

# *Town of Homer*

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# *Zoning Law*

*Prepared with assistance from:  
Cortland County Planning Dept.*

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ARTICLE I

GENERAL PROVISIONS

SECTION 101	<b><u>TITLE:</u></b> These regulations shall be known as and may be cited as the “Town of Homer Zoning Law”.
SECTION 102	<b><u>PURPOSE:</u></b> The objectives of this Zoning Law are to: <ol style="list-style-type: none"><li>1. Protect the open and natural character of the land.</li><li>2. Protect the Cortland – Homer – Preble Sole Source Aquifer.</li><li>3. Provide for planned growth of agricultural, residential, commercial and industrial use of land consistent with the goals and objectives of the Town Comprehensive Plan and the economic and social needs of the community.</li><li>4. Provide for more intensive protection of the Town’s lakes, pond &amp; waterways.</li><li>5. Preserve the Town’s natural resources and habitats.</li><li>6. Encourage the use of alternative energy systems and protect solar and wind access.</li><li>7. Promote the health, safety and general welfare of the Town consistent with the objectives of Town Law Section 263.</li></ol>
SECTION 103	<b><u>ENFORCEMENT:</u></b> This Law shall be administered and enforced by the Code Enforcement Officer.
SECTION 104	<b><u>CONFLICT WITH OTHER LAWS:</u></b> Whenever the requirements of this Law are at variance with the requirements of any lawfully adopted rules, regulations or laws, the most restrictive of those imposing the higher standards shall govern.
SECTION 105	<b><u>VALIDITY AND SERVERABILITY:</u></b> Should any section of or provisions of this Law be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.
SECTION 106	<b><u>FEES:</u></b> Permit fees shall be collected and paid according to the fee structure in effect at the time of application.

SECTION 107	<p><b><u>PENALTIES FOR OFFENSES:</u></b>  A violation of any provision of this chapter is hereby declared to be an offense punishable by a fine not exceeding three hundred fifty dollars (\$350.) or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.) nor more than seven hundred dollars (\$700.) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.) nor more than one thousand dollars (\$1,000.) or imprisonment for a period not to exceed six (6) months, or both. Each week's violation shall constitute a separate additional violation.</p>
SECTION 108	<p><b><u>ACTIONS FOR INJUNCTION:</u></b>  The Town may obtain an action to restrain by injunction any violation of this Law or any failure to comply with any of the provisions of this Law.</p>
SECTION 109	<p><b><u>REMOVAL OF VIOLATIONS:</u></b>  Any building or structure erected, or any use conducted without a zoning permit or certificate of occupancy, where required, or not in conformity with the provisions of this Law may be removed, closed or halted at once by the Zoning Enforcement Officer with the issuance of a stop order, with the assistance, if deemed necessary, of any appropriate Town officer or employee.</p>
SECTION 110	<p><b><u>AMENDMENTS:</u></b>  The Town Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend, supplement, change, modify or repeal this Zoning Law in accordance with the applicable provisions of this Law.</p>
SECTION 111	<p><b><u>REPEAL OF PRIOR ZONING LAW:</u></b></p> <ol style="list-style-type: none"> <li>1. The Town of Homer zoning laws previously in effect and all amendments thereto shall be, and hereby are repealed on and as of the effective date of this Zoning Law.</li> <li>2. The adoption of this Zoning Law shall not affect or impair any permit granted, any act done, offense committed, or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the effective date of this Zoning Law, or under any prior Zoning Law of the Town of Homer; but the same may be enjoyed, ascertained, enforced, prosecuted or inflicted as fully and to the same extent as if this Zoning Law had not been adopted.</li> <li>3. This zoning law is enacted pursuant to the Municipal Home Rule Law.</li> </ol>

## ARTICLE II

### DEFINITIONS AND WORD USAGE

SECTION 201	<p><b><u>WORD USAGE:</u></b>  All terms used in the present tense include the future tense. All terms in the plural number include the singular number, and all terms in the singular number include the plural number, unless the natural construction of the terms indicates otherwise. The term “person” includes a firm, association, organization, partnership, trust, company or individual. The term “shall” is mandatory and directly. The term “may” is permissive. The term “used” or “occupied” includes the terms “designated, intended or arranged to be used, or occupied”.</p>
SECTION 202	<p><b><u>DEFINITIONS:</u></b></p>
	<p><b><u>ACCESSORY USE OR STRUCTURE:</u></b> A use or structure on the same lot and of a nature customarily incidental and subordinate to the principal use or structure which may include alternate energy systems.</p>
	<p><b><u>ADVERSE IMPACT:</u></b> A negative impact to land or waters resulting from a construction or development activity. The negative impact includes increased risk of flooding, degradation of water quality, sedimentation, reduced groundwater recharge, impacts on aquatic organisms or other resources, or threats to public health.</p>
	<p><b><u>AGRICULTURE/AGRICULTURAL ACTIVITY:</u></b> The use of land for raising crops and/or livestock, including, but not limited to, tilling of the soil, dairying, pasture, aquaculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal or poultry husbandry and the necessary accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. This shall not include the operation of a dude ranch or similar operations. (For more information, see Right To Farm Law and Local Law #1 for 1994.)</p>
	<p><b><u>ANIMAL HOSPITAL:</u></b> A business that treats animals and regularly houses them on premises overnight and for extended periods for treatment.</p>
	<p><b><u>ANIMAL HUSBANDRY:</u></b> The production of domestic animals and livestock, including breeding, feeding and management.</p>
	<p><b><u>APPLICANT:</u></b> A property owner or agent of a property owner who has filed an application for land development activity.</p>
	<p><b><u>AQUIFER:</u></b> A saturated, permeable geologic material capable of yielding amounts of water sufficient for private and public use.</p>



	<u>AQUIFER PROTECTION DISTRICT MAP</u> : The Aquifer Protection District Map shall be the official map adopted by the Town of Homer and delineated to indicate where portions of the Town of Homer are underlain by any aquifers which now serve and/or in the future may serve as the water supply for the Town of Homer or its neighboring municipalities.
	<u>AREA, BUILDING</u> : The area taken up on a horizontal plane at the grade level of the principal building or accessory building exclusive of uncovered porches, terraces and steps.
	<u>AREA OF SPECIAL FLOOD HAZARD</u> : The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year as designated on a Flood Insurance Rate Map.
	<u>AREA REGULATIONS</u> : Those regulations which refer to dimensional requirements of this chapter, such as but not limited to lot size, lot width and depth, yard dimensions, floor area ratio, percentage of lot covered, percentage of impervious material, building height and number of parking spaces, density, and supplemental regulations which refer to dimensional or numerical requirements.
	<u>AS-BUILT PLANS</u> : A set of engineering or site drawings that delineate the specific permitted stormwater management facility as actually constructed.
	<u>AWNING AND/OR CANOPY</u> : A roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a structure and is constructed of durable materials, including but not limited to fabrics and/or plastics.
	<u>BANNER</u> : Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one (1) or more edges.
	<u>BILLBOARD</u> : A surface whereupon advertising matter is set in view conspicuously and which advertising does not apply to the premises or any uses of the premises wherein it is displayed or posted.
	<u>BUFFER STRIP</u> : A row of densely planted shrubs and/or trees with low branches intended to reduce noise and/or screen out objectionable views.
	<u>BUILDING</u> : Any structure having a roof supported by walls or columns and intended for the shelter, housing or enclosure of persons, animals or chattels.
	<u>BUILDING, ACCESSORY</u> : A subordinate structure clearly incidental to the principal building on the same lot and used for purposes customarily incidental to those of the principal building, such as a garage, carport, tool or storage shed, gazebo, screen house or animal shelter.
	<u>BUILDING, HEIGHT</u> : The vertical distance measured from the average

	elevation of the proposed grade line of the ground around the building to the mean height between eaves and ridge for pitched roofs and to the highest part of the roof for flat roofs.
	<u>BUILDING LINE</u> : A line formed by the intersection of a horizontal plane of average grade level and a vertical plane that coincides with the exterior surface of the building on any side, excluding steps. In case of a cantilevered section of a building or a projected roof or porch, the vertical plane will coincide with the most projected surface. All yard measurements are measured to the building line.
	<u>BUILDING, PRINCIPAL</u> : A building or buildings within which is conducted the primary and associated activities of the lot on which the building is located.
	<u>BULK STORAGE</u> : Materials stored in large quantities which are usually dispensed in smaller units for use or consumption.
	<u>BUSINESS, CONVENIENCE</u> : Small commercial establishments catering primarily to nearby residential areas providing convenience goods and services including but not limited to grocery stores (of less than 5,000 square feet in floor area), drug stores, beauty salons, barber shops, carry-out dry cleaning and laundry pick-up stations.
	<u>CAMPGROUND</u> : A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.
	<u>CATCH BASIN (DRAIN INLET)</u> : A structure which allows the entry of surface runoff into a storm sewer by connection to the storm sewer.
	<u>CERTIFICATE OF ZONING COMPLIANCE</u> : An official statement by the Zoning Officer which indicates that a structure or use complies with this chapter or conditions imposed by the Town or any Board thereof.
	<u>CHANNEL</u> : A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
	<u>CHURCH</u> : Any structure used for worship or religious instruction, including administrative rooms accessory thereto.
	<u>CLEARING</u> : Any activity that removes the vegetative surface cover.
	<u>CLUB</u> : Any premises catering exclusively to members of any organization and their guests, not operating for profit and containing no merchandising or commercial activities except as required for the membership and purposes of such club. For the purpose of this code “clubs” shall include, but not be limited to, lodges, fraternal organizations, mutual benefit societies, and other like organizations.

	<u>CONDITIONAL PERMIT</u> : A permit issued by the Town Planning Board in accordance with Article <u>XVI</u> .
	<u>CONDITIONAL USE</u> : A use which is deemed allowable within a given zoning district, but is potentially incompatible with other uses, and therefore is subject to special standards and conditions set forth for such use subject to approval of the Planning Board.
	<u>CONSTRUCTION ACTIVITY</u> : Land development, site preparation, building erection or the installation of infrastructure and improvements.
	<u>CONSUMPTIVE USE</u> : The loss of water from a ground-water or surface water source through a manmade conveyance system (including such water that is purveyed through a public water supply system) due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, diversion from the WATERSHED OR RECHARGE AREA, or any other process by which the water withdrawn is not returned to the WATERSHED OR RECHARGE AREA undiminished in quantity. Deep well injection below freshwater aquifers shall not be considered a return to the WATERSHED OR RECHARGE AREA.
	<u>CONTAMINATION</u> : The degradation of natural water quality as a result of human activities to the extent that its usefulness is impaired.
	<u>COPY</u> : Characters, letters or illustrations that can be changed or rearranged on a changeable copy sign.
	<u>DEDICATION</u> : The deliberate appropriation of property by its owner for general public use.
	<u>DESIGN MANUAL</u> : The <i>New York State Stormwater Management Design Manual</i> , most recent version including applicable updates, that serves as the official guide to stormwater management principles, methods and practices.
	<u>DETENTION</u> : The temporary storage of stormwater runoff.
	<u>DETENTION STRUCTURE</u> : A permanent stormwater management structure whose primary purpose is to temporarily store stormwater runoff. A detention structure may be dry during nonstorm events or may have a permanent pool of water.
	<u>DEVELOPER</u> : A person, corporation, organization or agency undertaking activities covered by these regulations, or for whose benefit activities covered by these regulations are commenced and/or carried out.
	<u>DEVELOPMENT</u> : To make a site or area available for use by physical alteration. Development includes but is not limited to providing access to a site, clearing of vegetation, grading, earth moving, paving, providing utilities

	and other services such as parking facilities, stormwater management and erosion control systems and sewage disposal system, altering landforms or construction of a structure on the land.
	<u>DISCHARGE</u> : The disposal, deposit, injection, dumping, spilling, leaking or release by any other means of a substance to the surface or subsurface of the ground, surface waters or groundwater.
	<u>DIVERSION</u> : Channel constructed across a slope for the purpose of intercepting surface runoff; also; changing the accustomed course of all or part of a stream.
	<u>DOMESTIC LIVESTOCK</u> : Cattle, horses, sheep, goats, swine, chickens, turkeys, ducks, geese, and any other commonly domesticated animals kept on a farm.
	<u>DOMESTIC PETS</u> : Dogs, cats, songbirds, tropical fish, and other animals commonly sold in pet shops and kept as pets.
	<u>DRAINAGE</u> : The gravitational movement of water by surface runoff or subsurface flow; also, the removal of excess surface water or groundwater from land by means of surface or subsurface drains.
	<u>DRAINAGE AREA</u> : The land area contributing surface runoff or subsurface water flows to a single point.
	<u>DRIVE-IN/TAKE-OUT AND/OR PACKAGE FOOD RESTAURANTS</u> : A facility wherein food products, including meals, baked goods, specialty items such as pizza, fried chicken or fish, hamburgers or hotdogs, barbequed meats, and similar items are prepared and or packaged and sold on-premises directly to the consumer for consumption off-premises or within a parking or picnic area on the premises, and which facility is designed and/or advertised primarily for such purposes, as distinguished from restaurants designed and utilized primarily for on-premises consumption. Such facilities, which also provide interior eating facilities, shall still be considered package food or drive-in restaurants. Restaurants offering delivery of food products prepared on premises shall be considered package food or drive-in restaurants.
	<u>DRY WELL</u> : A small infiltration trench to which inflow is conducted via pipe. It is commonly covered with soil and used for drainage areas of less than one acre such as roadside inlets and rooftop runoff.
	<u>DWELLING</u> : A building that contains one or two dwelling units used, intended or designed to be built, used or rented, leased, let or hired out to be occupied, or that are occupied for dwelling purposes.
	<u>EROSION</u> : The removal of soil particles by the action of water, wind, ice or other geological agents.

	<u>EROSION CONTROL MANUAL</u> : The most recent version of the <i>New York Standards and Specifications for Erosion and Sediment Control</i> manual, commonly known as the “Blue Book.”
	<u>ESSENTIAL SERVICES</u> : Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.
	<u>EXCAVATION</u> : Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.
	<u>EXTERIOR ENTRANCE</u> : A direct entrance from a public way to a habitable or tenantable space.
	<u>EXTERIOR ROAD LINE</u> : The highway right of way boundary as determined by easement or survey.
	<u>FARM</u> : Any parcel of land used primarily for the production of agricultural products, livestock or poultry and commercial stables, nursery, greenhouse or forest products, and including buildings and appurtenances necessary thereto.
	<u>FENCE</u> : A structure designed to separate one portion of land from another. For the purposes of this chapter, fences shall also include walls, screens or hedges.
	<u>FILLING</u> : Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds or watercourses.
	<u>FIRST FLUSH</u> : The delivery of a disproportionately large load of pollutants during the early part of storms due to the rapid runoff of accumulated pollutants. The first flush is defined as the runoff generated from the first ½ inch of runoff from the entire site from land which has been made less pervious than the pre-development conditions through land grading and/or construction/development activities.
	<u>FLAG</u> : Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.
	<u>FLOOD HAZARD AREA, SPECIAL</u> : Maximum area of the flood plain that, on the average, is likely to flood once every 100 years.
	<u>FLOOD INSURANCE RATE MAP</u> : The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk-premium zones applicable to the community.

	<u>FLOOD INSURANCE STUDY</u> : Official report provided in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Hazard Boundary – Floodway Map and the surface elevation of the base flood
	<u>FLOOD PLAIN</u> : A land adjoining a river, stream, watercourse, pond or lake which is susceptible to flooding.
	<u>FLOODWAY</u> : The channel or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
	<u>GARAGE, COMMERCIAL</u> : An enclosed building used as a business for the indoor storage and/or repair of motor vehicles, trailers and/or farm equipment, including painting and the sale of part and accessories. A junkyard or auto salvage yard is not to be construed as a garage.
	<u>GARAGE, PRIVATE</u> : An enclosed building for use by the inhabitants of a dwelling for private storage.
	<u>GARAGE SALE</u> : Sale of used goods from a private residence.
	<u>GASOLINE STATION</u> : A building servicing motor vehicles and/or supplying fuel, lubrication, supplies or accessories but not including painting or body repair.
	<u>GRADING</u> : Alteration of the surface or subsurface conditions of land or water bodies by excavating, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof.
	<u>GREENHOUSE</u> : A wood or metal frame structure covered with transparent or opaque material, and used to grow plant products for sale or transplantation.
	<u>GROUNDWATER</u> : Water residing below the land surface that fully saturates bedrock fractures or the pore spaces between unconsolidated deposits such as sand, gravel, silt or clay.
	<u>GROUP HOME</u> : A single family residence used for the provision of health or social care for unrelated persons.
	<u>HABITABLE FLOOR</u> : Any floor of a dwelling usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof (a floor used only for storage purposes is not a habitable floor).
	<u>HAZARDOUS MATERIAL</u> : Any substance found listed in either 40 CFR 261, 40 CFR 302, 6 NYCRR 371, of 6NYCRR 597, alone or in combination, including but not limited to petroleum products, organic

	chemical solvents, heavy metal sludges, acids with a pH less than or equal to two (2), alkalis with a pH greater than or equal to twelve point five (12.5), radioactive substances, pathological or infectious wastes or any material exhibiting the characteristics of ignitability, corrosivity, reactivity or EP toxicity.
	<u>HOME OCCUPATION</u> : An occupation or profession which is carried on by residents of the dwelling unit and is clearly incidental and accessory or secondary to the use of the dwelling unit for residential purposes.
	<u>HOSPITAL</u> : A building used primarily for the diagnosis, treatment or other care of human ailments, including clinics, but not solely for permanent lodging of aged persons.
	<u>HOTEL</u> : A building used primarily to provide sleeping accommodations for the transient public in which rooms are available for hire which may contain accessory facilities such as restaurants, meeting rooms and small retail outlets. Motels, inns, tourist courts and other transient lodgings are included in this definition.
	<u>IMPERVIOUS SURFACE/COVER</u> : Any surface, improvement or structure which impedes the flow of water to the underlying soil, including, but not limited to buildings; roadways, parking areas and pedestrian walkways (whether paved or unpaved); and any other paved or severely compacted surface.
	<u>INDUSTRIAL STORMWATER PERMIT</u> : A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.
	<u>INFILTRATION</u> : The process of percolating stormwater into the subsoil, and potentially into groundwater.
	<u>INFILTRATION PRACTICE</u> : The infiltration of runoff on-site by the use of vegetative depressions and buffer areas, pervious surfaces, drywells, basins and trenches, permitting immediate recharge into groundwater.
	<u>JUNK VEHICLE</u> : A motor vehicle which does not have a current Motor Vehicle Registration and is inoperable and/or incapable of passing a New York State Motor Vehicle Inspection.
	<u>JUNKYARD</u> : A lot or building or part thereof used for collecting, storing, sale, recycling, salvage or dismantling of discarded or unlicensed vehicles, machinery, appliances, paper, scrap, rags and similar discarded material or for the sale or storage of parts thereof.
	<u>JURISDICTIONAL WETLAND</u> : An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to

	support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
	<u>KENNEL</u> : Any lot or premises on which four (4) or more domestic animals more than four (4) months of age are housed, groomed, bred, boarded, trained or sold.
	<u>LAND DEVELOPMENT ACTIVITY</u> : Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance.
	<u>LAND DISTURBING ACTIVITY</u> : A land change or construction activity for residential, commercial, silviculture, industrial and institutional land use which may result in soil erosion from water or land, or may result in the movement of sediments or pollutants, or may result in accelerated stormwater runoff; including site preparation activities, stripping, land clearing, grading, excavation, filling, earth moving activities, paving and construction of building or structures.
	<u>LANDOWNER</u> : The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.
	<u>LANDSCAPING</u> : The act of changing or enhancing the natural features of a plot of ground (usually around a building) so as to make it more attractive, as by grading, adding fill, adding lawns, trees, bushes, shrubs, etc.
	<u>LIMITED BUSINESS USE</u> : A business use of land or buildings secondary to the actual operation of a farm, such use being limited in duration and being limited to the named owner or owners of the property and members of their immediate family resident thereon.
	<u>LINEAR DISTANCE</u> : The shortest horizontal distance from the nearest point of a structure or object to the boundary of any protection area, or to the margin or steep bank forming the normal high-water line of a watercourse.
	<u>LOGO</u> : Any picture, shape or drawing, with or without letters or words, used to identify a product, service, business or organization.
	<u>LOT</u> : A parcel of land identified by a tax parcel number and occupied by one (1) principal building and the accessory buildings for uses customarily incident to it, including such open spaces as are used in connection with such buildings.
	<u>LOT AREA</u> : An area of land the size of which is determined by the limits of the lines bounding said area and usually expressed in terms of square feet or acres.
	<u>LOT, CORNER</u> : A lot fronting on two streets at their intersection with two



	required front yards and two required side yards. No rear yards are required.
	<u>LOT COVERAGE</u> : That portion of the lot area within the building lines of principal and accessory structures, uses, and/or utilized for parking.
	<u>LOT DEPTH</u> : The average horizontal distance from a lot's front line to its rear lot line, measured in the general direction of its side lot lines from the nearest boundary line or right-of-way line of the street or highway.
	<u>LOT LINE</u> : Any line dividing one lot from another.
	<u>LOT, NONCONFORMING</u> : A lot existing at the time of enactment of this chapter or any amendment thereto, and which does not conform to the regulations of the district in which it is situated.
	<u>LOT WIDTH</u> : The width of a lot measured at right angles to its depth at the front building line.
	<u>MAINTENANCE AGREEMENT</u> : A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
	<u>MANUFACTURED HOME</u> : A dwelling designed to be transported on its own wheels or those of another vehicle, bearing a HUD seal, and being permanently connected to utilities upon being placed. A manufactured home is capable of long-term occupancy as living quarters whether or not set on a masonry foundation and with or without wheels and/or axles removed. A manufactured home includes all additions made subsequent to installation and any structures appurtenant thereto. A manufactured home does not include a travel trailer or motorhome not designed for long-term occupancy.
	<u>MANUFACTURED HOME; DOUBLEWIDE</u> : A manufactured home which is wider than twenty feet, and is transported in two or more sections.
	<u>MANUFACTURED HOME; SINGLEWIDE</u> : A manufactured home which is sixteen feet or narrower, and is transported in one section only.
	<u>MANUFACTURED HOME PARK (MOBILE HOME PARK)</u> : Any lot, field, plot, parcel or tract of land on which two (2) or more manufactured homes are parked or located and for which use said premises are offered to the public for a fee. This definition shall not include manufactured homes on a property used for agricultural purposes as living quarters for persons employed on said property.
	<u>MARQUEE</u> : Any hood, canopy, awning or permanent construction that projects from a wall of a building, usually above an entrance.
	<u>MINING</u> : The removal of topsoil, sand, gravel, aggregate or stone from a lot for commercial purposes.

	<u>MODULAR HOME</u> : A dwelling constructed in sections by the manufacturer and placed on a standard foundation upon installation. Modular homes conform to New York State Fire Prevention and Building Code, and do not bear a HUD seal.
	<u>MOTOR VEHICLE REPAIR SHOP</u> : A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles.
	<u>MULCH</u> : A layer of plant residue or other material applied to the land surface for the purpose of controlling erosion.
	<u>MULTI-FAMILY DWELLING</u> : A structure with three or more dwelling units.
	<u>NEW CONSTRUCTION</u> : Structures for which the start of construction commenced on or after the effective date of this chapter.
	<u>NONCONFORMING STRUCTURE</u> : A structure lawfully existing at the time of enactment of this chapter or any amendment which does not conform to the regulations of this chapter for the district in which it is situated.
	<u>NONCONFORMING USE</u> : A building, structure or use of land existing at the time of enactment or amendment of this chapter which does not conform to the zoning regulations of the district in which it is situated.
	<u>NONPOINT SOURCE POLLUTION</u> : Pollution from any source other than from discernable, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
	<u>NURSING OR CONVALESCENT HOME</u> : A building other than a hospital, where persons, except insane, mentally handicapped, drug or alcohol patients, are lodged and furnished with meals and nursing care for hire.
	<u>OCCUPIED</u> : Includes the words “designed or intended to be occupied.”
	<u>ON-SITE STORMWATER MANAGEMENT</u> : The design and construction of stormwater management practices that are required for a specific land disturbing activity, on the site where the land disturbing activity occurs.
	<u>OPEN SPACE</u> : Land not covered by buildings, parking lots, open storage, mining operations, or any other use that usually obscures the natural or improved landscape, except for recreational facilities.
	<u>PARKING LOT</u> : Any paved or unpaved area reserved for parking of vehicles. Parking lots shall not be considered a structure.

	<u>PARKING SPACE</u> : An off-street space available for parking one automobile and which is an area at least ten (10) feet wide and twenty (20) feet long, not including maneuvering area and access drives.
	<u>PAVEMENT</u> : Materials which form a firm or solid surface for the purpose of vehicular or pedestrian travel or parking; including concrete, asphalt, gravel, stone, brick, or a combination thereof.
	<u>PEAK FLOW</u> : The maximum rate of flow of water at a given point and time resulting from a storm event.
	<u>PEAK FLOW ATTENUATION</u> : The reduction of the peak discharge of storm runoff by storage and gradual release of that storage.
	<u>PERMITTED USE</u> : A land use allowed under the regulations of this law.
	<u>PHASING</u> : Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next parcel.
	<u>PLAN</u> : The Stormwater Pollution Prevention Plan for a given project.
	<u>PLAN, BUILDING</u> : Architectural and engineering drawings showing how a structure is to be constructed.
	<u>PLAN, SITE OR PLOT</u> : A drawing ordinarily to scale depicting existing and proposed physical features of a parcel, usually including structures, utilities and topographical information.
	<u>POLLUTANT OF CONCERN</u> : Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any body of water that will receive a discharge from the land development activity.
	<u>PONDING</u> : The incidental accumulation of surface runoff water on the land surface in an area not designed as part of a stormwater management system as a detention, retention or infiltration area.
	<u>PROFESSIONAL OFFICES</u> : The office or place of business where professional services are offered and does not include the sale of goods, or the keeping of stock in trade. Professional offices include, but are not limited to, doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate and insurance agents and brokers, psychologists and chiropractors.
	<u>PROJECT</u> : Land development activity.
	<u>PUBLIC BUILDINGS AND GROUNDS</u> : Any building or grounds owned by any municipal, state or federal governmental agency.

	<u>PUBLIC SEWER AND WATER FACILITIES</u> : Any sewage disposal system or water supply and distribution system authorized for public use, whether for residential subdivision, or for commercial, industrial or manufacturing buildings, and approved by the State and County Departments of Health, the Department of Environmental Conservation and any other governmental agency having jurisdiction thereof.
	<u>RECHARGE</u> : The replenishment of groundwater/aquifers.
	<u>REFLECTIVE SURFACE</u> : Any material or device which has the effect of intensifying reflected light, such as Scotchlite (™), Dayglo (™) or glass beads.
	<u>REGIONAL STORMWATER MANAGEMENT</u> : The design and construction of regional stormwater management facilities that are necessary to control stormwater discharge from more than one land disturbing activity.
	<u>RESTAURANT</u> : A building or portion thereof where food and/or beverages, whether or not alcoholic, are sold to the public for consumption on or off premises.
	<u>RESTAURANT; DRIVE-THROUGH</u> : A building or portion thereof where food and/or beverages, whether or not alcoholic, are sold to the public without the purchaser having to get out of their vehicle. This definition applies even when customers can also eat inside at tables.
	<u>RETENTION</u> : A practice designed to store stormwater runoff by collection as a permanent pool of water without release except by means of evaporation, infiltration or attenuated release when runoff volumes exceeds the storage capacity of the pool.
	<u>RIGHT-OF-WAY</u> : A non-possessory right or privilege, created by either instrument or usage, granting the use of land to a person or persons not the owner thereof for passage thereon.
	<u>ROAD FRONTAGE</u> : The distance between side lot lines measured at the street right-of-way line.
	<u>ROADSIDE STAND</u> : A small temporary structure, booth, stall or facility used for the retail sales of goods to passersby.
	<u>RUNOFF</u> : That portion of the precipitation on-site that is discharged from the site across the surface of land, pavement or rooftops.
	<u>SCHOOL</u> : A public or private not-for-profit elementary or secondary educational institution, or an institution of higher learning.
	<u>SCREENING</u> : A permanently maintained barrier, including but not limited

	to fences, bushes or trees or other natural and/or artificial material, which is designed to obscure any particular character of any given building or use of land.
	<u>SEDIMENT</u> : Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited, or has been removed from its site of origin by erosion.
	<u>SEDIMENTATION</u> : The action or process of forming or depositing sediment.
	<u>SEDIMENT CONTROL</u> : Measures that prevent eroded sediment from leaving the site.
	<u>SENSITIVE AREAS</u> : Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.
	<u>SEQR</u> : The New York State Environmental Quality Review Act and regulations.
	<u>SIGN</u> : Any material, structure or device, or part thereof, composing 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 an advertisement, announcement, notice or name, and shall include any declaration, demonstration, 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.
	<u>SIGN AREA</u> : The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the area shall be determined by projected, enclosed, four sided (straight sides) geometric shape which most closely outlines said sign.
	<u>SIGN; AWNING AND/OR CANOPY</u> : Any sign that is part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a “canopy”.
	<u>SIGN; BUILDING DIRECTORY</u> : A sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.
	<u>SIGN; CHANGEABLE COPY</u> : A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign.
	<u>SIGN; DIRECTIONAL</u> : Any sign limited to directional messages, principally for pedestrian or vehicular traffic, such as “one way,” “entrance”

	or “exit.”
	<u>SIGN; FREESTANDING</u> : A sign supported by one (1) or more upright poles, columns or braces placed in or upon the ground and not attached to any building or structure.
	<u>SIGN; GRAPHIC</u> : A sign which is an integral part of a building façade. The sign is painted directly on, carved in or otherwise permanently embedded in the façade.
	<u>SIGN; HOLIDAY DECORATION</u> : Temporary signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.
	<u>SIGN; ILLUMINATED (DIRECTLY)</u> : A sign designed to give forth artificial light directly from a source of light within such sign.
	<u>SIGN; ILLUMINATED (INDIRECTLY)</u> : A sign illuminated with a light so shielded that no direct rays there from are visible elsewhere on the lot where said illumination occurs.
	<u>SIGN; POLE</u> : A sign that is mounted on a freestanding pole or other supports.
	<u>SIGN; POLITICAL</u> : A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election or caucus.
	<u>SIGN; PORTABLE</u> : A sign, whether on its own trailer, wheels or otherwise designed to be mobile and not structurally attached to the ground, a building, a structure or another sign.
	<u>SIGN; PROJECTING</u> : Any sign other than a wall sign which is attached to and projects from a wall or face of a building or structure.
	<u>SIGN; SEE-THROUGH LETTERED</u> : Letters on a sign with transparent background, such as lettering on a window.
	<u>SIGN; ROOF</u> : A sign which is mounted upon the roof of a building.
	<u>SIGN; VEHICLE</u> : Signs displayed on licensed and registered motor vehicles which are used in conjunction with a business.
	<u>SIGN; WALL</u> : A sign attached to and erected parallel to the face of a building and supported throughout its length by such building.
	<u>SIGN; WINDOW</u> : 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 (4) feet of the window, but not including graphics in connection with customary window display of products.
	<u>SIGN; WINDOW, TEMPORARY</u> : A window sign not permanently affixed that does not identify the tenant, occupant or establishment and is limited to a maximum use of one hundred twenty (120) days.
	<u>SINGLE FAMILY DWELLING</u> : A detached dwelling having accommodations for only one (1) family.
	<u>SITE PLAN</u> : A layout plan of a lot or subdivision on which is shown topography, location of buildings, structures, roads, rights-of-way, boundaries, essential divisions and bearings and any other information deemed necessary by the planning board.
	<u>SITE PLAN REVIEW</u> : A review and approval process conducted by the Town Planning Board, whereby site plans are reviewed utilizing criteria stated in this law.
	<u>SITE PREPRATION</u> : The activities of stripping, excavating, filling and grading, no matter what the purpose of these activities.
	<u>SMALL SERVICE CONTRACTOR</u> : A construction or service contractor employing fewer than four (4) people not resident relatives of the property owner(s) and engaged in the following or similar trades: light construction, plumbing & heating, electrical, landscaping, refrigeration, masonry, pest control and janitorial contracting.
	<u>SOLID WASTE DISPOSAL FACILITY</u> : Any facility used for solid waste disposal, including but not limited to sanitary landfills and dumps, but not including disposal areas for inert debris.
	<u>SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02</u> : A permit under New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.
	<u>STABLE, PRIVATE</u> : An accessory building where horses and/or other saddle animals are kept for private use and not for hire, remuneration or sale.
	<u>STABLE, PUBLIC OR BOARDING</u> : A building where horses and/or other saddle animals are kept for hire, remuneration or sale.
	<u>STABILIZATION</u> : The prevention of soil erosion by surface runoff or wind through the establishment of a soil cover through the use of vegetative or structural means.

	<b><u>STABILIZED CONSTRUCTION ENTRANCE:</u></b> A stabilized pad of stone aggregate underlain with filter cloth located at any point where traffic will be entering or leaving a construction or development site to or from a public right-of-way, street, alley, sidewalk or parking area.
	<b><u>START OF CONSTRUCTION:</u></b> The initiation, except planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages and sheds), storage trailers and building materials. For manufactured homes, the “actual start” means affixing of the manufactured home to its permanent site.
	<b><u>STOP WORK ORDER:</u></b> An order issued which requires that all construction activity on a site be stopped.
	<b><u>STORMWATER:</u></b> Rainwater, surface runoff, snowmelt and drainage.
	<b><u>STORMWATER MANAGEMENT:</u></b> The use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.
	<b><u>STORMWATER MANAGEMENT FACILITY:</u></b> One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.
	<b><u>STORMWATER MANAGEMENT OFFICER:</u></b> An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspects stormwater management practices.
	<b><u>STORMWATER MANAGEMENT PRACTICES (SMPS):</u></b> Measures, either structural or non-structural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.
	<b><u>STORMWATER POLLUTION PREVENTION PLAN (SWPPP):</u></b> A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.
	<b><u>STORMWATER RUNOFF:</u></b> Flow on the surface of the ground, resulting from precipitation.
	<b><u>STREAM CORRIDOR:</u></b> The landscape features on both sides of a stream, including soils, slope and vegetation, whose alteration can directly impact



	the stream's physical characteristics and biological properties.
	<u>STRIPPING</u> : Any activity which removes or significantly disturbs trees, brush, grass, or any other kind of vegetation.
	<u>STORM SEWER (STORM DRAINS)</u> : A conduit which carries stormwater and drainage to a point of discharge to a watercourse or water body.
	<u>STORMWATER</u> : The discharge of water from the surface of land resulting from precipitation or snow or ice melt; including surface runoff, groundwater flows, percolation and seepage.
	<u>STORMWATER POLLUTION PREVENTION PLAN</u> : A site-specific detailed design for the control of soil erosion, sedimentation, stormwater quantity, and water quality impacts resulting from any land disturbing activity.
	<u>STORMWATER MANAGEMENT</u> : For water quantity control, a system of vegetative, structural and other means that control the volume and rate of stormwater runoff which may be caused by land disturbing activities or activities upon the land; and, for water quality control, a system of vegetative structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.
	<u>STRUCTURE</u> : Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include but are not limited to buildings, walls, fences, over six feet in height or two feet in width; radio towers and antenna masts over ten (10) feet in length; swimming pools, billboards, poster panels, signs and antennae, whether permanently mounted or capable of being mounted on a mobile structure. The following shall not be classified as structures for the purposes of this chapter: fireplaces and/or chimneys, flagpoles, and antennae other than those described above.
	<u>SUBSTANTIAL IMPROVEMENT</u> : Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair, or, if the structure has been damaged and was being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not include: <ul style="list-style-type: none"> <li>(1) Any project for the improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or</li> <li>(2) Any alteration of a structure listed on the National Register of Historic Places</li> </ul>
	<u>SURFACE WATERS OF THE STATE OF NEW YORK</u> : Lakes, bays,

	sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, outlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and wastewater treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state (such as a disposal area in wetlands) nor resulted from the impoundment of waters of the state.
	<u>SWIMMING POOL</u> : Any body of water or receptacle for water having a capability of a depth of twenty-four (24) inches or more at any one point, used or intended to be used for swimming, bathing, or wading and permanently installed or constructed either above or below ground.
	<u>TENANT</u> : An occupant who temporarily holds or occupies land, a building or other property owned by another.
	<u>TENANT IDENTIFICATION SIGN</u> : A sign designed or intended to identify a tenant, occupant or establishment.
	<u>TOXIC SUBSTANCE</u> : Any compound or material which is or may be harmful to human health, as defined by § 4801, Subdivision 2, of the New York State Public Health Law.
	<u>USE</u> : The specific purpose for which any land or building is designed, arranged, intended or for which it is or may be occupied or maintained. (1) Use, Accessory: A use customarily incidental and subordinate to the principal use of the site and located on the same lot with such principal use or building. This shall include but not be limited to private garages, tools sheds, carports and pool houses. (2) Use, Principal: Primary purpose or function carried out on a site, structure, buildings or space in use.
	<u>USED</u> : Includes the words “arranged, designed or intended to be used.”
	<u>VARIANCE</u> : An authorization granted to exempt a particular action from the strict letter of this chapter. (1) Use Variance: The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. (2) Area Variance: The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
	<u>VEGETATIVE FILTER STRIP</u> : An area of grasses or other permanent vegetation used to retard the flow of runoff water, causing deposition of

	transported materials, thereby reducing sediment flow.
	<u>WAIVER</u> : The relinquishment from stormwater management and erosion control requirements for a specific development on a case-by-case review basis.
	<u>WATERCOURSE</u> : Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drainageway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks, and any area adjacent thereto subject to inundation by reason of overflow, flood or stormwater.
	<u>WATER QUALITY</u> : Those characteristics of stormwater runoff from a land disturbing activity that relate to the chemical, physical, biological or radiological integrity of water.
	<u>WATER QUANTITY</u> : Those characteristics of stormwater runoff that relate to the rate of volume of delivery of the stormwater runoff to downstream areas resulting from land disturbing activities.
	<u>WATERSHED</u> : A region of area contributing stormwater ultimately to a particular watercourse or body of water.
	<u>WATERWAY</u> : A channel that directs surface runoff to a watercourse or to the public storm drain.
	<u>WINDOW AREA</u> : The total area of any single window pane or series of window panes separated by mullions.
	<u>YARD</u> : The space of a lot not occupied by a building.
	<u>YARD; FRONT</u> : The area between the exterior road line and the front line of the outermost point of any part of any building, including porches, extended to the side lines of the lot.
	<u>YARD; REAR</u> : The area between the rear lot line and the rear line of the principal building extended to the side lines of the lot.
	<u>YARD; SIDE</u> : The area between the outermost point of any part of any building and a side lot line extending from the front yard to the rear yard.
	<u>ZONE OF CONTRIBUTION</u> : The areas that recharge or contribute water to a well or wellfield.
	<u>ZONING ENFORCEMENT OFFICER</u> : The official designated by the Town of Homer to administer and enforce this law.

ARTICLE III

ESTABLISHMENT OF DISTRICTS

SECTION 301	<p><b><u>Districts; Zoning Map.</u></b></p> <p>A. For the purposes of this chapter, the Town of Homer is hereby divided into districts as follows:</p> <ul style="list-style-type: none"><li>(1) Agricultural Districts</li><li>(2) Residence Districts</li><li>(3) Lakeside District</li><li>(4) Business Districts</li><li>(5) Industrial Districts</li><li>(6) Planned Unit Development Districts</li><li>(7) Aquifer Protection Districts</li></ul> <p>B. Said districts are set forth on the map accompanying this chapter, entitled Zoning Map, currently herewith adopted and signed by the Town Clerk, or in the case of Planned Unit Districts, the districts shall be established and shown on the map as they are created in accordance with the provisions of this chapter. The Zoning Map, including any explanatory material, is hereby made part of this chapter.</p>
SECTION 302	<p><b><u>District Boundaries.</u></b></p> <p>Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:</p> <p>A. In general, the district boundaries are the lot lines or center lines of streets or highways, and where the designation on the Zoning Map indicates a boundary approximately upon a lot line or center line of a street or highway, such lot line or center line of street or highway shall be construed to be the boundary. The following exception applies: The Industrial District on East River Crossing Road extends five hundred (500) feet on each side of the road from the center line, except that on the Route 13 end, the line continues straight to Route 13 rather than following the new approach to Route 13.</p> <p>B. The boundaries of the Aquifer Protection District and the aquifer protection areas reflect the best hydro geologic information available as of the date of the adoption of the map. Where these boundaries are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where the boundary should properly be located. The Town may consider providing assistance to the property owner in the event that the owner can demonstrate a financial hardship.</p>

	<p>C. In other cases, the boundary line shall be determined by use of the scale of the Zoning Map.</p> <p>D. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Zoning Board of Appeals shall determine and fix the location of said line in a reasonable manner.</p>

#### ARTICLE IV

#### AGRICULTURAL DISTRICTS

<b>SECTION 401</b>	<b>PURPOSE.</b>	
	The purpose of the Agricultural District is to protect agricultural lands and uses from incompatible land uses and to limit non-farm commercial and industrial uses to those areas best suited by reason of their requirements for public services and only those uses set forth below shall be allowed in said district.	
<b>SECTION 402</b>	<b>PERMITTED USES.</b>	
	In any Agricultural District, no building shall be erected or extended and no land or building or part thereof shall be used for any other than any of the following purposes:	
	A.	Single or Two Family Residences
	B.	Farms, gardens and plant nurseries.
	C.	Uses and structures customarily incidental to the use of the property for Single or Two Family residence or Farm, garden or plant nursery, including temporary roadside stands for the purpose of selling produce grown on premises.
	D.	Lodging for farm employees in NY State Agricultural Districts (NYS Dept. of Ag & Markets Law 25AA).
<b>SECTION 403</b>	<b>PERMITTED CONDITIONAL USES.</b>	
	The following uses may be allowed with a Conditional Permit issued by the Town of Homer Planning Board, following Site Plan Review.	
	A.	Doublewide manufactured home on a fully enclosed permanent foundation.

	B.	Commercial kennel.
	C.	Facilities which process agricultural products.
	D.	Retail/Wholesale sale of agricultural products.
	E.	Home Occupation or Professions.
	F.	Small Service Contractor:
	G.	Church or other place of worship, convent, parish house, Sunday School building.
	H.	Public park or playground, including field houses, or other such accessory buildings.
	I.	Golf course, except that a driving range or miniature golf course operated on a commercial basis, provided that no building shall be nearer than 100 feet to any lot line.
	J.	Hospital or sanitarium for the treatment of human beings, provided that no building so used shall be within 100 feet of any street or within 150 feet of the lot line of any adjoining owner.
	K.	Necessary structures in connection with public utilities, installed in accordance with accepted standards.
<b>SECTION 404</b>	<b>YARD REGULATIONS.</b>	
	A.	Front yards shall not be less than the average depth of the front yards of buildings on lots immediately adjacent, but in no case shall the front yard be less than thirty (30) feet in depth. In cases where there are no buildings on lots immediately adjacent, the front yard depth shall not be less than fifty (50) feet.
	B.	Rear yards shall not be less than thirty (30) feet in depth.
	C.	Side yards shall not be less than fifteen (15) feet in width. In one (1) of the side yards, an accessory building less than 200 square feet in area may be seven (7) feet from the side line which is not a street line.
	D.	Accessory buildings may not occupy any required open space other than the rear or side yards.
	E.	In an Agricultural District:
	(1)	Any building in which farm animals are kept shall be at least one hundred (100) feet from any adjoining residential property.



ARTICLE V  
RESIDENCE DISTRICTS

SECTION 501	<b>PURPOSE.</b>	
	The purpose of the Residential District is to provide a stable environment for residential use and development, free from incompatible uses and only those uses set forth below shall be allowed in said district.	
SECTION 502	<b>PERMITTED USES.</b>	
	In any Residence District, no building shall be erected or extended and no land or building or part thereof shall be used for any other than any of the following purposes:	
	<ul style="list-style-type: none"> <li>• Single or Two Family Residences</li> </ul>	
SECTION 503	<b>PERMITTED ACCESSORY USES.</b>	
	<ul style="list-style-type: none"> <li>• Uses and structures customarily incidental to the use of the property for Single or Two Family residence.</li> </ul>	
SECTION 504	<b>CONDITIONAL USES.</b>	
	Permitted additional uses in residence districts may include the following, following Site Plan Review:	
	A.	Doublewide manufactured home on a fully enclosed permanent foundation.
	B.	Farm, garden or nursery, including the usual buildings necessary or customary to the operation of such establishments.
	C.	Home Occupation: Home Occupations or Professions.
	D.	Church or other place of worship, convent, parish house, Sunday School building, provided that no bowling alleys shall be included in such building.
	E.	Public library or public museum, public school, parochial school, nursery school, school operated by a non-stock corporation under the education laws of the state and institution of higher learning, including dormitory accommodations.



	F.	Public park or playground, including field houses, or other such accessory buildings.
	G.	Fire station or other public building necessary to the protection of or service of the community.
	H.	Golf course, except that a driving range or miniature golf course operated on a commercial basis, provided that no building shall be nearer than 100 feet to any lot line.
	I.	Hospital or sanitarium for the treatment of human beings, other than the insane, feebleminded, epileptic, drug or alcohol patients, provided that no building so used shall be within 100 feet of any street or within 150 feet of the lot line of any adjoining owner.
	J.	Necessary structures in connection with public utilities, installed in accordance with accepted standards.
	K.	The keeping of domestic livestock other than household pets.
	L.	Such necessary uses as are customarily incidental to the above uses subject to provisions of Section 505 and 506.
<b>SECTION 505</b>	<b>ACCESSORY USES.</b>	
	Permitted accessory uses in residence districts shall include the following, following Site Plan Review:	
	A.	A temporary building for commerce or industry in a Residence District where such building is necessary or incidental to the development of a residential area. Such building may not be continued for more than one (1) year except on special approval of the Board of Appeals.
	B.	The renting of rooms to not more than three (3) nontransient adult roomers, provided that no sign is displayed.
	C.	Not more than one (1) commercial vehicle used for commercial purposes and rated greater than 10,000 lbs GVW may be parked on any lot in a residence district.
<b>SECTION 506</b>	<b>ACCESSORY BUILDINGS.</b>	
	A.	Accessory buildings may not occupy any required open space other than a rear yard and shall not be less than seven feet from any side or rear lot line.
	B.	In a Residence District:
	1.	Any building in which farm animals are kept shall be at least one

		hundred (100) feet from any lot line.
	2.	No manure shall be stored or spread within one hundred (100) feet of any lot line.
	3.	No agricultural products shall be sold at the roadside or be publicly displayed for sale, except by permission of the Board of Appeals
<b>SECTION 507</b>	<b>YARD REGULATIONS.</b>	
A.	Front yards shall not be less than the average depth of the front yards of buildings on lots immediately adjacent, but in no case shall the front yard be less than thirty (30) feet in depth. In cases where there are no buildings on lots immediately adjacent, the front yard depth shall not be less than fifty (50) feet.	
B.	Rear yards shall not be less than thirty (30) feet in depth	
C.	Side yards shall not be less than fifteen (15) feet in width. In one (1) of the side yards, an accessory building less than 200 square feet in area may be seven (7) feet from the side line which is not a street line.	
<b>SECTION 508</b>	<b>MINIMUM LOT SIZE.</b>	
All new lots must conform to the following requirements:		
A.	Where no public sewer or water mains are available, the minimum lot size shall be 2.4 acres. However, this minimum lot size may be reduced to 1.5 acres upon the granting of an area variance by the Zoning Board of Appeals. An area variance may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.	
B.	The minimum lot width in the residential district where no public sewer or water is available shall be 300 feet. The minimum lot width may be reduced to 250 feet upon the granting of an area variance by the Zoning Board of Appeals. An area variance for the lot width may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.	
C.	Where there is either public water or public sewer, the minimum lot size shall be 30,000 square feet, and the minimum lot width shall be 150 feet.	
D.	Where both public water and public sewer are available, the minimum lot size shall be 15,000 square feet, and the minimum lot width shall be 100 feet.	

SECTION 509	<b>SPECIAL PROPERTIES.</b>
	In the case of publicly owned properties, properties of universities, colleges, cemeteries or other similar private institutions located in Residence Districts, and each such property comprising at least a normal city block in area and being traversed by interior roads or driveways, the front and side yard requirements of Section 507 shall apply only along the exterior public street frontages and there shall be no rear yard requirement.

ARTICLE VI

LAKESIDE DISTRICTS

SECTION 601	<b>PURPOSE.</b>	
	The purpose of the Lakeside District is to recognize the lake shorelines as a unique resource deserving of use limitations to prevent environmental destruction and to maintain their attractiveness and value. Permitted uses are intended to provide an area where residential uses and small low impact businesses which service the lakeside community can co-exist in a unique hamlet setting. Therefore only those uses set forth below shall be allowed in said district.	
SECTION 602	<b>PERMITTED USES.</b>	
	<ul style="list-style-type: none"> <li>• Single family residences</li> </ul>	
SECTION 603	<b>PERMITTED ACCESSORY USES.</b>	
	<ul style="list-style-type: none"> <li>• Uses and structures customarily incidental to the use of the property for single family residence</li> </ul>	
SECTION 604	<b>PERMITTED USES SUBJECT TO SITE PLAN REVIEW.</b>	
	<ul style="list-style-type: none"> <li>• Home Occupation or Home Professional Office</li> </ul>	
SECTION 605	<b>CONDITIONAL USES.</b>	
	The following uses may be allowed with a Conditional Permit issued by the Town of Homer Planning Board, following Site Plan Review.	
	A.	Two family residences.
	B.	Greenhouse, garden or plant nursery.
	C.	Park, playground or recreational facilities, including accessory buildings.
	D.	Church or other place of worship, convent, parish house, Sunday School building.
	E.	Fire station or other public building necessary for the protection of or service of the community.
	F.	Restaurants, with the exception that restaurants with drive-through service are not permitted.

	G.	Antique/Crafts Shops.
	H.	Retail store.
	I.	Business or professional office.
	J.	Bank or other financial institution.
	K.	Establishment for the provision of personal services
	L.	Other retail or service business, provided that it is conducted without unreasonable noise, odors or disorder, and further provided that any manufacture or processing of goods on the premises is clearly incidental to the retail or service business conducted on the premises.
	M.	Necessary structures in connection with public utilities, installed in accordance with accepted standards.
	N.	Nursing or convalescent homes.
	O.	Public library or public museum, public school, parochial school, nursery school, school operated by a non-stock corporation under the education laws of the state and institution of higher learning, including dormitory accommodations.
	P.	Hotel, rooming or tourist home (limited in size to 10,000 sq. ft. of gross floor area), with a two-story maximum and not exceeding 5,000 square feet per story.
	Q.	The keeping of domestic livestock other than household pets.
	R.	Such necessary uses as are customarily incidental to the above uses subject to provisions of Sections 606 and 607.
SECTION 606	<b>ACCESSORY USES.</b>	
	Permitted accessory uses in Lakeside Districts shall include the following:	
	A.	Except on a farm, not more than one (1) vehicle over 10,000 lbs gvw used for commercial purposes shall be garaged or parked on any lot.
	B.	A temporary building for commerce or industry in a Lakeside District where such building is necessary or incidental to the development of a residential area. Such building may not be continued for more than one (1) year except on special approval of the Board of Appeals.

<b>SECTION 607</b>	<b>ACCESSORY BUILDINGS.</b>
	Accessory buildings may not occupy any required open space other than a side or rear yard and shall not be less than seven feet from any side or rear lot line.
<b>SECTION 608</b>	<b>YARD REGULATIONS.</b>
	A. Front yards shall not be less than the average depth of the front yards of buildings on lots immediately adjacent, but in no case shall the front yard be less than thirty (30) feet in depth.
	B. Rear yards shall not be less than thirty (30) feet in depth.
	C. Side yards shall not be less than fifteen (15) feet in width. In one (1) of the side yards, an accessory building less than 200 square feet in area may be seven (7) feet from the side line which is not a street line.
	D. On any lot with lake frontage, the area between the high water line of the lake and the side of the principle building nearest the lake may be considered the front yard and the side of the principle building opposite the lake shall then be considered the rear yard. In this situation, no accessory building shall be closer to any public roadway than fifteen (15) feet.
<b>SECTION 609</b>	<b>MINIMUM LOT SIZE.</b>
	All new lots must conform to the following requirements:
	A. Where no public sewer or water mains are available, the minimum lot size shall be 2.4 acres. However, this minimum lot size may be reduced to 1.5 acres upon the granting of an area variance by the Zoning Board of Appeals. An area variance may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.
	B. The minimum lot width in the residential district where no public sewer or water is available shall be 300 feet. The minimum lot width may be reduced to 250 feet upon the granting of an area variance by the Zoning Board of Appeals. An area variance for the lot width may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.
	C. Where there is either public water or public sewer, the minimum lot size shall be 30,000 square feet, and the minimum lot width shall be



ARTICLE VII

BUSINESS DISTRICTS

SECTION 701	<b>PURPOSE.</b>	
	The purpose of the Business District is to provide for commercial establishments serving the needs of area residents, especially retail and service businesses. Permitted uses are intended to create a business district from conflicting land uses and therefore only those uses set forth below shall be allowed in said district.	
SECTION 702	<b>PERMITTED USES.</b>	
	In any Business District, no building shall be erected or extended and no land or building or part thereof shall be used for any other than any one (1) of the following purposes:	
	A.	Single or Two Family Residences.
SECTION 703	<b>PERMITTED USES SUBJECT TO SITE PLAN REVIEW.</b>	
	A.	Retail store.
	B.	Business or professional office.
	C.	Restaurant or other place for serving of food and beverages.
	D.	Bank or other monetary institution.
	E.	Establishment for the provision of personal services.
	F.	Wholesale business and other retail or service business, provided that it is conducted without unreasonable noise, odors or disorder, and further provided that any manufacture or processing of goods on the premises is clearly incidental to a wholesale, retail, and service business conducted on the premises.
	G.	Multi-family Residences.
	H.	Farm, garden or plant nursery.
	I.	Home Occupation or Home Professional Office.
	J.	Church or other place of worship, convent, parish house, Sunday School building.



	K.	Public library or public museum, public school, parochial school, nursery school, school operated by a non-stock corporation under the education laws of the state and institution of higher learning, including dormitory accommodations.
	L.	Public park or playground, including field houses, or other similar accessory buildings.
	M.	Fire station or other public building necessary to the protection of or the servicing of the community.
<b>SECTION 704</b>	<b>CONDITIONAL USES.</b>	
	The following uses may be allowed with a Conditional Permit issued by the Town of Homer Planning Board, following Site Plan Review.	
	A.	Nursing or convalescent homes.
	B.	Cemetery and the buildings and structures incidental thereto.
	C.	Hotel, rooming or tourist house.
	D.	Service station for the retail sale of gasoline and lubricants and for repairs and servicing of vehicles, provided that no automobile repair work except emergency work be carried on out of doors.
	E.	Theater, bowling alley or other place of amusement or assembly.
	F.	Auto sales agency.
	G.	Necessary structures in connection with public utilities, installed in accordance with accepted standards.
<b>SECTION 705</b>	<b>YARD REGULATIONS.</b>	
	A.	Front yards shall be at least as great as the yards of neighboring buildings, but not less than twenty-five (25) feet in depth.
	B.	Rear yards shall be at least twenty (20) feet in depth.
	C.	Side yards shall each be at least ten (10) feet in width.
<b>SECTION 706</b>	<b>MINIMUM LOT SIZE.</b>	
	All new lots must conform to the following requirements:	
	A.	Where no public sewer or water mains are available, the minimum lot size shall be 2.4 acres. However, this minimum lot size may be



ARTICLE VIII

LIGHT INDUSTRIAL-1 DISTRICT

SECTION 801	<b>PURPOSE.</b>	
	The purpose of this district is to provide for the establishment of industrial uses essential to the development of a balanced economic base and to regulate its development so it will not be detrimental or hazardous to the surrounding community and therefore only those uses set forth below shall be allowed in said district.	
SECTION 802	<b>PERMITTED USES SUBJECT TO SITE PLAN REVIEW.</b>	
	A.	Retail Store.
	B.	Wholesale business and other retail or service business, provided that it is conducted without unreasonable noise, odors or disorder, and further provided that any manufacture or processing of goods on the premises is clearly incidental to a wholesale, retail, and service business conducted on the premises.
	C.	Any use of light industrial or agri-industrial nature is permitted which involves only the processing, assembly, or packaging of previously prepared or refined materials.
	D.	Manufacture of machinery.
	E.	Fabrication of metal products.
	F.	Fabrication of paper products.
	G.	Fabrication of wood products such as boats, boxes, cabinets and woodworking, furniture, toys and novelties.
	H.	Food and associated industries.
	I.	The warehousing or storage of goods and products. Specifically excluded from the intent of the above are the bulk storage of fuel or petroleum products, nuclear or radioactive products, and/or toxic waste.
	J.	Office buildings for executive, engineering and administrative purposes.
	K.	Scientific or research laboratories devoted to research, design and/or

		experimentation, and processing and fabrication incidental thereto.
	L.	The manufacturing and processing of pharmaceutical and cosmetic products.
	M.	Farm and garden implement stores.
	N.	Truck garden nursery or farm produce sales.
	O.	Collection and sorting of plastic, paper and metal for purposes of recycling.
	Provided that at no time will such use result in or cause:	
	A.	Dust, smoke, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry.
	B.	Hazard of fire, explosion, radioactivity or other physical hazard to any adjacent building or to any plant growth on land adjacent to the site.
	C.	Groundwater contamination.
<b>SECTION 803</b>	<b>PERMITTED ACCESSORY USES.</b>	
	A.	Private garages and storage buildings which are necessary to store vehicles, equipment, or materials on the premises.
	B.	Off-street parking space subject to the provisions of Section 1304 of this law.
<b>SECTION 804</b>	<b>PERMITTED CONDITIONAL USES.</b>	
	The following uses may be allowed with a Conditional Permit issued by the Town of Homer Planning Board, following Site Plan Review.	
	A.	Telecommunication Towers.
	B.	Temporary Roadside Stands.
<b>SECTION 805</b>	<b>OTHER PROVISIONS AND REQUIREMENTS.</b>	
	A.	Residential uses shall be prohibited in this district.
	B.	All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such

		materials are shielded from view from public street, adjacent off-street parking areas and adjacent non-industrial districts by fencing, landscaping or other appropriate measures.
	C.	All uses in this district shall set aside not less than ten (10) percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purpose.
	D.	Each use in this district shall provide truck loading and unloading area in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
	E.	Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.
	F.	Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from any property line.
SECTION 806	<b>YARD REGULATIONS.</b>	
	Setbacks: Front:	Fifty (50) feet minimum
	Side:	Fifty (50) feet minimum
	Rear:	Fifty (50) feet minimum
SECTION 807	<b>MINIMUM LOT SIZE.</b>	
	All new lots must conform to the following requirements:	
	A.	Where no public sewer or water mains are available, the minimum lot size shall be 2.4 acres. However, this minimum lot size may be reduced to 1.5 acres upon the granting of an area variance by the Zoning Board of Appeals. An area variance may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.
	B.	The minimum lot width in the residential district where no public sewer or water is available shall be 300 feet. The minimum lot width may be reduced to 250 feet upon the granting of an area variance by the Zoning Board of Appeals. An area variance for the lot width may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.
	C.	Where there is either public water or public sewer, the minimum lot size shall be 30,000 square feet, and the minimum lot width shall be 150 feet.



ARTICLE IX

LIGHT INDUSTRIAL-2 DISTRICT

SECTION 901	<b>PURPOSE.</b>	
	The purpose of this district is to provide for the establishment of industrial uses essential to the development of a balanced economic base and to regulate its development so it will not be detrimental or hazardous to the surrounding community and therefore only those uses set forth below shall be allowed in said district.	
SECTION 902	<b>PERMITTED USES SUBJECT TO SITE PLAN REVIEW.</b>	
	A.	Any use of light industrial or agri-industrial nature is permitted which involves only the processing, assembly, or packaging of previously prepared or refined materials.
	B.	Manufacture of machinery.
	C.	Fabrication of metal products.
	D.	Fabrication of paper products.
	E.	Fabrication of wood products such as boats, boxes, cabinets and woodworking, furniture, toys and novelties.
	F.	Food and associated industries.
	G.	The warehousing or storage of goods and products. Specifically excluded from the intent of the above are the bulk storage of fuel or petroleum products, nuclear or radioactive products, and/or toxic waste.
	H.	Office buildings for executive, engineering and administrative purposes.
	I.	Scientific or research laboratories devoted to research, design and/or experimentation, and processing and fabrication incidental thereto.
	J.	The manufacturing and processing of pharmaceutical and cosmetic products.
	K.	Farm and garden implement stores.

	L.	Truck garden nursery or farm produce sales.
	M.	Collection and sorting of plastic, paper and metal for purposes of recycling.
	Provided that at no time will such use result in or cause:	
	A.	Dust, smoke, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry.
	B.	Hazard of fire, explosion, radioactivity or other physical hazard to any adjacent building or to any plant growth on land adjacent to the site.
	C.	Groundwater contamination.
<b>SECTION 903</b>	<b>PERMITTED ACCESSORY USES.</b>	
	A.	Private garages and storage buildings which are necessary to store vehicles, equipment, or materials on the premises.
	B.	Off-street parking space subject to the provisions of Section 1304 of this law.
<b>SECTION 904</b>	<b>PERMITTED CONDITIONAL USES.</b>	
	The following uses may be allowed with a Conditional Permit issued by the Town of Homer Planning Board, following Site Plan Review.	
	A.	Adult Entertainment Businesses.
	B.	Telecommunication Towers.
	C.	Temporary Roadside Stands.
<b>SECTION 905</b>	<b>OTHER PROVISIONS AND REQUIREMENTS.</b>	
	A.	Residential uses shall be prohibited in this district.
	B.	All industrial processes shall take place within an enclosed building. Incidental storage out of doors may be permitted provided that such materials are shielded from view from public street, adjacent off-street parking areas and adjacent non-industrial districts by fencing, landscaping or other appropriate measures.
	C.	All uses in this district shall set aside not less than ten (10) percent of the lot to be devoted to seeding, planting, retention of tree cover, or



		other landscaping. This area shall be used for no other purpose.
	D.	Each use in this district shall provide truck loading and unloading area in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
	E.	Industrial structures shall be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This one hundred (100) foot buffer strip shall be perpetually maintained so as to provide visual screening and separation between industrial and non-industrial uses.
	F.	Parking areas may be located in any of the required yard areas provided they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from any property line.
<b>SECTION 906</b>	<b>YARD REGULATIONS.</b>	
	Setbacks: Front:	Fifty (50) feet minimum
	Side:	Fifty (50) feet minimum
	Rear:	Fifty (50) feet minimum
<b>SECTION 907</b>	<b>MINIMUM LOT SIZE.</b>	
	All new lots must conform to the following requirements:	
	A.	Where no public sewer or water mains are available, the minimum lot size shall be 2.4 acres. However, this minimum lot size may be reduced to 1.5 acres upon the granting of an area variance by the Zoning Board of Appeals. An area variance may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.
	B.	The minimum lot width in the residential district where no public sewer or water is available shall be 300 feet. The minimum lot width may be reduced to 250 feet upon the granting of an area variance by the Zoning Board of Appeals. An area variance for the lot width may not be granted unless the applicant demonstrates that all County Health Department regulations have been met.
	C.	Where there is either public water or public sewer, the minimum lot size shall be 30,000 square feet, and the minimum lot width shall be 150 feet.
	D.	Where both public water and public sewer are available, the minimum lot size shall be 15,000 square feet, and the minimum lot width shall be 100 feet.

ARTICLE X

PLANNED UNIT DEVELOPMENT DISTRICTS

SECTION 1001	<b>PURPOSE.</b>	
	The purpose of the Planned Development Districts is to permit the establishment of mixed use developments entitled “Planned Unit Development” (“PUD”) to provide the opportunity to develop a project comprised of a mixture of land uses and densities. A PUD is an overlay zoning district, which while required to meet the overall density of the underlying zoning district, allows for more flexibility in design and use than would be permitted in the underlying zoning district. With the creation of a PUD, the following objectives shall also be sought:	
	A.	Creation of a more desirable community environment than would be possible through strict application of zoning regulations found elsewhere in this Law.
	B.	Preservation and enhancement of community natural resources such as water bodies, wetlands, forests, significant topographic and geologic features and other outstanding areas of scenic and ecological value.
	C.	Efficient use of a site to facilitate adequate and economical construction and maintenance of streets and drainage facilities, water supply and sewage systems
	D.	Innovation and variety in the type and design of residential development, providing a wide choice of living environments, occupancy tenure and housing cost.
	E.	Open space allocation and maintenance by public or private initiative as an integral part of residential development.
SECTION 1002	<b>TYPES OF PLANNED UNIT DEVELOPMENT.</b>	
	A.	Residential PUD Permitted in any zoning district in the Town.
	B.	Commercial PUD Permitted in agricultural, business and industrial districts in the Town.
	C.	Industrial PUD Permitted in agricultural and industrial districts in the Town.

	D.	Mixed Use PUD Permitted in agricultural, business and industrial districts in the Town.
SECTION 1003	<b>DEVELOPMENT GUIDELINES &amp; STANDARDS.</b>	
	A.	Minimum site area: The minimum site area for a Planned Unit Development is 50 acres.
	B.	Density: The overall density of development within a PUD shall not exceed the maximum density requirements of the underlying zoning district.
	C.	Water and Sewer Facilities: All uses within a PUD shall be connected to approved water and sewer services.
	D.	Common Open Space: Not less than thirty (30) percent of the gross area of a PUD district shall be devoted to common open space. Such land is to be used for recreational purposes and/or preserved in its natural state.
	E.	Planned Unit Development Standards: The standards for Planned Unit Development are to provide the Planning Board with a means to evaluate applications for these districts consistent with the provisions and general intent of the Zoning Law for the Town of Homer. In addition, these standards are intended to provide the necessary latitude for the developer to make creative and efficient use of his/her property. These standards may be waived by the Planning Board or Town Board when deemed to be in the public interest.
	F.	Permitted Uses:
	1.	Residential PUD
	a.	One, two and multiple family dwellings.
	b.	Professional Offices.
	c.	Recreation facilities (indoor and outdoor).
	d.	Personal service establishments.
	e.	Restaurants.
	f.	Retail stores of a local or service nature.
	g.	Institutional facilities such as churches, schools, day care centers, and government facilities.
	2.	Commercial PUD
	a.	One, two and multiple family dwellings.
	b.	Retail stores.
	c.	Recreation facilities (indoor and outdoor).
	d.	Institutional facilities such as churches, schools, day

			care centers, and government facilities.
		e.	Business offices.
		f.	Restaurants.
		g.	Hotels/motels.
		3.	Industrial PUD
		a.	Warehousing.
		b.	Light manufacturing and assembly.
		c.	Wholesale business.
		d.	Business offices
		4.	Mixed Use PUD
			Any uses permitted in the Residential, Commercial and Industrial PUD.
		G.	Specifications:
		1.	Minimum yards required: Front, rear and side yards for residential uses shall be designed so that no principal building is closer than twenty (20) feet to the edge of any road right-of-way of any interior road of a PUD or any other principal building, and no building is closer than thirty (30) feet to any property line of the overall development or sixty (60) feet to any center line of any road, whichever is greater.
		2.	Maximum height of structures: no building shall be erected to a height in excess of thirty-five (35) feet.
		3.	Two off-street parking spaces are required for each dwelling unit.
		H.	Off-street Parking and Loading Requirements (Non-residential):
		1.	For every building hereafter erected, altered, extended, or changed in use, there shall be provided off-street parking spaces according to the design criteria set forth below.
		a.	One off-street parking space per two hundred fifty (250) square feet of gross floor area
		b.	Any building lot or parking area shall be effectively divided by planted divider strips or curbing fixed in place so as to effectively divide each parking area from other driveways and parking areas for the purpose of insuring safety of vehicles moving within the entire parking area and to control speed.
		c.	No parking area shall be permitted within the required front yard or within twenty-five (25) feet of any property line.
		d.	Ingress and egress to parking areas shall be no closer to one another than one hundred fifty (150) feet along public roads. Access to individual uses and parking areas shall be from a service road, when possible.

<b>SECTION 1004</b>	<b>PROCEDURES FOR APPLICATION FOR PUD.</b>	
	PUD applications are reviewed by the Town Planning Board. The Planning Board reviews and makes recommendations on all aspects of a PUD development to the Town Board who makes the final determination on this proposed zoning amendment map.	
	Application for PUD is a type of conditional permit requiring two (2) stages of review. A PUD applicant shall first file a preliminary master plan demonstrating a comprehensive land use plan for the entire PUD tract. Upon approval of this plan, the applicant may then submit conditional permit and site plan review application for definitive plans of each portion or phase of development of the PUD tract. Prior to application for PUD, the owner/applicant may, and is encouraged to, arrange for an informal review of the PUD plan by the Planning Board.	
	Applications for a PUD must be referred to the County Planning Board, who shall have thirty (30) days from the date of receipt to take action on the matter. By mutual agreement of the county and municipality, such thirty (30) day period may be extended for good cause.	
	The Planning Board shall conduct a public hearing within sixty-two (62) days from the day an application for a PUD is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof. The Planning Board shall make a recommendation to the Town Board within sixty-two (62) days after the hearing.	
	The Town Board shall conduct a public hearing within sixty-two (62) days from the day a recommendation on a PUD is received from the Planning Board. Public notice of said hearing shall be printed in a newspaper of general circulation in the Town at least five days prior to the date thereof. The Town Board shall decide upon the application within sixty-two (62) days of the hearing. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Town Board on the application after the holding of the public hearing shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy thereof mailed to the applicant.	
<b>SECTION 1005</b>	<b>PUD PRELIMINARY MASTER PLAN CONTENTS:</b>	
	Any application for PUD preliminary master plan approval shall be accompanied by the following supportive information:	
	A.	A neighborhood context map, at a scale not less than one inch (1") equals one hundred (100) feet, providing a graphic description of the neighborhood in which the tract lies, including roads, utilities and other public facilities, existing buildings and

			structures. There shall also be a statement and/or plan as to the general impact of the proposed PUD upon the area, indicating how the PUD relates to surrounding properties and what measures will be taken to create appropriate transitions and access from the subject property to abutting public properties or other neighboring tracts (if applicable).
		B.	A conceptual site plan drawn to a scale of not less than one (1) inch equaling fifty (50) feet, or a series of drawings at the same scale, and any necessary supporting information showing:
		1.	The approximate boundary lines of existing and proposed lots within and immediately adjacent to the PUD, with approximate areas and dimensions.  With respect to residential areas, the proposed density, lot configuration, circulation and typical plot plan shall be included in the application.
		2.	An analysis of the natural features of the site, including existing and/or adjacent natural waterways, wetlands, floodplains, the general topography of the land indicating slopes over ten (10) percent, and other features requested or required by the <u>Town of Homer Zoning Law</u> .
		3.	Existing/proposed buildings and other significant structures, building groupings, parking areas, and other significant physical features of the site.
		4.	Major circulation patterns surrounding and serving the site, the existing and proposed lines of streets (including the street width), rights-of-way, easements and any public areas within or next to the PUD.
		5.	Major landscaping elements, features and open space.
		6.	A general drainage plan for the site, indicating drainage ways, flows, points of outfall, and indicating impacts of development on affected drainage basins. The plan shall include contour information at not less than two (2) foot contour intervals and document anticipated quantities of runoff in relation to existing storm water management techniques shall also be submitted with the application.
		7.	The plan shall clearly show PUD boundaries, north arrow, date, scale, legend, the title "Preliminary Master Plan: Planned Unit Development" followed by the formal project name, and the name(s) of the applicant(s), engineer(s), designer(s) and/or agent(s).

		C.	Analysis of compliance with regulations as to dwelling units per square feet of lot area, height, building coverage and parking requirements.
		D.	Names of all property owners within five hundred (500) feet of the PUD boundary.
		E.	Explanation of provisions for the landscaping and maintenance of all open space and drainage areas.
		F.	A traffic analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies, including current traffic counts for streets surrounding the project, analysis of the existing capacity of those streets, projections of the amount of traffic that will be generated by the proposed development, and the ability of the thoroughfare system to absorb the increased traffic without decreasing the level of service below an acceptable level – said level to be determined by the appropriate highway department (Town, County or NYS DOT).
		G.	A utilities analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies. Said analysis shall contain an inventory of existing utilities including, but not limited to, sanitary sewers, electrical lines, gas lines/mains, water mains, lighting, curb and gutter, etc. Said inventory shall illustrate utility locations, sizes, diameters, carrying capacity and present load on the system. The engineer’s report shall state if the current system is capable of adequately serving the proposed development. If the current utility system is found to be inadequate for the proposed development, the report shall confirm the deficiencies and make recommendation(s) as to the infrastructure improvements necessary to properly service the proposed development and maintain the existing service. The report shall also present a formal plan for infrastructure improvements, documenting timing, funding mechanisms and coordination with the Town.
		H.	All applicable information required for the site plan review and conditional permit (See Articles XV& XVI of this Law). This information may be submitted at a preliminary level, in consideration that PUD approval is a preliminary approval.
		I.	Any other supportive information the applicant feels may be beneficial to the Town of Homer in the evaluation of the request.
		J.	The Planning Board may reduce the level of information required at the preliminary master plan review state, provided more detailed supportive documentation is provided at final level

		conditional permit and site plan review of the PUD or phases thereof.
<b>SECTION 1006</b>	<b>PUD FINAL LEVEL APPLICATION.</b>	
	Application(s) for final level approval of the PUD (or a phase of the PUD) shall be submitted as application(s) for site plan review and conditional permit and conform with the requirements of Articles XV and XVI of this Law containing all information, plans and materials specified therein, and any applicable additional requirements of this Article.	
	In addition, in making application for the final approval of the PUD (or phase thereof), an applicant shall supply full documentation as to how the final level plan complies with the approved PUD preliminary master plan. When final PUD approval is applied for in phases or stages of development, the applicant shall keep and submit with each final application a running total or status report of PUD compliance with the approved preliminary master plan, including, but not limited to, residential density and number of units, PUD ground coverage, required landscaped area and usable open space. The applicant shall provide full documentation and a comparison of approved master plan development data, existing PUD development data to date, final approved development data to date, and the currently proposed development data.	
<b>SECTION 1007</b>	<b>TOWN BOARD REVIEW OF PUD APPLICATION.</b>	
	The Town Board, upon receiving the recommendations on a PUD proposal from the Planning Board, shall perform its own review and place special emphasis in its review as to PUD compliance with the provisions of this Article, including compliance with the purpose and general requirements/features of a PUD. The Town Board shall also determine whether the proposal is consistent with the most suitable development of the Town, and conduct a review in accordance with the requirements for site plan review and conditional permit as set forth in Articles XV and XVI of this Law. The PUD shall comply with all requirements of this Law unless deviation from these strict requirements is authorized in this Article. The Town Board may require modifications and changes to any PUD plan, consistent with the general and specific objectives and guidelines of this Law.	
	PUD review shall be consistent with all procedural provisions of Articles XV and XVI with respect to site plan review and conditional permit including procedures for public hearings, conduct of review, findings determinations and actions.	
<b>SECTION 1008</b>	<b>APPROVAL OF PUD PRELIMINARY MASTER PLAN.</b>	
	The approval of a PUD preliminary master plan by the Town Board, with or without conditions, is deemed an approval of a certain PUD master plan	



	with specific limits shown on the plan and its supporting documentation for residential density, general type of uses, building coverage, generalized open space plans, and infrastructure systems, all of which shall be adhered to.		
	PUD preliminary master plan approval shall not be construed as final authorization of development. By its nature, this PUD approval shall be considered as a preliminary approval and recognition that the plan is in general accordance with the provisions of this Law. A PUD preliminary master plan approval shall lapse two (2) years from the granting thereof, unless a completed final PUD special permit and site plan review application has been properly filed with, and subsequently approved by, the Planning Board within said two (2) year period.		
	As a part of PUD preliminary master plan approval, the applicant or developer consents to conditional permit and site plan review for all subsequent development proposals within the PUD. As final site plans become more definitive for the PUD as a whole, or in stages, these shall be submitted to the Planning Board for conditional permit and site plan review. The Planning Board shall review these definitive plans for compliance to the approved PUD master plan and to any applicable provisions of this Law, and act on those plans in accordance with the standard conditional permit and site plan review procedure.		
<b>SECTION 1009</b>	<b>EFFECT OF ZONING CHANGES ON APPROVED PUD PLANS.</b>		
	In general, it is intended that amendments of this Law subsequent to approval of a PUD plan shall apply to the PUD consistent with the provisions of Articles XV and XVI for site plan review and conditional permits. However, due to the long-term, comprehensive nature of PUD planning and design – and the Towns desire to promote such – the owner, developer or other responsible agent for the PUD may seek waiver of any new zoning regulation through the site plan review and conditional permit process before the Town. In granting any waiver, the Town shall follow the provisions of Articles XV and XVI of this Law and be fully satisfied that the PUD is in full compliance with the intent of the Law and being developed in a manner at or exceeding the level of compliance effective at the time of PUD preliminary master plan approval.		
<b>SECTION 1010</b>	<b>AMENDMENTS TO PUD PLANS.</b>		
	<table border="1"> <tr> <td>A.</td> <td> <p>Minor Amendments: A minor amendment to a PUD shall be defined as a change which does not propose any new general type of use beyond those approved initially, does not increase the building ground coverage or residential density of the PUD, does not decrease any specified area regulations or enumerated parking ratios, nor substantially change access, circulation, or infrastructure on or adjacent to the site.</p> </td> </tr> </table>	A.	<p>Minor Amendments: A minor amendment to a PUD shall be defined as a change which does not propose any new general type of use beyond those approved initially, does not increase the building ground coverage or residential density of the PUD, does not decrease any specified area regulations or enumerated parking ratios, nor substantially change access, circulation, or infrastructure on or adjacent to the site.</p>
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ARTICLE XI

AQUIFER PROTECTION DISTRICT

SECTION 1101	<b>PURPOSE.</b>	
	<p>The purpose and intent of the Aquifer Protection District is, in the interest of public health, safety and general welfare, to preserve the quality and quantity of the town’s groundwater resources in order to ensure a safe and healthy drinking water supply. This is to be accomplished by regulating land uses which might contribute to the contamination of any aquifers identified as necessary for the present and future water supply of the Town of Homer.</p>	
SECTION 1102	<b>SCOPE AND AUTHORITY.</b>	
	<p>The Aquifer Protection District shall be considered as overlying other zoning districts. Any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of this district. In any cases where conflicts arise between these supplemental regulations and any other existing regulations, the more restrictive regulations shall apply.</p>	
SECTION 1103	<b>ESTABLISHMENT OF AREAS.</b>	
	<p>For the purposes of this district, there are hereby established within the Town of Homer certain aquifer protection areas which consist of any aquifer, the land above such aquifers and the aquifer’s most significant recharge areas and upland watershed areas as follows:</p>	
	A.	<p>Area I: 2-Year Capture Zone to Municipal Supply Well. Area I consists of outwash sand and gravel deposits within the Town of Homer that are part of a regional glacial-aquifer system that occupies major valleys in the Tioughnioga River basin. Groundwater within Area I will flow to, and reach, one of the municipal supply wells of the Village of Homer. Area I represents the 2-Year capture zone, meaning that it takes groundwater two years or less to reach the municipal supply well.</p>
	B.	<p>Area II: 2+ Year Capture Zone to Municipal Supply Well. Area II consists of outwash sand and gravel deposits within the Town of Homer that are part of a regional glacial-aquifer system that occupies major valleys in the Tioughnioga River basin. Groundwater within Area II will flow to, and reach, one of the municipal supply wells of the Village of Homer. It takes groundwater more than two years to reach the municipal supply well.</p>

	C.	Area III: General Aquifer Area. The general aquifer area consists of outwash sand and gravel deposits anywhere within the Town of Homer. Area III serves as a source of groundwater for numerous private water supplies, and non-municipal public drinking water supplies.
	D.	Area IV: Contributing Recharge Area - This zone includes uplands that serves as a source of recharge to a municipal public water supply well in the Village of Homer.
	E.	Area V: Tributary watershed area. The tributary watershed area shall include uplands that may contribute runoff overland and/or through surface streams for groundwater recharge to Area III. Area V also serves as a source of groundwater for numerous private water supplies, and non-municipal public drinking water supplies.
	F.	<p>The boundaries of Areas I through V reflect the best hydrogeologic information available as of the date of the map. All boundaries were developed using information and analysis of the United States Geological Survey, as documented in: <u>Miller, T.S., Hydrology and Simulation of Ground-Water Flow in a Glacial Aquifer System in the West Branch Tioughnioga River Valley, Cortland and Onondaga Counties, New York (in review).</u></p> <p>Where boundaries are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where the boundaries should be properly located. At the request of the owner(s), the Town may engage a professional geologist, hydrogeologist, engineer or other qualified expert trained and experienced in hydrogeology to determine more accurately the location and extent of an aquifer or recharge area, and may charge the owner(s) for the entire cost of he investigation.</p>
SECTION 1104	<b>DESIGNATION OF CRITICAL ENVIRONMENTAL AREA.</b>	
	Aquifer Protection District Area I is hereby designated as a Critical Environmental Area Pursuant to Section 617.14 (g) (State Environmental Quality Review Act) of the regulations of the Department of Environmental Conservation.	
SECTION 1105	<b>PROHIBITED USES AND ACTIVITIES.</b>	
	A.	The discharge, land application or disposal of any hazardous material, toxic substance or radioactive material.

		B.	The production or processing of bulk quantities of any hazardous material or toxic substance in Areas I & II.
		C.	The open (unroofed) storage of pesticides, herbicides, or fungicides is prohibited.
		D.	The dumping or disposing of snow or ice collected off-site from roadways or parking areas into or within 50 feet linear distance of any watercourse, <i>or onto land located in Area I.</i>
		E.	The open storage of coal or chloride salts (but not including salt licks on farms.)
		F.	Any form of underground injection of hazardous materials or toxic substances.
		G.	Petroleum storage facilities or vehicular servicing in <i>Area I.</i>
		H.	Solid Waste disposal facilities and junkyards in Area I, II, III & IV.
		I.	Paved or otherwise impervious parking areas with an areal extent greater than twelve thousand (12,000) square feet in Area I.
		J.	Any use involving the rendering impervious of more than sixty percent (60%) of the lot in Area I, II & III.
		K.	The use or disposal of toxic substances or hazardous materials by means of discharge to an on site wastewater treatment system.
		L.	Floor drain discharging to dry wells or other forms of subsurface discharge.
SECTION 1106	<b>RESTRICTED USES AND ACTIVITIES.</b>		
		A.	Petroleum bulk storage facilities installed above and below ground require permits and are subject to compliance with those standards described in Articles XX, XXI, and XXII of the Sanitary Code of the Cortland County Health District and the New York State Petroleum Bulk Storage Regulations (6NYCRR Parts 611, 612, 613 and 614)..
		B.	Underground home heating oil tanks installed after the enactment date of this chapter shall be dual walled, and are subject to compliance with those standards described in Articles XIX, XX and XXI of the Sanitary Code of the Cortland County Health Department and New York State Petroleum Bulk Storage Regulations (6NYCRR Parts 611, 612, 613 and

			614).
		C.	Bulk storage of toxic substances or hazardous materials is subject to compliance with Article XVIII of the Sanitary Code of the Cortland County Health District and New York State Petroleum Bulk Storage Regulations (6NYCRR Parts 595, 596, 597, 598 and 599).
		D.	Light industrial uses permitted in accordance with Article VIII or IX of this Law except where on-site activities violate the provisions of Section 1105 and 1106 herein.
		(1)	Operations which commence on or after the effective date of these regulations may be required to install a minimum of one groundwater monitoring well in a direction upgradient from on-site activities and one groundwater monitoring well in a direction downgradient from on-site activities. The specific location of these groundwater monitoring wells shall be determined by a professional geologist, hydrogeologist, engineer, or other qualified expert trained and experienced in hydrogeology.
		(2)	Frequency of required water quality sampling from monitoring wells shall be determined on a site-specific basis.
		(3)	Access to monitoring wells shall be provided to employees of the Cortland County Health Department for purposes of any additional water quality sampling deemed appropriate.
		E.	Vehicular servicing, including but not limited to automotive repair stations, body shops rustproofing operations and fleet maintenance, may be allowed within Area II & III, provided that the following requirements are met:
		(1)	Public floor drains must be connected to a holding tank or public sanitary sewer equipped with an oil and grit separating tank.
		(2)	Wastes collected in a holding tank must be disposed of through a licensed waste hauler.
		(3)	Waste degreasing solvent must be stored in drums or a holding tank and disposed of through a licensed waste hauler.

		(4)	Waste oil must be stored in tanks or drums for disposal by a licensed waste hauler, or otherwise used in a lawful manner.
		(5)	Storage facilities for tanks and/or drums require coated concrete floors and dikes to retain accidental spills or leaks; a permanent roof to protect tanks or drums and to prevent precipitation from entering dikes. Drums should be sealed, and tanks and drums must be located away from floor drains.
		(6)	Large drip pans shall be kept beneath drums which have spigots and are stored in horizontal position on racks.
		(7)	Potentially contaminated scrap, including but not limited to scrap parts, batteries and used filters shall be stored in proper containers to prevent environmental release of contaminants.
		F.	Pesticides. (Agriculture/Agricultural Activities are not required to obtain a special permit for the application of pesticides, herbicides, fungicides, or chemical fertilizers.)
		(1)	Application of pesticides, herbicides, fungicides, or chemical fertilizers shall be performed in accordance with the recommendations and label of the manufacturer.
		(2)	Property owners who enlist the services of a commercial pesticide, fungicide, or herbicide applicator shall ensure that the applicator is certified and licensed by the New York State Department of Conservation.
		G.	The storage of coal or chloride salts must be within a watertight ventilated structure constructed on an impervious surface. Any outside area used for loading, handling or mixing shall be designed so as to prevent seepage and runoff from entering the groundwater or any watercourse.
		H.	On site wastewater treatment facilities in Area I.
		I.	Site plans for all proposed industrial and commercial uses shall be accompanied by a detailed and complete description of the anticipated uses and their operation as per Article XV of this Law.

		J.	Whenever there is a question as to the groundwater contamination potential of a proposed use, the expert opinion of the United States Environmental Protection Agency (USEPA), the New York State Department of Environmental Conservation (NYSDEC), the State and County Health Departments or any qualified professional may be requested.
<b>SECTION 1107</b>	<b>SPECIAL PERMITS.</b>		
	Any use of property within Areas I, II, or III of the Aquifer Protection District shall be permitted only upon obtaining a special permit from the Planning Board when the use:		
		A.	Is a restricted use or activity as outlined in Section 1106.
		B.	Is a development, other than residential, which increases the impervious surface by more than 10,000 sq. ft.
		C.	Is a subdivision which results in the creation of five or more lots.
		D.	Is a use that anticipates an average daily water use exceeding 10,000 gallons per day (gpd).
<b>SECTION 1108</b>	<b>APPLICATION FOR A SPECIAL PERMIT.</b>		
	Applicants for a special permit to develop in the Aquifer Protection District shall submit the following:		
		A.	The name, address and telephone number of the applicant.
		B.	If the applicant is a corporation, the name, address and telephone number of all the corporate officers and directors.
		C.	A map and report showing the location of the premises for which the permit is sought and plans prepared by a licensed professional engineer or architect showing all features of the system necessary for the satisfactory conveyance, storage, distribution, use and disposal of sanitary wastes, stormwater wastes, process wastes, toxic substances and hazardous materials, solid wastes and incidental wastes within the property boundaries of the business or commercial establishment.
		D.	Plans and protection measures for certain quantities of toxic substance use:
		(1)	When the use of toxic substances of hazardous materials averages an amount equal to or in excess of 55 liquid



				gallons per month or 500 pounds dry weight per month, the applicant must provide for any design features, operating plans, and any other protection measures as the Planning Board deems appropriate and sufficient to prevent and/or monitor groundwater contamination, especially in the event of a potential leak or spill of these substances.
			(2)	When the use of toxic substances or hazardous materials averages less than 55 liquid gallons per month or 500 pounds dry weight per month, and when the project is determined to have a potential negative impact on groundwater quality, the Planning Board may demand the applicant to provide for any and all design features, operating plans, and/or such other protection measures as per Section 1106D(1).
		E.	Plans and protection measures for certain amounts of toxic substance storage:	
			(1)	When storage of toxic substances or hazardous materials at any one time is equal to or exceeds a total of 220 liquid gallons or a total of 2,000 pounds dry weight, the applicant must provide for any and all design features, operating plans, and such other additional protection measures as the Planning Board may require to prevent and/or monitor groundwater contamination, especially in the event of a potential leak or spill of these substances.
			(2)	When storage of toxic substances or hazardous materials at any one time is less than a total of 220 liquid gallons or a total of 2,000 pounds dry weight, the Planning Board may demand the applicant to provide for any and all design features, operating plans, and such other additional protection measures as per Section 1107E(1) above.
		F.	Water use information.	
			When the average daily water use is greater than or equal to 10,000 gallons per day, the applicant must, at a minimum, provide the following information:	
			1.	Applicant must provide information on the expected average annual water use, expected maximum daily water use, and describe any seasonal variations in expected water use.

		2.	Applicant must describe the nature of the water source (e.g., groundwater, surface water, spring, other), and whether the source is a public or private supply. Applicant must describe any proposed on-site water supply facilities if a new private supply will be developed.
		3.	Applicant must describe the nature of the water use (e.g., on-site drinking water, manufacturing process, wholesale, etc.). If water is used in a manufacturing process, the nature of the use must be described (e.g., cooling water).
		4.	Applicant must state the maximum gallons per day of consumptive water use and total annual consumptive water use, if any.
		5.	Applicant must describe how wastewater will be disposed (e.g., public sanitary sewer, on-site wastewater system, etc.)
		6.	The Town may require that the applicant provide an assessment of potential impacts of the proposed water use on the quantity of water available for other existing water uses (e.g., neighboring wells) or water resources (e.g., streams, wetlands, aquifers).
		G.	Such other information as the Planning Board shall request in order to have all facts before it prior to making their decision.
		H.	Copies of any permits and applications to any other government agencies.
		I.	List of all toxic substances or hazardous materials known to be used or stored on the premises, together with sufficient detail to appraise the Planning Board of the method of storage and the amount of toxic substances or hazardous materials on the premises.
		J.	Method of disposal of toxic substances or hazardous materials.
		K.	A full report regarding the use and storage of all toxic substances and all hazardous materials.
<b>SECTION 1109</b>	<b>REFERRAL AND PUBLIC HEARING FOR A SPECIAL PERMIT.</b>		
		A.	The Planning Board shall refer an application for such special permit to the County Planning Board for comments prior to rendering its decision.

		B.	A public hearing shall be held in regard to granting such special permit, and notice of the public hearing in regard to the granting of such special permit shall be published in the official Town newspaper not more than 15 days and not less than 5 days before the date of such public hearing. All uses which would be subject to a special permit, except for the fact that when such uses are governmental entities, they shall nevertheless be subject to the public hearing requirements of this section, and shall file an environmental assessment form which shall be reviewed by the Planning Board in accordance with the provisions of the New York State Environmental Quality Review Act.
<b>SECTION 1110</b>	<b>ISSUANCE OF SPECIAL PERMIT.</b>		
		A.	The Planning Board may grant the special permit, deny the special permit or grant the special permit with stated conditions.
		B.	In the event that a special permit is granted or granted with stated conditions, it shall be a requirement that the applicant use the best available means to prevent the contamination of the groundwater and the aquifers of the Town of Homer. This shall be a continuing requirement.
<b>SECTION 1111</b>	<b>A CHANGE IN USE.</b>		
	Where a special permit has been previously issued, a change in use requires application for a new special permit.		
<b>SECTION 1112</b>	<b>PENALTIES FOR OFFENSES.</b>		
	A violation of this Article is hereby declared to be an offense, punishable as provided in Section 107.		

ARTICLE XII

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

SECTION 1201	<b>SHORT TITLE.</b>		
	This article shall be known as the “Stormwater Management Law”.		
SECTION 1202	<b>FINDINGS.</b>		
	The Town of Homer finds that uncontrolled drainage and runoff associated with land development has a significant impact upon the health, safety, and welfare of the community. Specifically:		
	A.	Many future problems can be avoided if land is developed in accordance with sound stormwater runoff management practices.	
	B.	Impervious surfaces increase the volume and rate of stormwater runoff and allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.	
	C.	Construction requiring land clearing and the alteration of natural topography tends to increase erosion leading to siltation of waterbodies decreasing their capacity to hold and transport water, damaging public and private property, and harming flora and fauna.	
	D.	Stormwater runoff can carry pollutants into receiving waterbodies, degrading the quality of groundwater and surface waters.	
	E.	Improperly managed stormwater runoff can increase the incidence of flooding and the level of floods which occur, endangering property and human life.	
	F.	Improper design and construction of drainage facilities can increase the velocity of runoff thereby increasing streambank erosion and sedimentation.	
	G.	Improper design and construction of stormwater management facilities can significantly increase the pollutant load to streams and to groundwater, threatening fish and wildlife, as well as public water supplies.	

		H.	Substantial economic losses can result from these adverse impacts on community waters.
SECTION 1203	<b>PURPOSES AND OBJECTIVES.</b>		
	It is the purpose of this article to protect, maintain, and enhance both the immediate and the long-term health, safety, and general welfare of the citizens of Town of Homer, by regulating site preparation and construction activities so as to manage stormwater runoff and prevent problems related to erosion, sedimentation, flooding or drainage. In relation to this purpose this article has the following objectives:		
		A.	Prevent increases in the magnitude and frequency of stormwater runoff to prevent an increase in flood flows and in the hazards and costs associated with flooding.
		B.	Prevent any net increase in stormwater runoff between pre-development and post-development conditions.
		C.	Prevent decreases in groundwater recharge and stream base flow to maintain aquatic life, assimilative capacity, and potential water supplies.
		D.	Control erosion and sedimentation to prevent its deposition in streams, drainage facilities, and other receiving water bodies.
		E.	Facilitate the removal of pollutants in stormwater runoff to maintain groundwater quality and to perpetuate the natural biological functions of streams.
		F.	To the extent practical, secure multiple community benefits such as groundwater replenishment, open space protection and increased recreational opportunity through integrated land use and stormwater management planning.
		G.	Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01 or as amended or revised.
SECTION 1204	<b>JURISDICTION AND APPLICABILITY.</b>		
		A.	Upon approval of this Article by the Town of Homer, all site preparation and construction activities requiring approval under this Article shall be in conformance with the provisions set forth herein.

		B.	It has been established that land clearing, land grading, earth moving, paving or development activities can have a significant effect on the environment, therefore, no person, corporation, organization, or public agency shall, on or after the effective date of the article:
		(1)	Initiate any land clearing, land grading, earth moving, paving, property subdivisions, or construction or development activities, where such activities otherwise require a special or conditional permit, or site plan review, without first preparing a Stormwater Pollution Prevention Plan (herein referred to as a SWPPP) and obtaining approval of said plan from the Town, or;
		(2)	Initiate any land clearing, land grading, earth moving, paving, subdivisions, or construction or development activities, where such activities require a permit under the New York State Pollution Discharge Elimination System ("SPDES") General Permit for Construction Activities GP-02-01 or as amended or revised, without first preparing a SWPPP and obtaining approval of said plan from the Town, or;
		(3)	Alter any drainage system without first preparing a SWPPP and obtaining approval of said plan from the Town.
		(4)	Projects falling under Subsection C, the exemptions portion of this section, do not require a SWPPP, but every effort should be made to incorporate "Best Management Practices" to reduce the negative impacts of erosion, sedimentation, and uncontrolled runoff.
		C.	Exemptions. The following activities, as described below, are exempt from the SWPPP requirements:
		(1)	Development projects or subdivisions which result in less than one acre of land disturbance.
		(2)	Agricultural activities that are not part of a construction activity.
		(3)	Subdivisions which do meet the definition of Realty Subdivisions under NYS Public Health Law.
		D.	All development projects that are required to prepare a SWPPP under this Article must meet the Performance Standards for erosion and sediment control, as described under Section 1205C of this Article.

		E.	All development projects that are required to prepare a SWPPP under this Article must meet the Performance Standards for water quality and water quantity management, as described under Section 1205D of this Article, except:
		(1)	Agricultural activities that must prepare a SWPPP under this Article do not have to meet the Performance Standards for water quality and water quantity management.
		(2)	Individual single family homes do not have to meet the Performance Standards for water quality and water quantity management
		(3)	Residential subdivisions consisting of single family homes, where the overall plan of development will result in a total land disturbance of less than 5 acres, do not have to meet the Performance Standards for water quality and water quantity management.
SECTION 1205	<b>PERFORMANCE STANDARDS.</b>		
		A.	SWPPPs shall be prepared in accordance with the minimum performance standards in order to achieve the purposes and objectives of this Article.
		B.	All SWPPPs shall comply with, or be consistent with:
		(1)	<u>Design Manual</u> - The New York State <u>Stormwater Management Design Manual</u> (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)
		(2)	<u>Erosion Control Manual</u> - New York <u>Standards and Specifications for Erosion and Sediment Control</u> , (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

		C.	Performance standards for erosion and sediment control. An erosion and sediment control plan is a plan for controlling runoff and pollutants from a site during and after construction activities utilizing erosion and sediment controls. Erosion and sediment controls are temporary or permanent structural or nonstructural practices implemented during construction. The principle objectives are to reduce or eliminate erosion during construction, minimize water quality impacts to surface waters or groundwater, control runoff during and after construction, and maintain stormwater controls during and/or after completing construction.
		(1)	Sediment control practices and measures, where necessary, should be designed to protect the natural character of rivers, streams or other waterbodies on-site and minimize erosion and sedimentation off-site from the start of land disturbance activities to establishment of permanent stabilization.
		(2)	Erosion and sediment control measures shall be constructed prior to beginning any other land disturbances. The devices shall be maintained and shall not be removed until the disturbed land areas are stabilized.
		(3)	The smallest area of land practical, not exceeding two acres, shall be exposed by site preparation at any given time and that exposure will be kept to the shortest practical period of time.
		(4)	Prior to, during, and after site preparation and construction, an integrated drainage system shall be provided which at all times minimizes erosion, sediment, hazards of slope instability, and adverse effects on neighboring property owners.
		(5)	Sites should be seeded and mulched with erosion control materials such as straw mulch, jute mesh, or excelsior (wood shavings) within 3 days of final grading. If construction has been suspended, or sections completed, areas should be seeded immediately and stabilized with erosion control materials. Maintenance should be performed as necessary to ensure continued stabilization.
		D.	Performance Standards for Water Quality and Water Quantity Management.



		(1)	The Performance Standards required for this Article shall be equivalent to the Unified Stormwater Sizing Criteria contained in Chapter 4 of the Design Manual, and the Performance Criteria for water quality treatment contained in Chapter 6 of the Design Manual.
		(2)	Certain types of projects in environmentally sensitive areas, such as primary or principal aquifer protection areas may require a more stringent SWPPP.
SECTION 1206	<b>CONTENTS OF THE STORMWATER POLLUTION PREVENTION PLAN (SWPPP).</b>		
	A.	It is the responsibility of an applicant to prepare a SWPPP so that the Town can evaluate the environmental characteristics of the affected areas and evaluate the potential and predicted impacts of the proposed activity on the community's surface and groundwater, existing and proposed infrastructure, neighboring properties, and the effectiveness and acceptability of those measures proposed by the applicant for reducing or mitigating adverse impacts.	
	B.	The SWPPP shall be consistent with the purposes and objectives of this Article.	
	C.	The exact requirements of the SWPPP will depend upon the location, size, and scope of the proposed project. The SWPPP developed will be reviewed for attenuation of peak discharge, total runoff reduction, erosion/sediment control, and water quality protection.	
	D.	Preparation of the SWPPP shall follow guidance provided by NYS DEC, such as the <u>Instruction Manual for Stormwater Construction Permit</u> , (NYS DEC, July 2004), most current version or its successor.	
	E.	Content of erosion and sediment control plans. Erosion and Sediment Control Plans required under Section 1204D of this Article are equivalent to "Basic" SWPPPs defined by NYSDEC, and must, at a minimum, include the following:	
		(1)	Background information about the scope of the project, including the location, type and size of project.

			(2)	A site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; onsite and adjacent off-site surface water(s), wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s).
			(3)	A description of the soil(s) present at the site.
			(4)	A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Guidelines for Urban Erosion and Sediment Control, there shall not be more than five (5) acres of disturbed soil at any one time without prior written approval.
			(5)	A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in the storm water discharges.
			(6)	A description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to storm water, and spill prevention and response.
			(7)	A description of the temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.
			(8)	A site map/construction drawing(s) showing the specific location(s), size(s), and length(s) of each erosion and sediment control practice.
			(9)	The dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basin.

			(10)	Identification of temporary practices that will be converted to permanent control measures.
			(11)	An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.
			(12)	A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practices.
			(13)	The names(s) of the receiving water(s).
			(14)	A delineation of implementation responsibilities for each part of the site.
			(15)	A description of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
			(16)	Any existing data that describes the stormwater runoff characteristics at the site.
		F.		Content of water quality and water quantity management plans. Water Quality and Water Quantity Management Plans required under Section 1204E of this Article are equivalent to “Full” SWPPPs defined by NYSDEC, and must, at a minimum, include the following:
			(1)	All the information required for Erosion and Sediment Control Plans, as described in Subsection E (1 – 16) of this section.
			(2)	A description of each post-construction stormwater control practice.
			(3)	A site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater control practice.
			(4)	A hydrologic and hydraulic analysis for all structural components of the stormwater control system for the applicable design storms.
			(5)	A comparison of post-development stormwater runoff conditions with pre-development conditions.

			(6)	The dimensions, material specifications and installation details for each post-construction stormwater control practice.
			(7)	A maintenance plan and schedule to ensure continuous and effective operation of each post-construction stormwater control practice.
		G.		The Town Planning Board may require additional public safety measures and controls in the design and maintenance of stormwater management facilities or erosion and sediment control practices.
		H.		Additional information or data may be required by the town as deemed appropriate.
		I.		The town may require that plans and design reports be sealed by a licensed professional engineer indicating that the plans have been designed in accordance with this Stormwater Management and Erosion and Sediment Control Article and the regulations, standards and criteria set forth herein.
		J.		Fees shall be charged for the review of SWPPPs beyond those fees applicable to any other approvals to which a development project may be subject. Inspection fees shall be applicable when a project commences.
		K.		Applicable fees shall be determined by the Town Board.
<b>SECTION 1207</b>	<b>PLAN APPLICATION AND REVIEW PROCESS.</b>			
		A.		The SWPPP shall be submitted to the Town of Homer Planning Board at least ten working days prior to the date of any regularly scheduled Planning Board meeting at which the plan may be considered. The Plan shall be submitted with a SWPPP checklist form completed by the submitter to certify the completeness of the plan. Incomplete plans may not be considered at the Planning Board meeting.
		B.		The Planning Board may require review of and comments on the Plan by outside consultants or qualified professionals.

		C.	The Planning Board will review the Plan as submitted and, because it is a preliminary action and not final, town action shall be given as preliminary or conceptual approval, with modification, or disapproval. If preliminary approval, or approval with modification is given, submission of a final application shall be required wherein requested modifications shall be satisfied and final approval may be given.
		D.	The Town Planning Board shall act to approve or disapprove the SWPPP within the time frames set forth for the other approvals to which the development project is subject under its jurisdiction, or within sixty (60) days of the date upon which the Plan is determined to be in compliance with this Article.
		E.	No SWPPP shall be approved without certification by the owner or developer, that all work will be accomplished pursuant to the plan, and of the right of the town and/or consultants to the town to conduct on-site inspections before, during and at the conclusion of construction activities.
<b>SECTION 1208</b>	<b>CONSTRUCTION INSPECTION.</b>		
		A.	The Town may conduct such inspections as necessary to determine compliance with this law. The Town may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the approved SWPPP.
		B.	Inspections may be performed by the Town Code Enforcement Officer, outside consultants under contract with the Town, and/or other qualified professionals under agreement with the Town to perform such inspections.
		C.	At a minimum, the applicant shall notify the Town or designated inspector at least 48 hours before any of the following occurs:
		(1)	Installation of sediment and erosion control measures.
		(2)	Completion of site clearing, and rough grading.
		(3)	Completion of final grading.
		(4)	Backfilling of any underground drainage or stormwater structure or conveyance.
		(5)	Close of the construction season.

		(6)	Completion of final landscaping.
		D.	The Town may require other inspections, in addition to those identified under Subsection C of this section, for specific land development projects. In such cases, the Town shall provide the developer with a list and schedule for required inspections.
		E.	If any violations are found during an inspection, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Town.
		F.	The Town may conduct random inspections to ensure effective control of erosion and sedimentation during all phases of construction.
		G.	The applicant shall certify to the Town by the submission of “as-built” plans that the construction of stormwater management facilities and structures conform to the approved SWPPP.
		H.	Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
		I.	Submission of reports. The Town, or its agent, may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

		J.	Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and a public storm water system, the landowner shall grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection H of the section.
SECTION 1209	<b>MAINTENANCE AND REPAIR OF STORMWATER FACILITIES.</b>		
		A.	Maintenance During Construction
		(1)	The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.
		(2)	The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed as required under GP-02-01.
		B.	Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town.
		C.	Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this law shall operate and maintain said practices to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

		(1)	A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this Article.
		(2)	Written procedures for operation and maintenance and training new maintenance personnel.
		D. Maintenance Agreements.	
		(1)	The Town of Homer shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The Town of Homer, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
		(2)	The Town of Homer shall determine whether stormwater management facilities are to be maintained by the developer/owner, a homeowner's association, or by the Town.
		(a)	The developer or owner shall be responsible for maintenance of stormwater facilities for commercial and industrial developments unless a determination is made otherwise by the Town Board.
		(b)	If maintenance is to be performed by a homeowner's association, the homeowner's association must be registered pursuant to Section 352-E of the New York State General Business Law.



			(c)	If maintenance is to be performed by the developer or property owner or homeowner's association, a maintenance plan containing a maintenance schedule shall be prepared by the developer, owner and/or homeowner's association for approval by the Town. Reports on maintenance activities, including any water quality data, as scheduled in the maintenance plan shall be submitted to the town within thirty (30) days of completion of the activity. The Town may request the services of an outside consultant, expert or specialist to review the report.
			(d)	Stormwater management facilities maintained by an owner or homeowner's association shall have adequate easements to permit the Town to inspect and, if necessary, to take corrective action should the owner fail to properly maintain the system. Before taking corrective action, the Town shall give the owner or homeowner's association written notice of the nature of the existing defects. If the owner or homeowner's association fails within thirty (30) days from the date of notice to commence corrective action or to appeal the matter to the Town, the town may take necessary corrective action, the cost of which shall be borne by the owner or developer pursuant to Section Thirteen of this Article or by the homeowner's association. In the event that the homeowner's association fails to pay for required corrective action, the Town shall have a lien placed on the real property of members of the homeowner's association until payment is made.
		(3)		Stormwater management facilities may be dedicated to the Town of Homer for purposes of maintenance by mutual consent and agreement of the developer/owner and the Town.
<b>SECTION 1210</b>	<b>REGIONAL STORMWATER MANAGEMENT FACILITIES.</b>			
	The Town of Homer may allow residential stormwater runoff to be discharged into stormwater management facilities off the site of development to a regional stormwater management facility, if all of the following conditions are met:			
	A.	The regional drainage facilities and channels leading to them are designed, constructed and maintained in accordance with the requirements of this article.		

		B.	Adverse environmental impacts on the site of development will be minimized.
		(1)	All plans must be consistent with downstream stormwater management facilities. If the plan cannot be consistent, then adequate provisions must be made for the sharing of construction and operating costs of regional facilities. The developer may be required to pay a portion of the cost of constructing the facilities as a condition to receiving approval of the SWPPP.
		(2)	Use of regional off-site stormwater management facilities does not eliminate the requirement that the first flush be captured and treated on-site pursuant to the Performance Standards if water quality is a concern.
		(3)	A request to use regional stormwater management facilities and all information related to the proposed regional off-site facilities shall be made a part of the SWPPP.
		(4)	The potential groundwater impairments from stormwater runoff shall not impact public or private water supply wells.
<b>SECTION 1211</b>	<b>PERFORMANCE BOND.</b>		
		A.	Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town in its approval of the SWPPP, the Town may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town as the beneficiary. The security shall be in an amount to be determined by the Town based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

		B.	Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
<b>SECTION 1212</b>		<b>ENFORCEMENT; PENALTIES.</b>	
		A.	Nuisance. Any development activity that is commenced without prior approval of a SWPPP or is conducted contrary to an approved SWPPP as required by this article, may be restrained by injunction or otherwise abated in a manner provided by law.
		B.	Civil and Criminal Penalties. In addition to or as an alternative to any penalty provided herein or law, any person who violates the provisions of this Article shall be punished by a fine of not less than \$100 nor more than \$1,000 per offense or by imprisonment for a period not to exceed 60 days, or by both such fine and imprisonment. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.
		C.	Any violator may be required to restore land to mitigate the disturbance, in a manner similar to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.
		D.	Notice of Violation. When the Town of Homer determines that development activity is not being carried out in accordance with the requirements of this Article, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:
		(1)	The name and address of the owner or applicant.

		(2)	The street address when available or a description of the building, structure, or land upon which the violation is occurring.
		(3)	A statement specifying the nature of the violation.
		(4)	A description of the remedial actions necessary to bring the development activity into compliance with this article and a time schedule for completion of such remedial action.
		(5)	A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
		(6)	A statement that the determination of violation may be appealed to the Town of Homer Zoning Board of Appeals by filing a written notice of appeal within twenty (20) days of service of notice of violation.
		E.	The notice of violation shall be served upon the person(s) to whom it is directed either personally, in a manner provided for personal services of notices by the court of local jurisdiction, or by mailing a copy of the notice of the violation by certified mail, postage prepaid, return receipt requested to such person at his or her last known address.
<b>SECTION 1213</b>	<b>APPEALS.</b>		
	Any person aggrieved by the action of any official charged with the enforcement of this Article, the issuance of a written notice of violation, or an alleged failure to properly enforce the Article in regard to a specific application, shall have the right to appeal the action to the Town of Homer Zoning Board of Appeals. The appeal shall be filed in writing within 20 days of the date of official transmittal of the final decision or determination to the applicant, and shall state clearly the grounds on which the appeal is based.		
<b>SECTION 1214</b>	<b>VARIANCE.</b>		
	The Town of Homer Planning Board may grant a variance during the review process, from any requirement of this Article using the following criteria:		
	A.	There are special circumstances applicable to the subject property or its intended use; and	
	B.	The granting of the variance will not result in:	

			(1)	An increase or decrease in the rate or volume of surface water runoff.
			(2)	An adverse impact on a wetland, water course or waterbody.
			(3)	Degradation of surface and groundwater water quality. Or
			(4)	Any impairment to achieving the objectives of this Article.

ARTICLE XIII

REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

SECTION 1301	<b>ABANDONED BUILDINGS, CELLAR HOLES AND WELLS.</b>	
	Within one (1) year after work on any excavation for a building has begun, any excavation for a building shall be covered over or refilled by the owner to the normal grade. Any building substantially destroyed by any cause shall be rebuilt or demolished within one (1) year. Any excavation or cellar hole remaining after the demolition or destruction of a building from any cause and any abandoned well shall be permanently covered over or filled by the owner within one (1) year.	
SECTION 1302	<b>FENCES.</b>	
	A.	Any fence erected, altered or reconstructed in the front yard in a Residence District shall be of ornamental stone or open construction such as ornamental wire, picket, iron or hedge and shall not exceed four (4) feet in height.
	B.	In a side or rear yard, a privacy fence may be erected not to exceed six (6) feet in height.
	C.	Any fence erected, altered or reconstructed in a non-residential district shall not exceed eight (8) feet in height.
	D.	No fence or hedge shall cause obstruction to vision at street intersections. A clear sight triangle at street intersections shall be maintained. The “clear sight triangle” is an area encompassed by the intersecting street lines of a corner lot and a straight line joining said street lines at points which are thirty (30) feet distance from the point of intersection of the street lines. The height of any fence within the “clear sight triangle” shall not exceed three and a half (3.5) feet.
	E.	Fences must not obstruct clear visibility from motor vehicles about to enter public rights-of-way. This clear visibility must be such that a vehicle operator sitting in a vehicle on a private access way at a distance of twenty (20) feet from a public right-of-way must not have his or her full view of the public right-of-way obstructed for two hundred (200) feet by any fence or hedge on private property.
	F.	No fence shall be constructed of barbed wire, razor wire, or

			other material determined to be potentially injurious, nor shall any fence be electrified or topped with material determined to be potentially injurious, including but not limited barbed wire, razor wire, or broken glass.
		G.	Fencing for livestock and farm use shall be exempt from these provisions.
SECTION 1303	<b>OPEN PORCHES AND CARPORTS.</b>		
	In determining the size of yards for the purpose of this chapter, porches open at the sides but roofed and carports shall be considered a part of the building.		
SECTION 1304	<b>PARKING.</b>		
	The purpose of this section is to reduce problems caused by inadequate or poorly designed parking facilities.		
		A.	All parking lots shall comply with applicable NYS DOT regulations.
		B.	All uses shall provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out onto or park on the shoulder of public roads.
		C.	Each parking space shall not be less than 10' x 20' exclusive of aisles, access and driveway areas.
		D.	Off street parking areas for non-residential uses shall provide aisles or access lanes to parking spaces. Parking areas for fifty (50) or more vehicles shall delineate fire lanes and include "no parking" signs.
		E.	Minimum standards, supplementary to the basic standards cited above, are as follows
		(1)	One (1) parking space for every three seats in a public meeting place.
		(2)	One (1) parking space for each employee at places of employment and one parking space per two hundred and fifty (250) square feet of gross floor area in a commercial establishment unless otherwise specified herein.
		(3)	One (1) parking space for every one hundred fifty (150) square feet of gross floor area in supermarkets and self

			service food stores.
		(4)	One (1) parking space for every one hundred (100) square feet of gross floor area in restaurants.
		(5)	Two (2) parking spaces per dwelling unit in residential districts and uses.
<b>SECTION 1305 PUBLIC GARAGE AND GASOLINE SALES STATIONS.</b>			
	A.	No part of any building used as a public garage or gasoline service station and no filling pump, lift or other service appliance shall be erected within twenty (20) feet of any lot line.	
	B.	No gasoline, diesel fuel or oil pump or greasing mechanism and no other service appliance installed in connection with any gasoline sales station or public garage shall be within twenty-five (25) feet of any exterior road line and when so installed shall not be a violation of front yard requirements specified elsewhere in this chapter.	
<b>SECTION 1306 SIGNS AND BILLBOARDS.</b>			
	A.	For the purposes of these regulations, the term “sign” does not include:	
		1.	Signs erected and maintained pursuant to and in the discharge of any governmental function, including state or federal historic markers, or required by any law, law or governmental regulation.
		2.	Repainting, cleaning and other normal maintenance and repair of a sign or a sign structure unless a structural change is made or if the repair is in violation of the sign regulations.
		3.	Memorial tablets or signs, and locally designed historic markers not exceeding two (2) square feet in area.
		4.	Flags, emblems or insignias of the United States, the State of New York, town village, or counties, other counties and states, the United Nations or similar organizations of which this nation is a member.
		5.	Signs for the direction or convenience of the public, including signs which identify rest rooms or the location of public telephones or traffic control devices; however, the total area shall not exceed two (2) square feet.



			6.	Political signs.
		B.	GENERAL REGULATIONS	
			1.	No sign shall be permitted in any zoning district except in compliance with the provisions of these regulations.
			2.	Pictorial designs, logos and trademarks shall be permitted, provided that they are incorporated in and made part of the permitted sign face and the area thereof is included in calculating the total permitted sign face area allowed under these regulations.
			3.	No application for approval of signs shall be processed or permitted unless permission is granted from the property owner.
			4.	No sign shall project across or over a property line or lease line, nor be in a public right-of-way.
			5.	All signs shall comply with applicable provisions of the State of New York Uniform Fire Prevention and Building Code.
			6.	Maintenance of all signs.
			a.	All signs and all components thereof, including supports, braces and anchors, shall be kept in a good state of repair.
			b.	If the message portion of a sign is removed or a business or other activity is no longer operating, it shall be the property owner's responsibility to assure that the abandoned sign is promptly removed or properly covered to the satisfaction of the Code Enforcement Officer.
			7.	No sign shall consist of lights which flash or move or appear to move.
			8.	No sign shall be higher than the principal building to which it is accessory, or higher than 10 feet, whichever is lower.
			9.	No general advertising signs unrelated to the permitted use of the premises are allowed.
			10.	No sign shall be erected or posted on a public utility pole

				or traffic control structure.
			11.	Temporary unlighted signs erected by and for non-profit organizations such as churches, veterans organizations, civic or fraternal organizations, youth clubs or teams, etc. which advertise suppers, banquets, benefits, fundraising sales, etc., may be erected for a forty (40) day period without permit in any district, provided that the sign will not constitute a traffic hazard and shall be removed within forty-eight (48) hours after the advertised event.
		C.	LOCATION	
				Off-premises signs are not permitted except as follows. Signs permitted within this section may also be on-premises.
			1.	One temporary sign per lot directing persons to temporary exhibits, shows or events and sponsored by a non-profit organization may be erected subject to the requirements of Section 1307.
			2.	Signs of civic organizations.
		D.	PERMITTED SIGNS IN ALL DISTRICTS	
				The following signs are permitted in any appropriate district without approval or permit.
			1.	A nameplate, which shall not exceed two (2) square feet in area on each side and must be attached to the building in some manner.
			2.	Signs denoting the name and address of the occupants of the premises, which shall not exceed two (2) square feet in area on each side.
			3.	Signs advertising the sale, lease or rental of the premises upon which the sign is located, which sign shall not exceed six square feet in area, and provided that such sign is erected or displayed not less than five (5) feet from any property line. There shall not be more than one (1) such sign per lot, except that on a corner lot two (2) signs, one (1) facing each street, shall be permitted. Such sign shall be removed within twenty-four (24) hours after the time of sale, lease or rental.
			4.	Signs customarily incidental to places of worship, libraries, museums, social clubs or societies. Such signs or bulletin boards shall not exceed sixteen (16) square

				feet on each side in area, and shall be located on the premises of such institution, provided that such signs or bulletin boards are erected or displayed not closer than ten (10) feet to any property line. There shall not be more than one (1) sign or bulletin board per lot, except that on a corner lot two (2) signs or bulletin boards, one facing each street, shall be permitted.
			5.	Signs announcing no trespassing; signs indicating the private nature of a road, driveway or premises; and signs controlling fishing or hunting on the premises, provided that the area of any one (1) side of any such sign shall not exceed two (2) square feet.
			6.	Political signs.
			7.	Signs/banners directing persons to temporary exhibits, shows or events and sponsored by a nonprofit organization may be erected subject to the following requirements.
			a.	Permission is granted by the property owner, including state, county, town, village, utility companies and businesses, in writing, that a sign may be erected.
			b.	Signs/banners shall not exceed thirty (30) inches in height and forty (40) feet in length.
			c.	Signs shall not be posted earlier than four (4) weeks prior to the event, and shall be removed within one (1) week after the event.
			8.	No sign permit shall be required when a proposed sign has been received and approved by the Planning pursuant to a site plan or conditional use permit.
		E.	PERMITTED SIGNS IN RESIDENTIAL DISTRICTS	
			1.	<u>Home Occupation sign.</u>
			a.	For <u>lots less than 2.4 acres</u> , one home occupation sign may be permitted for an approved home occupation. Such sign <u>shall not exceed</u> two (2) square feet in area on each of <u>two (2) sides</u> , shall not be closer than ten (10) feet from any property line, and, if a ground sign, shall not exceed four feet in height above the natural grade on which the sign is located. The sign may contain only the name

				and/or name of the business and/or occupation of the resident.
			b.	For lots 2.4 acres or larger, one home occupation sign may be permitted to be <u>ten (10)</u> square feet on each of <u>two (2) sides</u> , shall not be closer than ten (10) feet from any property line, and, if a ground sign, shall not exceed six (6) feet in height above the natural grade on which the sign is located.
			2.	DEVELOPMENT SIGNS
			a.	Development signs shall be permitted at the main entrance to a development or subdivision of real property, provided that such subdivision shall contain at least five (5) subdivision lots. A development sign shall be limited in height to not more than six (6) feet above the natural grade on which the sign is located and shall be limited to sixteen (16) square feet in area. All development signs shall be freestanding and composed of durable materials and shall be complementary in design to the development or the surrounding area. Development signs shall require a sign permit and be subject to the criteria and standards of this Article and additional standards required by the Town Planning Board through the subdivision approval process.
			b.	The owner of the property on which the sign is located shall be responsible for the maintenance of the sign. A note to this effect shall be shown in the subdivision plan.
			3.	<b>GARAGE SALE SIGNS.</b> Two (2) non-illuminated sign on the premises, not to exceed four (4) square feet in area, advertising a garage sale shall be no closer than ten (10) feet to any side property line and shall project not more than six (6) feet in height above the natural grade on which the sign is located. Such signs shall not be erected more than seventy-two hours prior to the garage sale, and shall be removed at the conclusion of the garage sale.
			4.	<b>HOME IMPROVEMENT/CONTRACTOR SIGNS.</b> Any temporary sign, not to exceed six (6) square feet in area, identifying the name and services of the contractor/engineer/ architect involved in a home improvement project/contract within or upon the

				premises. Such sign shall be placed no closer than ten (10) feet to any side property line and project no more than four feet in height above the natural grade on which the sign is located. The sign shall be removed within ten (10) days after the completion of the improvement project but not to exceed one (1) year.
			5.	TOWNHOUSES OR APARTMENTS. One (1) identification sign not to exceed sixteen (16) square feet in area per side, indicating only the name and street address of the project, shall be permitted for each project. Such sign shall not be closer than ten (10) feet to any property line and shall not project more than six (6) feet above the natural grade on which the sign is located. In the case of a wall sign, such sign shall not exceed twelve (12) square feet in area, indicating only the name and street address of the project. Identification signs shall be subject to the criteria and standards of this Article and the Town Planning Board.
			6.	Businesses in residential districts shall comply with the business district requirements for signs unless otherwise restricted in this Article.
		F.	PERMITTED SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS	
			1.	Business identification signs.
			a.	Wall signs.
			(1)	One (1) wall sign not to exceed two (2) square feet for each linear foot of width of the front of the building, or portion of the building occupied by the business.
			(2)	The sign should identify the owner or enterprise conducting the business, the business engaged in upon the premises or products and services sold; or any combination of these.
			(3)	Where a building has frontage on more than one (1) street or public highway, one (1) wall sign is permitted for each street frontage.
			b.	Building directory sign for a multiple-use structure.
			(1)	One (1) building directory sign indicating the name of the occupants of the building and the

					building number in order to direct persons to their proper destination once they are on the site is permitted.
				(2)	Signs are to be no larger than sixteen (16) square feet in area on each side, including the nameplates of all the tenants or uses, and shall not project more than six (6) feet in height above the natural grade on which the sign is located. The sign's construction shall compliment the architectural style and materials of the building it serves. The proposed sign's construction shall be subject to Planning Board approval and shall require a sign permit. In determining the design, location and hours of illumination, the Board shall be guided by other pertinent sections of these regulations.
			2.		One (1) projecting sign, provided that:
				a.	Such sign shall not exceed six (6) square feet in area and shall not project more than four (4) feet from the wall or surface to which it is mounted.
				b.	Such sign shall be at least eight (8) feet to the bottom of the sign above the ground level immediately below and shall in no way interfere with normal pedestrian or vehicular traffic.
				c.	There shall be no more than one (1) projecting sign for each business or public entrance.
				d.	The supporting structure shall not be included in calculating the sign area, provided that it is free of all lettering.
			3.		One (1) on-premises freestanding business sign, provided that:
				a.	It indicates the name of the business. Such sign shall be no larger than thirty-two (32) square feet in area and shall not project more than ten (10) feet in height above the natural grade on which the sign is located. The sign's construction shall compliment the architectural style and materials of the building it will serve. The proposed sign shall be subject to Planning Board review through the site plan approval process and shall require a sign permit. In

				determining the design, location and hours of illumination, the Board shall be guided by other pertinent sections of these regulations.
			b.	Only one (1) such sign shall be permitted on each property. In the case of a lot occupied or intended to be occupied by multiple business enterprises (i.e., a neighborhood or community shopping center or plaza), one (1) freestanding sign indicating the name of the development and the individual businesses shall be permitted.
			c.	Such a sign may be double faced.
			d.	All freestanding signs shall be located at least ten (10) feet from any property line. Where property abuts a public right-of-way, the freestanding sign shall be setback at least ten (10) feet from the right-of-way.
			e.	The location of such signs shall not interfere with visibility for vehicular/pedestrian traffic entering or leaving the lot or traveling on any street.
		4.		Signs for direction, provided that such sign(s) do not exceed two (2) square feet in area. Such signs may indicate the entrance and exit to the property and location of parking. Such signs shall not project more than four (4) feet in height above the natural grade on which the sign is located and shall be no closer than five (5) feet to any property line.
		G.	ADDITIONAL REGULATIONS.	
		1.		Vehicular signs. Signs displayed on licensed and inspected motor vehicles which are used in conjunction with a business, provided that:
			a.	The primary use of such vehicle is the transportation of people or material for such business.
			b.	The primary effect of such sign is to identify the vehicle as being used for such purpose.
			c.	The vehicle is not parked or stored in a manner primarily intended to display the sign to passersby.

			2.	Awnings and/or canopy signs. Awnings and/or canopy signs are movable or fixed ornamental roof-like structures extend from the face of a structure and are constructed of durable materials, including fabrics, which may contain its own illumination and may display lettering or other business insignia.
			a.	No part of any awning or canopy shall:
			(1)	Project more than three (3) feet from the structure to which it is attached.
			(2)	Extend above the height allowed for structures in the respective zoning districts
			(3)	Extend into any setback areas.
			(4)	Be lower than eight (8) feet above the ground elevation of the wall face of the structure to which it is attached.
			(5)	Wall and canopy signs are not to exceed two (2) square feet in area for each linear foot of building fronting the roadway.
			b.	A permit is required for the placement of awning and/or canopy signs. Prior to the issuance of a sign permit, the applicant shall furnish to the Code Enforcement Officer plans and specifications for the proposed installation. The application may be referred to the Planning Board prior to a sign permit being issued to consider the appropriate relationship between the size, shape and design of the awning and/or canopy sign and of the structure to which it will be attached, as well as the placement of the awning and/or canopy sign on the structure.
		H.		Application for a sign permit. Application for the permit shall be made in writing to the Code Enforcement Officer upon forms prescribed by and provided by the Town of Homer and shall contain the following information:
			1.	The name, address and telephone number of the applicant.
			2.	Location of buildings, structures or land to which, or upon which, the sign is to be erected.
			3.	A detailed drawing or blueprint showing a description of



				the construction details of the sign and showing the colors, lettering and/or pictorial matter composing the sign; position of lighting and other extraneous devices; and a location plan showing the position of the sign on any building or land and its position in relation to nearby buildings, structures or existing signs and to any private or public street or highway.
			4.	Written consent of the owner of the building, structure or land to which or upon which the sign is to be erected, in the event that the applicant is not the owner thereof.
			5.	A copy of any required or necessary electrical permit issued for said sign or a copy of the application thereof.
			6.	The Code Enforcement Officer or other designated Town of Homer official shall issue a permit number for each sign which shall be permanently attached to or displayed on each sign, billboard, bulletin board or structure so that it may be readily ascertained that a permit has been issued for each use.
			7.	A fee shall be charged, pursuant to the Town of Homer fee schedule.
		I.		Existing Non-conforming signs. All existing signs which conform the current regulations are permitted to continue, provided that there are no changes in size and/or use.
<b>SECTION 1307</b>	<b>STORAGE AND DUMPING.</b>			
		A.		On a primarily residential lot or plot, no storage of rubbish, junk or other waste material of any nature shall be permitted.
		B.		Dumping of refuse, waste materials and other similar substances at other than the county landfill or other government approved facility is absolutely prohibited in all districts in the town. Disposal of nontoxic waste materials resulting from the operation of a farm and deposited on a farmers own land at a distance of one hundred (100) feet from all highways and two hundred (200) feet from streams and residences shall not be deemed a violation of this chapter.
		C.		All spaces between buildings and structures shall be kept sufficiently free and clear of materials of every nature for the purpose of providing adequate fire protection, light

			and air.
		D.	Not more than one (1) motor vehicle, automobile, automobile trailer or other vehicle shall remain outside upon any property within any district of the town when such vehicle, automobile, automobile trailer or other vehicle does not have a current and valid registration and inspection, or has been so dismantled or parts removed therefrom so as to be incapable of operation or use. Any such vehicles shall be removed from the premises within thirty (30) days of the date when they became inoperable.
		E.	Machinery or equipment no longer in use shall be stored out of sight of roadways and neighboring properties.
		F.	Motorhomes, travel trailers or camping trailers not used for dwelling purposes may be stored in rear or side yards when not in use. Such motorhomes and trailers stored in a side yard may not occupy any required side yard area.
<b>SECTION 1308</b>	<b>SWIMMING POOLS.</b>		
		A.	A building permit shall be required for the construction of all types of swimming pools.
		B.	All pools shall be erected in the rear yard except in the case of a corner lot or a double lot, a side yard may be used, provided that all other Town Law requirements are met.
		C.	All pools shall be chemically treated in a manner sufficient to maintain bacterial standards established by the Cortland County and New York State Sanitary Code pertaining to public swimming pools.

ARTICLE XIV

SUPPLEMENTAL REGULATIONS

SECTION 1401	<b>CAMPING GROUNDS.</b>	
		Camping grounds shall be occupied only by travel trailers, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreational purposes. The removal of wheels or placement of a unit on a foundation in a camping ground is prohibited.
	A.	Minimum site area: fifteen (15) acres.
	B.	Not more than ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area. Areas regularly covered with water shall not be considered as part of the gross site area.
	C.	A camping ground shall be so located that no entrance or exit from a site shall discharge traffic from the camping ground through a residential area. A camping ground shall have a minimum of one hundred fifty (150) feet of frontage on a public street or road.
	D.	Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences. Also, no portion of the camping grounds subject to flooding, or other physical hazard shall be used for any purpose which exposes persons or property to such potential or actual dangers.
	E.	The following uses are permitted as accessory uses in camping grounds in districts where such uses are not allowed as principal uses: Management headquarters, recreational, educational and social facilities, toilets, lavatories, showers, coin operated laundries, sewage dumping and other uses and structures customarily incidental to the operation of camping grounds, but subject to the following restrictions:
	1.	Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.



		L.	Not less than one (1) covered twenty (20) gallon garbage receptacle shall be provided for each campsite. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
		M.	All applicable sanitation standards established by the State of New York and by the Cortland County Health Code shall be complied with.
		N.	Setbacks. Each building or structure within a camping ground shall comply with the setback requirements applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents motor homes and the motor vehicles propelling or carrying the same may be located not closer than sixty (60) feet to any front lot line.
SECTION 1402	<b>CLUBS, LODGES, FRATERNAL ORGANIZATIONS, ETC.</b>		
		A.	Landscaping and/or fencing of an appropriate kind to screen adjacent properties and land uses shall be provided on all side and rear lot lines.
		B.	Minimum off street parking shall provide one (1) space per employee and one (1) space for each three (3) members.
		C.	Entrance and exit points shall be from public roads.
SECTION 1403	<b>DAY CARE CENTERS.</b>		
		A.	Must have a working telephone system.
		B.	Must have an active outdoor play area of 100 gross square feet per client.
		C.	Outdoor play areas must be fenced with a three (3) foot fence from roads and nearby properties.
		D.	No outdoor play equipment may be placed within ten (10) feet of any property line.
		E.	Minimum parking shall be one (1) space per staff member plus one (1) space for each ten (10) children.
SECTION 1404	<b>HOME OCCUPATIONS.</b>		
		A.	No more than one employee who does not reside on premises may be employed as part of a home occupation.

		B.	A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
		C.	Entrance and exit points shall be from public roads.
		D.	No more than twenty-five (25) percent of the gross floor area of such residence shall be used for the conduct of a home occupation. No more than seven-hundred and fifty (750) square feet of the floor area of an accessory structure shall be used for a home occupation.
		E.	In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by use of colors, materials, construction, lighting, or the emission of sounds, noises, odors or vibrations.
		F.	No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
		G.	No outdoor display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
		H.	<u>One sign shall be permitted not to exceed four (4) square feet in area.</u> There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
		I.	One (1) commercial type vehicle may be used in connection with the home occupation and be parked on the property.
		J.	No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
		K.	A home occupation shall not be interpreted to include the following: commercial stables or kennels, restaurants, musical and dancing instruction to groups exceeding four pupils, convalescent homes, homes for physically or mentally ill, mortuary establishments, garages or shops for the repair of

			motor vehicles and other trades and businesses of similar nature.
<b>SECTION 1405</b>	<b>HOTELS AND MOTELS.</b>		
		A.	Minimum lot size: four (4) acres Minimum lot width: two hundred (200) feet. Minimum front setback: fifty (50) feet. Minimum side and rear setbacks: forty (40) feet.
		B.	Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops, and other personal service shops for the convenience of guests may be permitted as accessory uses. With the exception of an identifying sign for the restaurant, no external evidence of these internal commercial activities is permitted.
<b>SECTION 1406</b>	<b>KENNELS AND ANIMAL HOSPITALS.</b>		
		A.	Adequate landscaping and/or fencing shall be provided for visual screening and buffering between such facilities and adjacent properties.
		B.	All buildings, structures or other accessory uses shall be at least seventy-five (75) feet from any property line.
		C.	All animals shall be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.
		D.	Lot coverage shall not exceed fifty (50) percent.
		E.	Entrance and exit points shall be directly from public roads.
<b>SECTION 1407</b>	<b>MINING.</b>		
		A.	Mining is prohibited below the water table and in Residence Districts.
		B.	In any district, the removal of loam, sand, gravel or quarried stone, except when incidental to or in connection with the construction of a building on the same lot, shall be permitted only on special approval of the Planning Board.
		C.	Except in connection with a sod farm, any area where sod is removed and which is not covered with a building, pavement or other surface covering must be reseeded.
		D.	N.Y.S.D.E.C. Regulated Mining Operations.

			1. Access roads to the mining operation shall be located no closer than fifty (50) feet from side lot lines
			2. Routing of mineral transport vehicles on roads controlled by local government may be regulated.
			3. Requirements and conditions concerning setbacks from lot lines and public thoroughfare rights-of-way, natural or manmade barriers to restrict access, dust control, and hours of operation, placed on the mining operation by the N.Y.S.D.E.C. as part of its permit shall also be requirements and conditions of the local approval.
		E.	Locally Regulated Mining Operations
			1. No below ground level excavation of materials shall be located within <u>seventy-five (75) feet of any right-of-way line or lot line</u> . Where such operations are within five hundred (500) feet from a residential structure there shall be screening (approved by the Planning Board) to reduce visibility of the pit and eliminate noise and dust from residential properties.
			2. All excavation slopes in excess of one (1) foot horizontal to two (2) feet vertical shall be completely fenced to prohibit entrance by children and unauthorized individuals.
			3. Access drives shall be treated within two hundred (200) feet of a public road to prevent dust.
			4. Drainage facilities shall minimize erosion and stagnant ponds.
			5. Whenever topsoil has been removed or covered over by fill on any area of land of more than one acre, such an area shall be seeded to provide an effective covering crop within the first growing season following the end of such operation.
<b>SECTION 1408</b>	<b>MOTOR VEHICLE REPAIR SHOPS.</b>		
		A.	Entrance and exit driveways shall have an unrestricted width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not nearer than ten (10) feet from any property line, and shall be laid out so as to avoid the necessity of vehicles backing out into any public right-of-way.



		B.	No more than ten (10) motor vehicles being serviced or repaired shall be stored or parked out of doors in public/private view. No motor vehicles shall be stored in the front yard of the property. Vehicles shall be in areas screened by opaque fencing not less than six (6) feet in height from adjacent properties. All such vehicles shall be stored in a neat and orderly manner.
		C.	The hours of operation of motor vehicle repair shops shall be no earlier than 7:30 a.m. and not later than 8:00 p.m.
		D.	Any repair of motor vehicles shall be performed in a fully enclosed building and no more than two (2) motor vehicles shall be offered for sale on the site at any one time. No motor vehicle parts, or partially dismantled motor vehicle shall be stored outside of an enclosed building.
<b>SECTION 1409</b>	<b>MULTIPLE FAMILY DWELLINGS.</b>		
		A.	All multiple family dwellings shall be connected to a public or community water and wastewater treatment system.
		B.	The maximum gross density shall not exceed two (2) units per acre.
		C.	Minimum habitable floor area requirements:
		1.	Townhouse unit; two (2) bedrooms or less: eight hundred fifty (850) square feet.
		2.	Townhouse unit; three (3) bedrooms or more: One thousand (1,000) square feet.
		3.	Apartment unit; efficiency: five hundred fifty (550) square feet.
		4.	Apartment unit; one (1) bedroom: six hundred seventy-five (675) square feet.
		5.	Apartment unit; two (2) bedrooms; eight hundred (800) square feet.
		6.	Apartment unit; three (3) bedrooms; nine hundred fifty (950) square feet.
		7.	No more than one third ( $\frac{1}{3}$ ) of the total units within a multiple family dwelling development shall be three (3) or more bedroom units.

		D.	Setback requirements.	
			1.	The minimum front setback from any public street shall be seventy five (75) feet.
			2.	The side and rear setbacks shall be fifty (50) feet from all other lot lines.
			3.	Minimum distance between buildings in a multiple family dwelling development shall be fifty (50) feet.
		E.	All stairways to the second floor or higher shall be located inside buildings.	
		F.	Access to public road:	
			1.	All multiple family dwelling developments must have direct access to a public road.
			2.	If there are more than twelve (12) dwelling units in a multiple family dwelling development, direct access must be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
			3.	If there are more than fifty (50) dwelling units in a multiple family development, or, if in the opinion of the Planning Board, the location and/or the topography of the site indicate the need for additional access, the Planning Board may require same as a condition of site plan approval.
		G.	Off-street parking shall be provided in the amount of two (2) spaces for each unit. Parking shall be allowed in the front yard with a minimum setback requirement of forty (40) feet between the road right-of-way and the nearest edge of the parking lot.	
		H.	The aggregate lot coverage of multiple family dwelling developments shall not exceed thirty (30) percent of the total land area. Areas permanently covered with water shall not be considered as "land area."	
		I.	Plans submitted for site plan approval shall address at least these elements; sewage disposal, water supply, storm drainage, landscaping, lighting, pedestrian and vehicular circulation and off-street parking.	

<b>SECTION 1410</b>	<b>PUBLIC BUILDINGS AND GROUNDS.</b>		
		A.	Landscaped areas at least ten (10) feet in width or other suitable screening, shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.
		B.	No structure or use shall be located within fifteen (15) feet of any adjacent property line.
		C.	Entrance and exit points shall be from public roads.
		D.	Parking areas shall not be within ten (10) feet of any property line.
<b>SECTION 1411</b>	<b>RESTAURANTS.</b>		
		A.	The following information shall be submitted as part of the application for site plan approval and the special use permit for restaurants in addition to that information required in other sections of this law.
		1.	The location and dimensions of all structures including buildings, screened trash areas, fencing, and lighting with the direction and level of illumination.
		2.	The location and dimensions of all off-street parking areas including ingress and egress, and the layout of aisles and spacings.
		3.	Proposed landscaping site plan indicating the sizes and types of plant materials.
		B.	Restaurants shall be a minimum of two hundred (200) feet from other restaurants and distances shall be computed as follows:
		1.	For restaurants on the same side of the street the distances between them shall not be less than two hundred (200) feet between the two closest property lines.
		2.	For restaurants on opposite sides of the street, the distances shall be not less than two hundred (200) feet from the closest corners of the lots.
		C.	All restaurants shall provide suitable storage for trash in areas which are so designed and constructed as to allow no view of the trash storage from the street, to prevent trash and waste

			materials from blowing away and to permit safe and easy removal of trash and waste.
		1.	The minimum distance of any driveway to a property line shall be at least fifteen (15) feet.
		2.	The minimum distance between driveways on the site shall be ninety-five (95) feet measured between the closest points of the center lines of the driveways.
		3.	The minimum driveway distance from a street intersection shall be thirty (30) feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.
		4.	Restaurants adjacent to or integrated into a shopping center or cluster of commercial facilities shall use the common areas of with other business establishments in the center.
		5.	Exterior lighting proposed for the site shall be planned, erected and maintained so that it will not cast direct light or glare upon the adjacent propertied or public right-of-way. The light source shall not be located at a point more than twenty (20) feet above the mean grade level.
		6.	Landscaping and fencing shall be provided to minimize visual unattractiveness and to reduce friction between adjacent and other nearby land uses.
		7.	Water supply and sewage disposal systems shall be approved by the Cortland County Health Department.
<b>SECTION 1412</b>	<b>RETAIL GASOLINE OUTLET.</b>		
		A.	Entrance and exit driveways shall have an unrestrictive width of not less than twenty-five (25) feet and not more than thirty (30) feet, and shall be located not nearer than fifteen (15) feet from any property line, and shall be designed to avoid the necessity of any vehicle backing out into any public right-of-way.
		B.	Entrance and exit points shall be from public roads.
		C.	All buildings shall be setback from the street line a distance of not less than thirty (30) feet.
		D.	Gasoline pumps shall be located not less than twenty (20) feet from the street line and not less than thirty (30) feet from all

			other property lines.
		E.	No such establishment shall be located within a distance of two hundred (200) feet of the property line of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than fifty (50) persons, or within five hundred (500) feet of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
		F.	Landscaped areas of at least ten (10) feet in width shall be provided along side and rear property lines to lessen any visual unattractiveness.
		G.	The entire area of the site traveled by motor vehicles shall be a dust free paved surface.
<b>SECTION 1413</b>	<b>SMALL SERVICE CONTRACTOR.</b>		
			Small Service Contractors shall meet the following guidelines:
		A.	There shall be no indication from the exterior that the building is used as other than a dwelling except as permitted under Section 1307, Signs.
		B.	The property shall be the primary residence of the operator of the business.
		C.	Entrance and exit points shall be directly from public roads.
		D.	Goods shall not be displayed or offered for sale on premises.
		E.	Lot size shall be a minimum of 2.4 acres.
		F.	Not more than four (4) vehicles or pieces of motorized equipment used in the business will be parked on premises, except that for each additional acre that the lot exceeds two (2) acres, one additional vehicle or piece of motorized equipment may be parked up to a maximum of six (6) vehicles or pieces of motorized equipment.
		G.	No vehicles, equipment or materials used in the business shall be parked or stored within 100 feet of any lot line.
		H.	Accessory buildings used for the business shall not exceed one thousand five hundred (1,500) square feet.

SECTION 1414	<b>TELECOMMUNICATION TOWERS.</b>		
		A.	No telecommunication tower shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with this law. No existing structure shall be modified to serve as a telecommunication tower unless in conformity with this law.
		B.	Telecommunication towers are prohibited within:
			1. Five hundred (500) feet of any residential zoning district.
			2. Seven hundred fifty (750) feet of any existing single family or two family dwelling including structures devoted to both residential and commercial or business purposes.
		C.	Applicants proposing to collocate on a previously approved telecommunication tower do not require a special permit. They are, however, subject to Site Plan Review in accordance with Article XV. The Planning Board may require the applicant to submit any of the items under subsection E below as part of the Site Plan Review process.
		D.	The regulations shall apply to all property within the Agricultural and Light Industrial zoning districts. Telecommunication towers shall be specifically excluded from all other zoning districts.
		E.	Shared use of Existing Tall Structures. At all times, shared use of existing tall structures (for example: municipal water towers, multi-story buildings, church steeples, farm silos, etc.) and existing or approved towers (see subsection C above) shall be preferred to the construction of new towers.
			1. An applicant proposing to share use of an existing tall structure shall be required to submit:
			a. A completed application for a special permit.
			b. Documentation of intent from the owner of the existing facility to allow shared use.
			c. A site plan showing all existing and proposed structures and improvements including antennae, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal

				the modifications of the existing facility shall be indicated on the site plan.
			d.	An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify to the above.
			e.	A completed EAF and any other supporting information required by the Planning Department.
			f.	A copy of any Federal Communications Commission (FCC) license.
			2.	If an applicant proposing to share use of an existing tall structure submits complete and satisfactory documentation in accordance with subsection E.(1) above, and if modifications indicated according to subsection E. (1) are deemed insignificant by the Planning Board, and after the Planning Board conducts a public hearing and complies with all SEQRA provisions, the Planning Board shall grant a special permit without further review under this section. If the Planning Board determines that any modifications indicated according to subsection E.(1) are significant, it may require further review according to subsections J through V below.
		F.		New Telecommunication Tower. The Planning Board may consider a new telecommunication tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical. An applicant shall be required to present an adequate report inventorying all existing tall structures and existing or approved towers within a reasonable distance of the proposed site. This distance shall be determined by the Planning Board in consultation with the applicant. The report shall outline opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate good faith efforts to secure shared use from the owner of each existing tall structure and existing or approved towers as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. Written requests and responses for shared use shall be provided.
		G.		Shared Usage of an Existing Tower Site for placement of a New Tower. Where shared use of existing tall structures and existing or approved towers is found to be impractical, the

			applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with subsection F above. Any proposals for a new telecommunications tower on an existing tower site shall also be subject to the requirements of subsections I through V below.
		H.	New Tower at a New Location. The Planning Board may consider a new telecommunications tower on a site not previously developed with an existing tower when the applicant demonstrates that shared use of existing tall structures and existing or approved towers is impractical, and submits a report as described in subsection F above. Any proposal for a new telecommunications tower shall also be subject to the requirements of subsections I through V below.
		I.	New Towers: Future Shared Use. The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities to include a minimum of an additional two (2) sites for co-location. The applicant shall submit to the Planning Board a letter of intent committing the owner of the proposed new tower, and its successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the zoning enforcement officer prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit. The Letter shall commit the new tower owner and its successors in interest to:
			1. Respond within 90 days to a request for information from a potential shared-use applicant.
			2. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
			3. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.



			4.	Allow shared use of the new tower for public safety and emergency networks, such as fire, ambulance, police, and E-911.
		J.	Site Plan Review: Submission Requirements.	
			1.	An applicant shall be required to submit a site plan in accordance with Article XV. The site plan shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wires and anchors, antennae, parking and landscaping, and shall include grading plans for new facilities and roads.
			2.	Supporting Documentation – The applicant shall submit a complete EAF, a complete Visual Environmental Assessment Form (visual EAF addendum), and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower and justification for any clearing required. The applicant shall also submit a copy of any Federal Communications Commission (FCC) license and any application required by the FCC for its approval.
		K.	Lot Size and Setbacks. All proposed telecommunications towers and accessory structures shall be located on a single parcel and shall be setback from abutting parcels and street lines a distance sufficient to substantially contain on site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.	
		L.	Visual Impact Assessment. The Planning Board may require the applicant to undertake a visual impact assessment which may include:	
			1.	A “Zone of Visibility Map” to determine locations where the tower may be seen.
			2.	Pictorial representations of “before” and “after” views from key viewpoints both inside and outside of the town, including but not limited to: state highways and other major roads, local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board shall determine the appropriate key sites at a pre-submission conference with the applicant.
			3.	Assessment of alternative tower designs and color schemes, as describe in subsection M below.

			4.	Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
		M.		New Tower Design. Alternative designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following:
			1.	Any new tower shall be designed to accommodate further shared use by other telecommunications providers including a minimum of two (2) additional sites.
			2.	Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
			3.	The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and/or federal law and/or regulation. The Planning Board at its discretion may modify this requirement if the applicant can justify the need to exceed this height limitation.
			4.	The Planning Board may request a review of the application by a qualified engineer, at the applicant's expense, in order to evaluate the need for, and design of, any new tower.
			5.	Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
			6.	No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to; company name, phone numbers, banners, and streamers.
		N.		Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground), shall take place prior to the approval of the special permit.
		O.		Deciduous or evergreen trees plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known

			to include important views or vistas. Where a site abuts a residential property, including streets, screening shall be required.
		P.	Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
		Q.	Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.
		R.	The tower and any accessory structures shall be adequately enclosed by a fence, design of which shall be approved by the Planning Board. The requirement may be waived by the Planning Board if applicant demonstrates that such measures are unnecessary to ensure the security of the facility.
		S.	The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the zoning enforcement officer within thirty (30) days of the discontinuance of use of the tower. This letter shall be filed with the zoning enforcement officer prior to the issuance of the building permit (assuming the telecommunications tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of such notification. Failure to notify and/or remove the obsolete or unused tower in accordance with these regulations, shall be a violation of this law and shall be punishable according to Section 107.
		T.	Inter-municipal Notification for New Towers. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County E-911 Services, the Planning Board shall require that:
		1.	An applicant who proposes a new telecommunications tower shall notify in writing the Cortland County

			Planning Board, Cortland County E-911 Coordinator and the legislative body of each municipality that borders the Town of Homer. Notification shall include the exact location of the proposed tower, and a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use.
		2.	Documentation of this notification shall be submitted to the Planning Board at the time of application.
		U.	Notification of Nearby Landowners. The applicant shall be required to mail notice of the public hearing directly to all landowners whose property is located within five hundred (500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal parklands from which the proposed tower would be visible if constructed. Documentation of this notification shall be submitted to the Planning Board prior to the public hearing.
		V.	The applicant shall submit and maintain the appropriate bond or letter of credit sufficient or in sufficient sum to cover the cost of removal of all improvements to be made by the applicant. Said bond or letter of credit is subject to review as to its adequacy once every five years thereafter.
		W.	The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunication tower special permit and/or site plan.
SECTION 1415	<b>SINGLE-WIDE MANUFACTURED HOMES.</b>		
			<u>Single-wide manufactured homes or trailers are prohibited outside of a manufactured home park or as an accessory use to a farm.</u>

ARTICLE XV  
SITE PLAN REVIEW

<b>SECTION 1501</b>	<b>INTENT.</b>	
	<p>The purpose of site plan review is to address the manner in which a parcel of land is to be used, including how the use will be situated, designed and constructed. It is not the purpose of site plan review to determine the types of use that may be permitted. A site plan may be disapproved if it does not conform to the standards set forth below. The Planning Board may impose appropriate conditions and safeguards to further the expressed intent of this local law.</p>	
<b>SECTION 1502</b>	<b>APPLICABILITY.</b>	
	<p>Prior to the issuance of any building permit, or approval, except for a single family or two-family dwelling and related accessory uses, the Code Enforcement Officer shall require the preparation and approval of a site plan. The Code Enforcement Officer shall refer the site plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this Article.</p>	
<b>SECTION 1503</b>	<b>SKETCH PLAN CONFERENCE.</b>	
	A.	<p>Applicants are encouraged to meet with the Code Enforcement Officer and the Planning Board to review the first basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the Town of Homer Comprehensive Plan, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal and its major features is acceptable or whether it should be modified before expenditures for more detailed plans are made.</p>
	B.	<p>Required data. Information to be included on the sketch plan is as follows:</p>
	1.	<p>An area map showing the parcel under consideration for site plan review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within two hundred (200) feet of the boundaries thereof.</p>

		2.	A map of site topography at no more than five (5) foot contour intervals. If general site grades exceed five (5) percent or if portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than two (2) feet of elevation may also be required.
		3.	General identification of all existing natural features and utilities on the site and in the area.
		4.	The location of all existing and proposed structures on the site and designated uses for each.
		5.	Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site.
<b>SECTION 1504</b>	<b>PRELIMINARY SITE PLAN APPLICATION.</b>		
	A.		An application for preliminary site plan review shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist as determined necessary by the Code Enforcement Officer at the sketch plan conference. All site plan information and building designs shall be prepared by a licensed architect, engineer, or other qualified person. The Planning Board shall have the discretion to determine the qualifications and level of detail required.
	B.		<b>PRELIMINARY SITE PLAN CHECKLIST</b>
		1.	Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
		2.	North arrow, graphic scale and date.
		3.	Boundaries of the property, plotted to scale.
		4.	The location of existing property lines, easements, structures, streets, driveways, and natural features within two hundred (200) feet of the proposed site.
		5.	Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project storm water quantities and the resultant peak flow conditions.
		6.	Location, proposed use, hours of operation and height of all buildings. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.

		7.	Number, location, design and construction materials of all parking and loading areas, showing access. Location of reserved parking areas as required by the off-street parking regulations of Section 1304.
		8.	Provision for pedestrian access.
		9.	Size, type, and location, of any screening.
		10.	Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
		11.	Building elevation(s) showing building massing, window and door spacing and treatments, and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
		12.	Location, purpose, and holder of all proposed easements or dedications for utilities, recreation, conservation or other purposes.
		13.	Location, size, screening and type of material for any proposed outdoor storage.
		14.	Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
		15.	Description of the type and quantity of waste water expected, the method of waste water disposal, and the location, design and construction materials of such facilities.
		16.	Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design and construction materials of such facilities.
		17.	Location of fire and other emergency zones, including the location of fire hydrants.
		18.	Location, design and construction material of all energy-distribution facilities, including electrical, gas, wind power, solar energy and other public utility facilities such as cable or phone service.
		19.	Location, size, design, and construction materials of all proposed signs.

		20.	Location of proposed buffer areas, including existing vegetative cover.
		21.	Location, type, height, brightness and control of outdoor lighting facilities.
		22.	Identification of permanent open space or other amenity provided in conjunction with cluster or incentive zoning provisions.
		23.	A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size in square feet or acres of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet of all signs.
		24.	A landscaping plan and planting schedule.
		25.	Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
		26.	All forms and information pursuant to New York State Environmental Quality Review Act (SEQR).
		27.	An agricultural data statement if the proposed use is located on or within five hundred (500) feet of an active farm operation in the Cortland County Agricultural District.
	C.	REQUIRED FEE	
		The fee will be established by the Town Board and paid when the application is made.	
SECTION 1505	<b>PLANNING BOARD REVIEW OF PRELIMINARY SITE PLAN.</b>		
	The Planning Board's review of a preliminary site plan shall include but is not limited to, the following:		
	A.	General considerations as to:	



		1.	Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading, and drive-in facilities. Conformance with access management standards including, but not limited to, driveway spacing and provision of shared driveways and cross access easements.
		2.	Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
		3.	Location, arrangement, appearance and sufficiency of off-street parking and loading.
		4.	Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs and landscaping.
		5.	Adequacy of storm water calculation methodology and storm water and drainage facilities to eliminate off-site run-off and maintain water quality.
		6.	Adequacy of water supply and waste water disposal facilities.
		7.	Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering and to provide required recreation areas.
		8.	Suitability of proposed hours of operation.
		9.	Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
		10.	Adequacy of community services including fire, ambulance and police protection and on-site provisions for emergency services including fire lanes and other emergency zones, fire hydrants and water pressure.
		11.	Adequacy and unobtrusiveness of public utility distribution facilities including those for gas, electricity, cable television and phone service. In general, all such utility distribution facilities shall be required to be located underground.
		12.	Making provision for, so far as conditions may permit, the accommodation of solar energy systems, equipment and access to sunlight.

		13.	Conformance with the Town of Homer Comprehensive Plan and other planning studies.
		14.	Conformance with density, lot size, height, yard, lot coverage and all other requirements of district regulations.
	B.	Applicant and/or duly authorized representative shall attend the meeting of the Planning Board.	
	C.	<p><b>CONSULTANT REVIEW</b></p> <p>The Planning Board may consult with the Code Enforcement Officer, Fire Commissioners, and other appropriate local and county officials/ departments or designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the County Soil &amp; Water Conservation District, the State Department of Transportation and the State Department of Environmental Conservation.</p>	
	D.	<p><b>PUBLIC HEARING</b></p> <p>The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) days of the receipt of the application for preliminary site plan review and shall be published in a newspaper of general circulation in the Town of Homer at least five (5) days before the public hearing.</p>	
<b>SECTION 1506</b>	<b>PLANNING BOARD ACTION ON PRELIMINARY SITE PLAN.</b>		
	A.	<p>Within sixty-two (62) days after public hearing or within sixty-two (62) days after the application was filed if no hearing was held, the Planning Board shall act on the application for preliminary site plan review. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with conditions.</p>	
	B.	<p>The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.</p>	
<b>SECTION 1507</b>	<b>FINAL SITE PLAN REVIEW PROCEDURE.</b>		

	A.	After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six (6) months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
	B.	The following additional information shall accompany an application for final site plan review.
	1.	Record of application for and approval status of all necessary permits from local, state and county officials.
	2.	Construction details and final material specification for all required improvements.
	3.	An estimated project construction schedule.
	4.	A legal description of all areas proposed for municipal dedication.
	5.	A proposed conservation easement or other recordable instrument to be executed by the owner for any permanent open spaces which are proposed to be dedicated to the Town.
	C.	If no building permit is issued within one (1) calendar year from the date of final site plan approval, the final site plan approval shall become null and void.
SECTION 1508	<b>REFERRAL TO COUNTY PLANNING BOARD, IF APPLICABLE.</b>	
	Prior to taking action on the final site development plan, the Planning Board shall, if applicable, refer the plan to the County Planning Board for advisory review and a report in accordance with § 239-m of General Municipal Law.	
SECTION 1509	<b>PLANNING BOARD ACTION ON FINAL SITE PLAN.</b>	

	A.	Within sixty-two (62) days of receipt of the application for final site plan review, the Planning Board shall render its decision.
	B.	Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit, if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and shall be provided to the applicant.
	C.	Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer who shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.
<b>SECTION 1510</b>	<b>REIMBURSABLE COSTS.</b>	
	Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan or inspection of required improvements may be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan review. Estimated inspection fees shall be deposited into an escrow account prior to Planning Board endorsement of final site plan approval.	
<b>SECTION 1511</b>	<b>LETTER OF CREDIT.</b>	
	No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or an irrevocable letter of credit or a bond has been posted for improvements not yet completed. The letter of credit or bond shall be approved as to form by the Attorney for the Town and as to amount by the Planning Board. The member of the Planning Board designated to sign site plans shall not sign until a letter of credit or bond, if required, has been received and approved by the Town Board.	
<b>SECTION 1512</b>	<b>INSPECTION OF IMPROVEMENTS.</b>	
	The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvements.	

ARTICLE XVI

CONDITIONAL PERMITS

SECTION 1601	<b>PURPOSE.</b>
	It is the intent of this Law to use Conditional Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Conditional permits bring needed flexibility and individuality to the controls of zoning regulations.
SECTION 1602	<b>ADMINISTRATION.</b>
	Pursuant to Town Law Section 274b, the Planning Board will administer the review and approval of Conditional Permits.
SECTION 1603	<b>PROCEDURE.</b>
	A. All applications for conditional permits shall be filed with the Code Enforcement Officer who shall refer the completed conditional permit application to the Planning Board.
	B. Upon receipt of a complete application, the Planning Board shall designate a public hearing date to be held within forty-five (45) days, or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law, Section 239m.
	C. The Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper.
	D. The notice of the public hearing shall be sent and published at least five (5) calendar days prior to the date of the public hearing as well as sufficient information so as to identify the property involved and the nature of the proposed action.
	E. The Planning Board shall make a record of all its proceedings involving the conditional permit. The decision of the Planning Board shall contain the reasons for its decision.
	F. The Planning Board shall render its decision, either approving with conditions or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon.

	G.	Each application for a conditional permit shall be accompanied by a proposed plan showing the information required for site plan review.
	H.	Each conditional permit application must also receive site plan approval before the conditional permit may be granted.
SECTION 1604	<b>FINDINGS.</b>	
	A.	In order to grant approval for a Conditional Permit, the applicant must prove that the structure and/or use:
	1.	Is appropriate for the particular lot and area and will not conflict with allowed uses.
	2.	Is in compliance with all other applicable sections of this Zoning Law.
	3.	Is physically and visually compatible with the general neighborhood.
	4.	Provides a suitable transition when located between differing uses or Districts or provides a visual buffer by landscaped green areas or fencing.
	5.	Has adequate space and plans for off-street parking.
	6.	Has future expansion or revision capabilities without need for variances.
	7.	Provides for safe handling of vehicular traffic to and from the site without causing congestion. No new vehicular entrances shall be permitted within fifty feet of an existing intersection.
	8.	Provides for safe passage of pedestrians.
	9.	Does not lead to depreciation of neighboring properties by reason of, but not limited to noise, traffic, dust, fumes, smoke, odor, fire, glare, flashing lights or waste water disposal.
	B.	There are also additional requirements governing certain uses which must be met prior to the approval of a conditional permit (See Article XIV).

ARTICLE XVII

NONCONFORMING USES, BUILDINGS AND LOTS

SECTION 1701	<b>NONCONFORMING USES, BUILDINGS AND LOTS.</b>	
	A.	Except as otherwise provided in this Law, the lawful use of land or buildings existing on the date of the adoption of this Law may be continued although such use or building does not conform to the regulations specified in this Law. However, the following provisions shall apply to all such nonconforming uses, buildings, and lots:
		1. No nonconforming lot shall be further reduced in size.
		2. No nonconforming building or use may be expanded, enlarged, or increased without the granting of a variance by the Zoning Board of Appeals.
	B.	In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of 18 months, such nonconforming use shall not be reestablished, and all future uses shall be in conformity with the provisions of this Law. Discontinuance of such nonconforming use, or a part or portion thereof, for such period of 18 months is hereby construed and considered to be an abandonment of such nonconforming use.
	C.	A nonconforming building or structure which has been completely or partially destroyed by means other than intent or design may be rebuilt or repaired within 18 months thereafter and the nonconforming use thereof continued.
	D.	Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
SECTION 1702	<b>NONCONFORMING LOTS.</b>	
	A lot existing at the time of adoption of this Law which is less than the required area may be used for residential purposes providing setback requirements can be met.	

ARTICLE XVIII

VARIANCES

SECTION 1801	<b>AREA VARIANCES.</b>	
	A.	The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Zoning Officer, to grant area variances. The Zoning Board of Appeals in making its determination, shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
		1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
		2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
		3. Whether the requested area variance is substantial;
		4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district; and
		5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance.
	B.	In granting an area variance the Zoning Board of Appeals shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and health and welfare of the community.



<b>SECTION 1802</b>	<b>USE VARIANCES.</b>	
	A.	The Zoning Board of Appeals, on appeal from the decision of the Zoning Officer, shall have the power to grant a use variance. No such variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such aforementioned hardship the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located, the following:
		1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
		2. The alleged hardship relating to the subject property is unique and does not apply to a substantial portion of the district or neighborhood;
		3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
		4. The alleged hardship has not been self-created.
	B.	The Zoning Board of Appeals, in granting the use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
<b>SECTION 1803</b>	<b>CONDITIONS ON VARIANCES.</b>	
	The Zoning Board of Appeals shall, in the granting of either a use variance, an area variance or an access ramp variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law and shall be imposed for the purpose of minimizing any adverse impact the granting of the variance may have on the neighborhood or community.	