instance, all necessary supporting evidence and data shall be attached to the appeal or application.

14. Within sixty (60) days after receipt of an appeal or variance application, the Joint Zoning Board of Appeals shall schedule a public hearing to be held following at least five (5) days notice published in the Town's officially designated newspaper. Such notice shall include a brief description of the order/decision appealed, or the specific nature of the variance sought, as the case may be, as well as the road or street address, the geographical location and the tax map identification of the parcel or property involved.

15. Written notice shall also be provided to all adjacent property owners and all other involved parties; when a use variance is involved written Notice shall also be provided to all neighboring property owners within 500 foot radius of any portion of the applicant's property.

16. At least thirty (30) days before the date of the hearing required by law on an application or appeal, a copy of the said application or appeal shall be forwarded to the Joint Planning Board for a recommendation. The Joint Zoning Board of Appeals shall refer to the Joint Planning Board such matters as required by these regulations and any other pertinent matters for review and recommendations and defer any decision thereof for a period of not more than thirty (30) days pending a report from the Joint Planning Board. Upon failure to submit such a report, the Joint Planning Board shall be deemed to have approved the application for appeal.

17. All variance or appeal actions of the Joint Zoning Board of Appeals that fall within the jurisdiction of General Municipal Law, Article 12-b, Section 239-m shall be referred to the Schoharie County Planning Commission for its review and action thereon prior to final local decision.

18. Within sixty-two (62) days following the final public hearing the Joint Zoning Board of Appeals shall reach its decision to accept or reject the appeal or variance application. Every decision of the Joint Zoning Board of Appeals shall be accompanied by a brief summary of the reasons for its action and shall be communicated to the applicant in writing within five (5) days. All actions taken by the Joint Zoning Board of Appeals shall be recorded into minutes, together with the summary of the reasons for its decision and a tally of the members votes thereon; said minutes shall be maintained in the Town Clerk's office and shall be available for public inspection during regular office hours.

19. Required interval for hearings on applications and appeals after denial. Whenever the Joint Zoning Board of Appeals, after hearing all the evidence presented upon an application or appeal under the provisions of these regulations, denies the same, the Joint Zoning Board of Appeals shall refuse to hold further hearings on said or substantially similar application or appeal by the same applicant, his successor, or assign for a period of one (1) year, except and unless the Joint Zoning Board of Appeals shall determine from the information supplied by the request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare, and that a reconsideration is justified. Such hearing would be allowable only upon a motion initiated by a member of the Joint Zoning Board of Appeals and adopted by the unanimous vote of the members present, but not less than a majority of all members.

20. Costs incurred by the Joint Zoning Board of Appeals for consultation fees, such as legal and engineering fees, or other out-of-pocket expenses in connection with the review of an application shall be passed on to the applicant on the contractual basis or hourly rate as charged by the consultant.

C. POWERS AND DUTIES - The Joint Zoning Board of Appeals shall have the following powers:

Interpretation: The Joint Zoning Board of Appeals shall have the power to interpret the provisions of the Town of Richmondville Zoning Law and the Village of Richmondville Zoning Law.

Review: The Joint Zoning Board of Appeals shall have the power to review any order or decision of the Town of Richmondville Zoning Enforcement Officer and the Village of Richmondville Zoning Enforcement Officer upon appeal by the person or persons affected.

Variances: The Joint Zoning Board of Appeals shall have the power to vary or modify the application of any regulations or provisions of the Town of Richmondville Zoning Law and the Village of Richmondville Zoning Law relating to the use of land or the use, construction, or alteration of buildings or structures, so that the spirit of the Town of Richmondville Zoning Law and the Village of Richmondville Zoning Law shall be observed, public safety and welfare secured and substantial justice done, in accordance with New York State.

SECTION 1105 – VARIANCES

On appeal from the decision or determination of the appropriate Zoning/Code Enforcement Officer, or otherwise as contemplated by this Law, the Joint Board of Appeals is authorized and empowered to grant use variances and area variances, subject to and upon the terms and conditions set forth herein.

A. Use Variances

1. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that otherwise applicable zoning regulations and restrictions have caused unnecessary hardship as set forth herein.

(a) Unnecessary Hardship. In order to prove the existence of an unnecessary hardship for purposes hereof the applicant is required to clearly demonstrate to the Joint Board of Appeals' satisfaction that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each and every of the following four criteria is satisfied: (i) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood involved; (iii) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (iv) that the alleged hardship has not been self-created.

(b) Reasonable Rate of Return. In evaluating whether the applicant can realize a reasonable

rate of return, the Board of Appeals shall examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the applicant has clearly demonstrated, by detailed, written "dollar and cents" proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district (including those uses permitted by special use permit).

(c) Unique Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.

(d) Essential Character of the Neighborhood. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the proposed project will not alter the essential character of the neighborhood. In making its determination of whether the proposed project will alter the essential character of the neighborhood, the Board of Appeals shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (i) the rural residential, agricultural and historic character of the Town, (ii) its irreplaceable recreation and tourism sites, (iii) the extent of hazard to life, limb or property that may result from the proposed project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (vii) whether the applicant will use a style of development that will result in degradation to the air quality, water quality or scenic and natural resources of the Town. In order to find that the proposed project does not alter the essential character of the neighborhood, the Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (x) pose a threat to the public safety, including public health, water quality or air quality, (y) cause an extraordinary public expense, or (z) create a nuisance.

(e) Self-Created Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Board of Appeals finds that the alleged hardship was not self-created. The Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that (i) the applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (ii) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (iii) when the applicant purchased the property, the applicant knew or should have known the property was subject to the zoning restrictions.

2. In addition to the application requirements from time to time established pursuant to law and this Law, an application for any use variance shall contain a typewritten narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for a use variance, including:

(a) Competent Financial Evidence. Competent written financial evidence containing reasonable written specification of, and back-up (confirmation) for, the nature and factual particulars

of such claim, and articulating the basis for the applicant's claim, and including, at a minimum (as to the entire parcel of which the proposed project is a part): (i) date of acquisition; (ii) the purchase price; (iii) present value of the property; (iv) the amount of real estate taxes; (v) the amount of mortgages or liens and other expenses; (vi) the asking price for the property when it had been offered for sale; (vii) the costs of demolishing any existing structures on the property; (vii) cost of erecting a new building(s) for each and every permitted use in the zoning district (including uses allowed by special use permit); (viii) efforts to market the property; and (ix) a schedule of all other property in common ownership at either the date of the enactment of this law or thereafter.

Competent written financial evidence must include written "dollars and cents proof" such as appraisals, economic studies, and any other written evidence supporting the applicant's contention that the desired relief is appropriate, including appraisals relating to any alleged diminution of all or substantially all of the fair market value of property. For the purposes of this Law, common ownership means all other interests in property either located within the Town or contiguous to the Town that is held by the any of the applicants (if more than one), whether such ownership is of a legal or equitable interest, in whole or in part, contiguous or not, and whether such property interest is held by any of the applicants through a legal or equitable interest in another corporation, partnership, trust, business, entity, association, fund, joint venture, or individually.

(b) Unique Nature of the Property. The applicant must provide evidence demonstrating the unique nature of the parcel as a whole. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto. Exceptional topographic conditions are an example of a factor demonstrating the unique nature of the property.

(c) Alteration of the Essential Character of the Neighborhood. The applicant must demonstrate that the proposed project will not adversely change the essential character of the neighborhood with regard to physical, economic, social or environmental elements. Adverse impacts to the essential character of the neighborhood include, but are not limited to, decreased quality or increased quantity of stormwater runoff, increased soil erosion, increased traffic congestion, decreased road quality, impairment of the scenic or rural character of roads, increased noise, dust, odor and/or glare, reduced wildlife habitat, decreased air quality, decreased water quality, impairment of the viewshed, creation of solid wastes, negative impacts on sustainability efforts, increased social costs, increased emergency response times, negative impacts to public infrastructure, decreased property values, and negative impacts on the health of area residents.

(d) Hardship Not Self-Created. In order to show that the hardship is not self-created, the applicant must demonstrate that either (i) when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or did not otherwise apply, or (ii) some other change has occurred since the applicant's purchase which makes the use non-conforming, as long as that change was not caused by the applicant.

3. The Board of Appeals, in the granting of use variances, shall grant only the minimum variance that it shall deem necessary and adequate to allow an economically beneficial use of the property, and at the same time preserve and protect the essential character of the neighborhood and the health, safety and welfare of the community.

4. The Board of Appeals, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such use variance may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this Law. If the applicant refuses to accept such requirements and conditions, the use variance shall be denied.

B. Area Variances.

1. In making a determination whether to grant, grant conditionally, or deny an application for an area variance, the Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, and balance this benefit against the detriment to the health, safety and welfare of the neighborhood or community by making such grant. In making such determination the Board shall consider each of the following factors: (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 area 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. (In contrast to the context of a *use* variance, in the context of an *area* variance application whether or not the alleged difficulty was self-created shall be relevant to the decision of the Board of Zoning Appeals but a finding that the difficulty was self-created shall not in and of itself preclude the granting of the area variance.)

2. The Board of Appeals, in the granting of area variances, shall grant the minimum area 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.

3. In addition to the application requirements from time to time established pursuant to law and this Law, applications for an area variance shall contain a typewritten narrative explaining what the application is for, and how the project meets or exceeds all of the criteria for an area variance.

4. The Board of Appeals shall, in the granting of area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such area variance may have on the neighborhood or community. If the applicant refuses to accept such requirements and conditions, the area variance shall be denied.

C. Effect of Denial. Where the Board of Appeals denies (on other than procedural grounds) a request for a use variance or area variance or otherwise rules against the applicant, the Board of Appeals may not consider another application requesting any or all of the same legal relief for a period of one (1) year from the date of such denial or withdrawal, except: (i) where ordered to do so by a court of

competent jurisdiction, or (ii) where the application is accompanied by an affidavit setting forth facts, to the satisfaction of the Board of Appeals, showing a substantial change of circumstances justifying a rehearing.

D. Redress. Any person or persons, jointly or severally aggrieved by any decision of the Joint Zoning Board of Appeals or any officer, department, board or bureau of the Town of Richmondville, may apply to the Supreme Court for relief by a proceeding under Article 78 of the New York State Civil Practice Laws & Rules.

SECTION 1106 – JOINT PLANNING BOARD

A. CREATION, COMPOSITION AND APPOINTMENT

1. **Creation** - The creation of a Joint Planning Board of the Town of Richmondville and the Village of Richmondville is hereby authorized. Said Joint Planning Board shall be the sole Planning Board within the Town of Richmondville. As and if required by applicable law, the Town and Village of Richmondville shall enter into an inter-municipal cooperative agreement further providing for such Joint Planning Board as provided herein and the resolution of related operational and administrative issues. The Planning Board of the Town of Richmondville, as established under §271 of the Town Law and previous duly adopted ordinance or local law of the Town Board, shall be abolished as of the effective date of the Joint Planning Board established under this law, subject, however, to the provisions of this law mandating the automatic reestablishment and effectiveness of the Town Planning Board upon the dissolution of the Joint Planning Board established hereunder.

2. **Conflict with Prior Local Laws** - If any local laws or parts of local laws of the Town of Richmondville are inconsistent with any of the provisions of this section, the terms of this section shall control. Wherever the term "Planning Board" is used in any local laws, ordinances, and codes of the Town of Richmondville, said term shall mean the Joint Planning Board as established by this law.

3. **Composition** - The Joint Planning Board shall consist of seven (7) members. Four (4) members shall be appointed by the Town Board of the Town of Richmondville and three (3) members shall be appointed by the Village Board of Trustees of the Village of Richmondville.

4. **Appointment** - The original Joint Planning Board shall be appointed as follows: the Town Board of the Town of Richmondville shall appoint four (4) members, one each for terms of one, two, four, and six years. The Board of Trustees of the Village of Richmondville shall appoint three (3) members, one each for terms of three, five, and seven years. All such appointments shall be made from those individuals serving on the preexisting Planning Boards of the Town and Village, unless such persons, or any one of them, are unable or willing to serve. Upon the expiration of the terms of the original members, successors shall be appointed by the same procedures, and by the same Board that appointed the original members, for a term of seven years. Terms shall run from January 1 through December 31.

5. **Removal** - The appointing governing body of an individual member shall have the power to remove the member pursuant to the appropriate sections of Article 7 of the Village Law or Article 16 of Town Law, for cause and after a public hearing.

6. **Vacancies** - Vacancies shall be filled by the appointment of replacement members by the same Board that appointed the member leaving office to fill the unexpired term of that member.

7. **Alternate Members** - Because it may sometimes be difficult to maintain a quorum on the Joint Planning Board due to members being ill, on extended vacation or finding they have a conflict of interest on a specific matter before such Board, in such instances, official business cannot be conducted and which may delay or impede adherence to required time limits. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this chapter.

    i. This section is hereby adopted pursuant to the provisions of §10 of the New York State Municipal Home Rule Law and §10 of the New York State Statute of Local Governments. It is the intent of the Town Board of the Town of Richmondville pursuant to §10 of the New York Municipal Home Rule Law, to supersede the provisions of §271 of the New York State Town Law relating to the appointment of members.

    ii. The Town Board of the Town of Richmondville shall initially appoint one (1) alternate member to the Joint Planning Board for a term of two (2) years. The alternate member shall comply with the same duties of the Joint Planning Board members described in the provisions of this law.

    iii. The alternate member can live in either the Town of Richmondville or the Village of Richmondville.

    iv. If a vacancy occurs, the alternate member serving at the time of the vacancy can be appointed to fill the vacancy for the remainder of that term. If the alternate member chooses not to fill the vacancy, that person can remain an alternate. Vacancies shall be filled by the appointment of replacement members by the same Board as appointed the member leaving office to fill the unexpired term of that member.

9. **Chair and Vice-Chair** - The members of the Joint Planning Board shall at their last meeting of the calendar year recommend to the Town Board and Village Board a Chairperson and Vice-Chairperson to act for the next calendar year. The Town Board and Village Board shall consider the recommendation and jointly make an appointment in January of each year.

10. **Compensation, Expenditures and Fees** - The Town and Village shall provide any compensation to be paid separately to their own appointed Planning Board members. All other costs and expenses involved in the formation and operation of the Joint Planning Board will be shared by the Town of Richmondville and the Village of Richmondville equally. The salary of the board secretary will be shared equally, one-half by the Town and one-half by the

Village, vouchered one-half to the Town and one-half to the Village. Upon approval by both the Town Board and Village Board, the Town and Village may equally provide for compensation to be paid to experts and for other such expenses as may be necessary and proper.

The Town of Richmondville shall retain all fees associated with matters brought before the Joint Zoning Board of Appeals involving property located in the Town outside of the Village boundary. The Village of Richmondville shall keep all fees associated with matters brought before the Joint Planning Board relating to property located within the Village boundaries. The purpose hereof is to permit separate or disparate fee or cost schedules that may be promulgated by each municipality. If any type of development or construction takes place on property located in both the Town of Richmondville and the Village of Richmondville, the required fees will be divided between municipalities according to the location of the development.

11. **Continuing Education and Training** - Every regular member and alternate member of the Joint Zoning Board of Appeals shall annually attend four (4) hours or more of training or continuing education course(s) related to work of the Joint Zoning Board of Appeals. On January 1 of each year, the Chair of the Joint Zoning Board of Appeals shall submit in writing to the Town and Village Clerks the training/course name, date attended, and location held for each training/course attended by Joint Zoning Board of Appeals members during the year. Failure of a member to attend required training may result in removal from the Joint Zoning Board of Appeals.

    Each Joint Zoning Board of Appeals member shall be required to attend seventy-five (75) percent of the scheduled meetings in each calendar year. At the discretion of the appointing governing board, failure to attend the required number of meetings without good cause may be grounds for removal from the Joint Zoning Board of Appeals. Attendance records for each member shall be kept by the Joint Zoning Board of Appeals Secretary and a copy provided to the Town and Village Clerks, annually.

B. GENERAL PROCEDURES

1. The Joint Planning Board shall act on all matters which shall come before it pursuant to the applicable codes, ordinances and local laws of the Town of Richmondville and the Village of Richmondville and on all matters referred to it by either the Town Board of the Town of Richmondville or the Board of Trustees of the Village of Richmondville and shall comply with all rules, regulations and other requirements mandated by law. As to property located within the Town of Richmondville, the procedural and substantive provisions of the Town of Richmondville Code and the (NYS) Town Law shall apply; as to property located within the Village of Richmondville, the procedure and substantive provisions of the Village of Richmondville Code and the (NYS) Village Law shall apply.

2. All meetings of the Joint Planning Board shall be held at the call of the Chairperson and at such times as a majority of the members of the full Joint Planning Board may determine. The Chairperson, or in his or her absence, the Vice-Chairperson may designate an alternate member to substitute for a member when such member is unable to participate on an

application before the Joint Planning Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Joint Planning Board.

3. The Chairperson shall supervise the affairs of the Joint Planning Board, shall preside at meetings of the Joint Planning Board and shall appoint such committees of such size as maybe necessary, to carry out the purposes of the Joint Planning Board. The Chairperson shall be an ex-officio member of all committees so appointed.

4. The Vice-Chairperson shall perform such duties as maybe delegated by the Chairperson. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties and exercise all the powers of the Chairperson.

5. All meetings shall be conducted in accord with any by-laws or guidelines governing established by the Joint Planning Board and any guidelines established by the Chairperson, or in his or her absence, the Vice-Chairperson, in consideration of the matter(s) at hand. All meetings of the Joint Planning Board shall be opened to the public.

6. The Joint Planning Board shall recommend to both the Town Board of the Town of Richmondville and the Village Board of Trustees of the Village of Richmondville a person to be appointed as the Joint Planning Board Secretary. The Joint Planning Board shall provide a Job Description to the appointed Secretary and a Performance Review with the Secretary shall be completed by both the Chairman and Vice-Chairman annually by no later than October 31st of each year. A copy of his or her review will be provided to the Town Supervisor of the Town of Richmondville and the Village Mayor of the Village of Richmondville.

7. The Joint Planning Board Secretary shall keep minutes and records of the proceedings, findings and official actions of the Joint Planning Board and shall record the vote of each member upon every question put to a vote or absent or failing to vote, indicating such fact. When an alternate member substitutes at a meeting, this fact shall be entered into the minutes.

8. All decisions of the Joint Planning Board shall be recorded in the minutes. An official copy of the approved minutes of the Joint Planning Board shall be filed with the Town of Richmondville Town Clerk and the Village of Richmondville Village Clerk monthly**.**

9. The concurring vote of a majority of the full membership of the Joint Planning Board shall be required to constitute an official action by the Joint Planning Board. A tie vote or a favorable vote by a lesser number than the required majority, shall be deemed a negative vote. No meeting or hearing of the Joint Planning Board shall be held in the absence of a quorum.

10. No member of the Joint Planning Board shall sit in hearing, deliberation or vote on any matter in which he or she is personally or financially interested. Said member shall not be counted by the Joint Planning Board in establishing the quorum for such matter.

11. Every rule, regulation, every amendment or repeal thereof and every order, requirement decision or determination of the Joint Planning Board shall immediately filed on the office of

the Town of Richmondville Town Clerk and the Village of Richmondville Village Clerk within five (5) business days and shall be a public record.

C. POWERS AND DUTIES

1. The Joint Planning Board shall have the authority to issue special use permits in accordance with this Law.

2. The Joint Planning Board shall have the authority to administer site plan review and approval provisions of this Law, contained in Article 9, and the Village of Richmondville Zoning Law.

3. The Joint Planning Board shall have the authority to review and approve subdivision plat(s) in accordance with the Subdivision Regulations of the Town and Village of Richmondville.

4. Participate in the preparation of a comprehensive plan or update, when directed by the Town Board of Richmondville and Village Board of Trustees of the Village of Richmondville.

5. The Joint Planning Board as requested by the Town Board of Richmondville and Village Board of Trustees of the Village of Richmondville can make investigations and reports relating to the planning of the Town of Richmondville and Village of Richmondville including recommending amendments to the zoning ordinance, adoption of the official map, and capital improvements that provide for the comfort, convenience, safety, health and welfare of its population.

6. Prepare other regulations relating to subject matter over which the Joint Planning Board has jurisdiction and recommend their adoption to the local legislature.

7. All actions of the Joint Planning Board that fall within the jurisdiction of General Municipal Law, Article 12-b, Section 239-m and n shall be referred to the Schoharie County Planning Commission for its review and action thereon prior to final local decision.

SECTION 1107 – JOINT BOARD DISSOLUTION

Except as may otherwise be provided for by inter-municipal cooperation agreement, the Joint Zoning Board of Appeals and/or Joint Planning Board established hereby shall be dissolved upon the duly adopted resolution of either the Town Board of Richmondville or the Board of Trustees of the Village of Richmondville. Upon any such resolution being duly adopted, a certified copy shall be delivered to each of the Town and Village of Richmondville's respective clerks for filing, and the Joint Zoning Board of Appeals and/or Joint Planning Board shall become dissolved and no longer in effect upon the last day of the second full month following such resolution and the latter of the dates of filing in the office of their respective Clerks ("dissolution date"). Except as otherwise determined by the respective (Town and Village) Boards, their respective appointed resident Zoning Board of Appeals members and/or Planning Board members shall continue in such position on their respective Town and Village Zoning Board of Appeals and/or Planning Board, upon such terms and conditions, and as supplemented by those additional members, conditions and provisions as may be determined by their respective (Town and Village) Boards and applicable state law not superceded hereby, and the Town Zoning Board of Appeals and/or Planning Board, as previously established, shall be deemed reestablished and in full force and effect upon the day following the dissolution date, such

establishment to be automatic, subject and pursuant to Town Law §267/271, and, upon such reestablishment, with the minimum number of members required under Town Law §267/271.

SECTION 1108 - REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained; or any building structure or land is used in violation of this Law, the proper local authorities of the Town of Richmondville, in addition to other remedies, may institute any appropriate actions or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance 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.

SECTION 1109 - PENALTIES

A. Any person, firm or corporation who violates, disobeys, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Law shall be guilty of an offense subject to a fine or imprisonment as provided for in Section 268 of the Town Law of the State of New York which is hereby adopted by reference and made part of this law.

B. Each week or portion thereof, that a violation is continued shall be deemed a separate offense.

SECTION 1110 - AMENDMENTS

The regulations, restrictions and boundaries established by this Law may from time to time be amended, supplemented, changed or repealed by Law as is provided by Section 265 of the Town Law of the State of New York.

ARTICLE 12 - VALIDITY

SECTION 1200 – VALIDITY

If any section, sub-section, sentence, clause or phrase of this Law is for any reason held to be unconstitutional or invalid, such decision shall not affect its remaining portions. The Town Board of Richmondville hereby declares it would have passed this Law and each section and sub-section there irrespective of the fact that any one or more of its sections, sub-sections, clauses or phrases may be found by court action to be unconstitutional or otherwise invalid.

ARTICLE 13 - REPEAL OF CONFLICTING LAWS, ORDINANCES AND EFFECTIVE DATE

SECTION 1300 - REPEAL OF CONFLICTING LAWS AND ORDINANCES

All laws and ordinances and parts of laws and ordinances of the Town of Richmondville inconsistent herewith, are hereby expressly repealed.

SECTION 1301 - EFFECTIVE DATE

This Law shall be in full force and effect, as amended, from and after its passage, and filing with the New York State Secretary of State's Office.